

The Impact of COVID-19 on the Human Rights of Migrants in the United States

Human Rights First's Submission to the Office of the High Commissioner for Human Rights (OHCHR) Special Rapporteur on the Human Rights of Migrants

This submission principally focuses on policies and practices implemented by the United States during the COVID-19 pandemic that violate refugee and human rights law, endanger asylum seekers, and use the pandemic as a specious excuse to subvert U.S. and international refugee law. Under the guise of policies purportedly adopted by the Trump administration to address the pandemic, the U.S. government under the Biden administration continues to violate U.S. law and international treaty obligations by denying asylum seekers access to the U.S. asylum system subjecting many to refoulement to their countries of persecution or to places where their lives or freedom would be threatened. Legal guidelines issued by the U.N. Refugee Agency (UNHCR) during the pandemic warned that denial of access to asylum without safeguards to protect against non-refoulement cannot be justified on the basis of public health.¹ In May 2021, UNHCR urged the United States to restore access to asylum in line with international legal and human rights obligations.”²

Additionally, the Biden administration continues to further endanger asylum seekers by subjecting them to unnecessary and arbitrary detention during the pandemic. The prior failure of the Trump administration to release migrants and asylum seekers from crowded immigration detention centers resulted in preventable transmission, severe illness, and needless deaths, including at least 10 reported deaths in Immigration and Customs Enforcement (ICE) custody due to COVID-19.³ Since May 2021, COVID-19 cases have again spiked in ICE detention centers due in part to the agency's continued failure to release migrants and implement widespread vaccination.⁴ The Biden administration has also continued Trump-era policies implemented during the pandemic that prevent refugees from integrating and naturalizing in the United States.

This document draws on Human Rights First's experience representing, researching, and advocating for refugees seeking humanitarian protections in the United States.

I. CONTINUED IMPLEMENTATION OF TITLE 42 “PUBLIC HEALTH” EXPULSIONS HAVE FORECLOSED ACCESS TO THE U.S. ASYLUM SYSTEM FOR MANY REFUGEES

Use of COVID-19 as Pretext to Eliminate Refugee Protections

The United States has used the COVID-19 pandemic as a pretext to summarily expel asylum seekers to danger in Mexico and the countries where they fled persecution while denying them access to the U.S. asylum system or preliminary protection screenings, as required by U.S. law and treaty obligations.⁵ In March 2020, the U.S. Department of Homeland Security (DHS) issued an interim final rule to implement the expulsion policy⁶ which relies on orders⁷ from the U.S. Centers for Disease Control and Prevention (CDC) that were issued under pressure from senior Trump Administration officials and over objections of senior CDC medical experts.⁸ People expelled to Mexico under the policy are stranded in brutal conditions, made worse by the pandemic, and many have suffered violent attacks.

Despite pledges to reverse President Trump's cruelty at the U.S.-Mexico border, President Biden has continued to implement the expulsion policy which endangers children, drives family separations, and illegally returns asylum seekers to danger, including Black and LGBTQ refugees who face bias-motivated violence in Mexico. Human Rights First has tracked at least 492 attacks and kidnappings suffered by asylum seekers turned away or stranded in Mexico since President Biden took office in January 2021.⁹ The Biden administration has also expelled migrants and asylum seekers to other countries where they face persecution and other violence. For instance, in February and March 2021,¹⁰ over 1,400 Haitian adults and children, including asylum seekers, were expelled to Haiti¹¹ without access to the asylum process. Human Rights First's

reports detail cases of individuals expelled to danger in Mexico and to the countries from which they had fled persecution, including:

- a Haitian asylum seeker expelled with her husband and baby to Haiti in February 2021, where she had been kidnapped and raped;
- a young Mexican asylum seeker expelled back to Mexico who had sought protection in the United States after being abducted by cartel members; and,
- a Nicaraguan political dissident who was detained with her husband and child, beaten, and issued death threats after the family was expelled by the U.S. government to Nicaragua.¹²

While unaccompanied children were exempted from the expulsions policy under both the Trump and Biden administrations in the wake of public outcry and judicial orders,¹³ the continued use of “public health” expulsions against adults and families has prompted desperate families to send children alone across the border to escape violence, threats, human trafficking, and other dangers, fueling family separation.¹⁴ Due to Mexico’s refusal in some border regions to accept expelled families with children younger than seven years old, U.S. Customs and Border Protection (CBP) has held some families in horrible conditions and treated them cruelly before transporting them great distances to expel them to other regions of Mexico.¹⁵

Leading U.S. public health experts have repeatedly made clear that these restrictions on asylum, which remain in place as of June 2021, lack a public health justification and threaten the health and safety of migrants.¹⁶ According to public health experts, the CDC expulsions orders have “no scientific basis as a public health measure.”¹⁷ Indeed, at the same time the U.S. government effectively eliminated asylum protections at the border, between March 2020 and March 2021, more than 110 million pedestrians and passengers crossed the U.S.-Mexico border into the United States, underscoring the discriminatory nature of the provisions targeting asylum seekers.¹⁸ Leading public health professionals have called on the CDC to rescind its order and to adopt rational, science-based measures to safeguard public health while processing asylum seekers and children at the border during the COVID-19 pandemic.¹⁹

UNHCR has made clear that measures like the CDC order violate international law, stating that “imposing a blanket measure to preclude the admission of refugees or asylum-seekers . . . without measures to protect against refoulement, would be discriminatory and would not meet international standards.”²⁰ In May 2021, UNHCR issued a rare public statement regarding and urging the United States “to restore access to asylum for the people whose lives depend on it, in line with international legal and human rights obligations.”²¹

While the Biden administration has recently implemented a process to exempt a small fraction of asylum seekers and migrants from expulsion on a case-by-case basis, this process is insufficient to protect the thousands of individuals seeking protection at the southern border of the United States, does not comply with U.S. obligations under refugee laws and treaties (or U.S. domestic law), and is inaccessible to asylum seekers without legal representation.²²

U.S. policies and regulations gutting refugee protections under the pretext of COVID-19 violate U.S. *non-refoulement* obligations under Article 33 of the 1951 Convention, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Covenant on Civil and Political Rights (ICCPR), and customary international law prohibiting the return of people to countries where they would be at risk of persecution, torture, or other serious harm. Expulsions under Title 42 return refugees to persecution and torture without fear screening in violation of the 1951 Convention and CAT, separate families in contravention of the ICCPR and CAT, and create a risk of chain *refoulement*.²³

Along with this submission, Human Rights First provides copies of its reports detailing the impact of this policy on asylum seekers and migrants.

Pandemic Restrictions Further Delay Safety for Asylum Seekers Subjected to the Migrant Protection Protocols (MPP)

Specious COVID-19 restrictions, such as the Title 42 expulsion policy, are slowing efforts to remove individuals from dangerous conditions in Mexico. For the many individuals without active MPP cases, including those who were denied asylum in cursory proceedings, those with terminated or closed MPP cases, and those who were not eligible for the program in the first instance, ongoing pandemic restrictions bar refugees from accessing the U.S. asylum system.

Even those who are eligible for the MPP wind down have faced serious violence and death due to the extremely slow processing times imposed upon individuals in MPP due to the pandemic. In May 2021, a 19-year-old Cuban asylum seeker was murdered in Ciudad Juárez just days before he was to be processed out of MPP and brought to safety in the United States.²⁴ In addition, thousands of asylum seekers with unfairly denied or closed MPP cases are still “await[ing] further instructions” from the administration on when they will be brought to safety.²⁵

Further, those in MPP are ineligible for the exemption process the administration has established for those impacted by border closures under the expulsion policy. Thus, newly arriving people can potentially access safety through the exemption process while individuals in MPP who have been languishing in Mexico for months or years cannot access the limited exemption process. Human Rights First documented more than 1,544 public reports of rape, torture, kidnapping, murder, and other violent assaults perpetrated against those returned to Mexico under MPP, including 341 kidnappings or attempted kidnappings of children.²⁶

Human Rights First and other immigrants’ rights organizations have called for a comprehensive wind down of MPP that ensures the safety of people traveling to the U.S.-Mexico border for processing out of MPP and facilitates their integration in the United States.²⁷

Processing Refugees into Safety Is Feasible, Effective During COVID-19 Pandemic

Despite implementing safe and efficient procedures to process individuals with active MPP cases into the United States without the use of prolonged detention, the Biden administration has refused to roll out similar measures to restore access to the U.S. asylum system for individuals without active MPP cases. As of the date of submission, the U.S. government’s exemption process for those subject to the Title 42 expulsion policy allows only a small portion of those individuals identified by certain nonprofit organizations to be processed at the border and permitted to access the U.S. asylum system. As the United States continues to see reductions in pandemic-related lockdowns, rising COVID-19 vaccination rates, and declining levels of COVID-19 transmission, the already pretextual public health rationales for eliminating access to asylum at the border become even more clearly spurious.

Other Bars to Asylum that Exploit the Pandemic

On December 23, 2020, DHS and the U.S. Department of Justice (DOJ) under the Trump administration published a final rule that exploits the pandemic by using baseless public health claims to bar refugees from asylum and withholding of removal protections who arrive from or transit through a country where COVID-19 or potentially other contagious diseases are prevalent.²⁸ The rule would also heighten the standard used in preliminary fear screenings and permit DHS to remove individuals who establish a fear of torture to third countries even if they would be at risk of persecution there. On March 22, 2021, the Biden administration paused the rule’s implementation until December 31, 2021, while it reviews public comments on the rule and considers rescinding or revising it.²⁹

II. THE UNITED STATES UNNECESSARILY DETAINS MIGRANTS AND ASYLUM SEEKERS, INCLUDING UNACCOMPANIED CHILDREN, DESPITE RISK OF COVID-19 TRANSMISSION

Mass detention of asylum seekers and migrants in the United States violates the ICCPR's prohibition on arbitrary detention.³⁰ In light of the additional threat of COVID-19, the continued widespread use of immigration detention during the pandemic is even more arbitrary, disproportionate, and unnecessary. Furthermore, punishing refugees seeking U.S. protection by detaining them is inhumane and violates international treaties including Article 31 of the 1951 Refugee Convention relating to the Status of Refugees, made binding on the United States through its accession to the 1967 Protocol relating to the Status of Refugees. The former Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatments or Punishment has confirmed that arbitrary detention of asylum seekers leads to "refoulement in disguise" by coercing them to return to their countries of persecution.³¹

Despite repeated warnings from public health and medical experts, the U.S. government has refused to release many asylum seekers and migrants from immigration detention during the COVID-19 pandemic even though it has the legal authority to do so, resulting in preventable death and serious illnesses.³² To date, ICE data reflects that 16,816 people have contracted COVID-19 in custody.³³ At least 10 individuals have died in ICE custody due to COVID-19.³⁴ As of June 6, 2021, 685 individuals in ICE custody were being isolated or monitored for a confirmed COVID-19 infection.³⁵

The Biden administration continues to unnecessarily detain migrants and asylum seekers, placing them at risk of contracting COVID-19. Since President Biden took office, U.S. Immigration and Customs Enforcement (ICE) has dramatically *increased* by fifty percent the number of people it detains in its facilities, from 14,715 individuals on January 15, 2021, to 24,100 as of June 4, 2021.³⁶ The Biden administration is also treating asylum seekers who recently fled to the United States as enforcement priorities for detention and deportation.^{vi}

In addition, the Biden administration is detaining migrants and asylum seekers for weeks or months pending expulsion to Mexico or to the countries they fled without access to the U.S. asylum process (as discussed above), placing them at increased risk of contracting COVID-19. Some are held in ICE detention facilities while others are held in inadequate CBP detention facilities at the border that were not intended to hold people for prolonged periods. The DHS Office of Inspector General has found in the past that these facilities were dangerous and overcrowded.³⁷ Rather than allowing these individuals – who are already in the custody of the United States – access to the U.S. asylum system, and despite the fact that one of the government's purported rationales for the expulsion policy was that the policy was necessary to avoid detaining people, the U.S. government continues to detain asylum seekers in these dangerous and inhumane conditions pending expulsion³⁸ – again making clear that the public health rationale for the policy is a sham. As discussed above, the expulsion policy pushes protection-seeking families to send children alone to the United States, which results in large numbers of unaccompanied children in government custody.³⁹ In part due to this policy, children have spent extremely long periods of time alone in crowded and unsafe CBP facilities. In March 2021, CBP detained children for an average of 133 hours.⁴⁰ The Biden administration has worked to reduce the amount of time children spend detained, and as of May 2021, CBP detained unaccompanied children for an average of 24 hours.⁴¹

The use of civil immigration detention has always been harmful to the lives and safety of asylum seekers and migrants.⁴² The spread of COVID-19 in detention centers has only confirmed the urgent public health imperative to shift from mass migration detention to community-based case management.⁴³ Detention is also unnecessary: studies have repeatedly confirmed that the vast majority of non-detained asylum seekers attend immigration court hearings.⁴⁴ Community-based case management alternatives are far more humane and effective than immigration detention: past case management programs resulted in a 99 percent appearance rate

for immigration court hearings.⁴⁵

III. THE U.S. GOVERNMENT HAS FAILED TO MEET ITS DUTY TO FACILITATE THE INTEGRATION, EMPLOYMENT, AND NATURALIZATION OF REFUGEES DURING THE COVID-19 PANDEMIC

During the COVID-19 pandemic, the Trump administration implemented restrictions that prevent asylum seekers from integrating into their communities and earning a livelihood, which the Biden administration has not yet rescinded. These regulations violate U.S. obligations under Article 34 of the 1951 Refugee Convention to “facilitate the assimilation and naturalization of refugees.” These restrictions included barriers to prompt work authorization approval, which facilitate integration by permitting refugees to support themselves and their families while they await the outcome of their case adjudication.

The Trump administration curtailed access to work authorization for asylum seekers through a series of draconian regulations.⁴⁶ The Biden administration has continued implementing these regulations and to date has affirmatively ratified at least one rule that eliminates a requirement to timely adjudicate initial employment authorization applications for asylum seekers who are not otherwise generally eligible for federal government support.⁴⁷ These policies prevent asylum seekers – including asylum seekers who had been stranded in danger under MPP for years – from supporting themselves and their families, leaving them vulnerable to exploitation and other harm when they are unable to support themselves in the United States.

During the pandemic, the Trump administration also published the public health rule discussed above, which bans asylum and other protections based on specious public health grounds.⁴⁸ While the Biden administration has paused implementation of this regulation, if it permits the regulation to go into effect it would prevent refugees from integrating by denying them asylum and leaving them with deficient forms of protection from deportation that permanently separate them from family members and bar them from stable status and a path to naturalization.

Human Rights First recommends that the Special Rapporteur:

- Condemn the use of the COVID-19 pandemic as a pretext to summarily block and expel asylum seekers without individual assessments or access to asylum procedures and urge the United States to end Title 42 expulsions and heed recommendations of public health experts aimed at swiftly and safely processing asylum seekers requesting protection at or after crossing borders.⁴⁹
- Affirm that there exists no public health rationale to implement blanket measures to block or expel people fleeing persecution without the opportunity to apply for refugee protection, and that such policies violate the 1951 Refugee Convention and constitute unlawful *refoulement*.
- Urge the United States to rescind unlawful policies that threaten the lives and undermine the integration of asylum seekers during the COVID-19 pandemic, including restrictions on access to work authorization.
- Recommend that the United States end the use of unnecessary, disproportionate, or otherwise arbitrary immigration detention, provide community-based case management for asylum seekers rather than detention, and ensure prompt immigration court review of the use of immigration detention.
- Encourage national, bilateral, and multilateral efforts to rescind policies intended to deny refugees access to asylum procedures and to provide redress for those harmed by COVID-19 border closures and expulsion policies.

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- ⁹ See Human Rights First Tracker of Reported Attacks During the Biden Administration Against Asylum Seekers and Migrants Who Are Stranded in and/or Expelled to Mexico, April 2021, available at <https://www.humanrightsfirst.org/sites/default/files/AttacksonAsylumSeekersStrandedinMexicoDuringBidenAdministration.pdf>.
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⁴⁴ American Immigration Council, *Immigrants and Families Appear in Court: Setting the Record Straight*, July 2019, available at https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_and_families_appear_in_court_setting_the_record_straight.pdf; Ingrid V. Eagly, Steven Shafer, “Measuring In Absentia Removal in Immigration Court,” *University of Pennsylvania Law Review*, March 1, 2021, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3633267.

⁴⁵ Aria Bendix, *ICE Shuts Down Program for Asylum-Seekers*, *The Atlantic*, June 9, 2017, available at <https://www.theatlantic.com/news/archive/2017/06/ice-shuts-down-program-for-asylum-seekers/529887/>.

⁴⁶ Dep’t of Homeland Security, *Removal of 30-day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications*, 85 FR 37502, available at <https://www.federalregister.gov/documents/2020/06/22/2020-13391/removal-of-30-day-processing-provision-for-asylum-applicant-related-form-i-765-employment>. Dep’t of Homeland Security, *Asylum Application, Interview, and Employment Authorization for Applicants*, 85 FR 38532, available at <https://www.federalregister.gov/documents/2020/06/26/2020-13544/asylum-application-interview-and-employment-authorization-for-applicants>.

⁴⁷ Dep’t of Homeland Security, *DHS Ratifies Rule that Removes 30 Day EAD Processing Requirement and Acknowledges Importance of Issuing Timely Work Authorizations*, May 2021, available at <https://www.dhs.gov/news/2021/05/07/dhs-ratifies-rule-removes-30-day-ead-processing-requirement>.

⁴⁸ Dep’t of Homeland Security & Executive Office for Immigration Review, *Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims*, 83 FR 55934, November 9, 2018, available at <https://www.federalregister.gov/documents/2018/11/09/2018-24594/aliens-subject-to-a-bar-on-entry-under-certain-presidential-proclamations-procedures-for-protection>; Dep’t of Homeland Security & Executive Office for Immigration Review, *Security Bars and Processing*, 85 FR 84160, December 23, 2020, available at <https://www.federalregister.gov/documents/2020/12/23/2020-28436/security-bars-and-processing>; Dep’t of Homeland Security & Executive Office for Immigration Review, *Asylum Eligibility and Procedural Modifications*, 85 FR 82260, December 17, 2020, available at <https://www.federalregister.gov/documents/2020/12/17/2020-27856/asylum-eligibility-and-procedural-modifications>; Human Rights First, *Asylum Denied, Families Divided: Trump Administration’s Illegal Third-Country Transit Ban*, July 2020, available at <https://www.humanrightsfirst.org/sites/default/files/AsylumDeniedFamiliesDivided.pdf>.

⁴⁹ See, e.g., Columbia Mailman School of Public Health, <https://www.publichealth.columbia.edu/public-health-now/news/public-health-experts-urge-us-officials-withdraw-proposed-rule-would-bar-refugees-asylum-and-and>.

Pandemic as Pretext: Trump Administration Exploits COVID-19, Expels Asylum Seekers and Children to Escalating Danger

The Trump Administration is exploiting the coronavirus crisis to pursue its long-held goal of preventing refugees from seeking and receiving humanitarian protection in the United States. Under the guise of a much-criticized Centers for Disease Control and Prevention (CDC) order, the Department of Homeland Security (DHS) is expelling asylum seekers and unaccompanied children without the legally required processes to countries where they face persecution, trafficking, and other serious violence. With little public debate, the administration has essentially eliminated asylum at the U.S.-Mexico border.

But public health is a pretext, not its priority. The CDC order has no public health rationale, according to numerous public health experts, who stress that fair treatment of refugees, as required under U.S. law, does not undermine efforts to combat the virus. These goals “are not in conflict and can be served side by side.” Yet even as the administration pushes states and businesses to reopen, Acting Customs and Border Protection (CBP) Commissioner Mark Morgan has signaled that the agency would keep flouting its legal obligations to process asylum seekers, unaccompanied children, and others at the border.

At the same time, despite escalating violence in Mexico, the administration continues to implement the Remain in Mexico policy threatening the lives of asylum seekers. Since the so-called Migrant Protection Protocols (MPP) went into effect in January 2019, DHS has returned thousands of asylum seekers primarily from Cuba, El Salvador, Guatemala, Honduras, Nicaragua, and Venezuela to Mexico. Waiting there for U.S. immigration court hearings, many have been kidnapped, raped, and assaulted. In fact, the number of reported attacks on returned asylum seekers continues to rise—now to 1,114—despite reduced in-person research due to the pandemic.

Remain in Mexico and CDC expulsions join a long list of other illegal and dangerous Trump Administration policies aimed at curtailing asylum, including a ban on asylum for people who cross into the United States between ports of entry to seek protection, a ban on asylum for people who transit through other countries (where they are not safe), and agreements to send asylum seekers to third countries—Guatemala, Honduras and El Salvador—that are not safe for refugees and do not have effective asylum systems.

These policies are both immoral and illegal. Not only do they spurn the country’s tradition of providing safe haven to refugees, they violate U.S. asylum, immigration, and anti-trafficking laws, due process protections, and binding treaty obligations. U.N. Refugee Agency (UNHCR) legal guidance makes clear that a public health emergency cannot justify “blanket measure[s]” blocking asylum seekers. Members of the U.S. Senate and House of Representatives have questioned the legality of the expulsion policy and described the administration’s apparently post hoc legal justification for the policy as “deeply flawed.”

Instead of blocking people seeking humanitarian protection, the administration can employ sensible measures recommended by public health experts, such as safe distancing, masks, and hand sanitizer, to expeditiously process asylum seekers who should be paroled to shelter with family under existing legal authority, pending their immigration court proceedings. Unaccompanied children should be swiftly transferred to Office of Refugee Resettlement (ORR) custody, again with the use of health safeguards. Asylum seekers should not be subjected to detention given its health risks and human rights violations, but case management and other alternatives can be employed in cases where additional appearance support is necessary.

To gather information for this report, Human Rights First researchers interviewed asylum seekers, immigration attorneys, academic researchers, humanitarian volunteers, and legal monitors. The interviews were conducted remotely because of pandemic-related restrictions on movement in both the United States and Mexico. Staff also reviewed reports from the media and human rights organizations. This report builds on our prior reporting on MPP in [March 2019](#), [August 2019](#), [October 2019](#), [December 2019](#), and [January 2020](#).

Key findings:

- ☑ **The Trump administration is wielding the CDC order to block and expel thousands of asylum seekers and unaccompanied children, turning them back to escalating violence in Mexico and other highly dangerous places where their lives and safety are at risk.**
- ☑ **Using the CDC order, DHS is likely expelling or blocking from seeking protection at least 4,000 men, women, and children a month.** This estimate is a conservative one based on an 86 percent drop in [credible fear referrals](#) and steep declines in processing of [inadmissible](#) individuals, often asylum seekers, at southern ports of entry. Overall, in six weeks, DHS expelled more than [21,000](#) people, including many asylum seekers and unaccompanied children. Examples of those denied protection due to the CDC order include, a Honduran rape survivor and her two children, a mother with her five-day old daughter and three-year-old son, a Venezuelan asylum seeker forced back without a fear screening to highly dangerous Nuevo Laredo, a Brazilian lesbian couple and their child denied a fear screening, and a Honduran asylum seeker denied a fear screening after his finger was chopped off by his kidnappers.
- ☑ **Under the CDC order, the administration has expelled 1,000 unaccompanied children.** They include two from Central America, ages 12 and 15, expelled to Mexico on their own. CBP officers are likely blocking many other unaccompanied children from even requesting protection at ports of entry.
- ☑ While Trump Administration officials use [debunked](#) public health [claims](#) made in the CDC order as a fresh opportunity to turn away asylum seekers and unaccompanied children, **many CBP officers and Border Patrol agents fail to consistently observe even the most basic health precautions at border posts, like wearing masks and maintaining safe distancing.**
- ☑ **Asylum seekers turned back to Mexico under MPP continue to face life-threatening danger.** As of early May, Human Rights First had tracked [1,114](#) incidents of murder, rape, kidnapping, torture, and assault. But this count is only the tip of the iceberg, as the overwhelming majority of returned people have not spoken with human rights investigators or journalists (COVID-19-related restrictions have further limited reporting). Of the reported attacks, 265 were kidnappings or attempted kidnappings of children. Other victims include a Venezuelan asylum seeker kidnapped in Reynosa while traveling to her hearing, a Cuban LGBTQ asylum seeker twice attacked in Reynosa and nearly raped, a pregnant Cuban doctor who miscarried after being beaten and nearly kidnapped in Ciudad Juárez, and a Guatemalan man assaulted and robbed in Tijuana, where police refused to allow him to file a complaint.
- ☑ **Violence in Mexico—and the dangers of kidnappings and harm facing asylum seekers forced back there—are on the rise.** Despite restrictions on movement in Mexico due to COVID-19, **reported kidnappings rose in March 2020. The number of [murders](#) in the first months of 2020 also increased compared to early 2019, a year when the country suffered its [highest homicide rate in more than two decades](#).** Because of disruptions to their operations, cartels are [reportedly](#) committing more kidnappings and robberies. An alleged cartel member told [VICE](#) news that cartels target returned Cuban asylum seekers for abduction as they are “stuck in our country” due to U.S. policies and said cartels may dump victims in a *fosa común* (mass grave), if they do not receive a ransom.

- ☑ **Asylum seekers forced back into Mexico under MPP and the CDC order face brutal conditions, made worse by the COVID-19 pandemic, many lacking safe shelter, adequate medical care, and sufficient food.**
- ☑ **Despite claims by some DHS officials, including Acting CBP Commissioner Mark Morgan, that asylum and MPP fear screening interviews are available on a “case-by-case” basis, the administration is rejecting requests without consideration.** Some attorneys report that CBP officers have said they are not conducting MPP fear interviews due to the CDC order. Conditioning access to refugee protection on the discretion of an individual border officer violates U.S. refugee and immigration laws and treaty-based obligations. It also contradicts the administration’s assertion to the U.S. Supreme Court, in arguing for the legality of MPP, that fear screenings are available “at any time.”
- ☑ **Nearly 11,000 asylum seekers will wait in danger in Mexico for even longer now due to the COVID-19 closure of immigration courts.** According to court schedules released by the Executive Office for Immigration Review (EOIR), **57 percent of asylum seekers with postponed MPP hearings will have been waiting in Mexico for six months or more by June 22, 2020**, when the immigration courts are scheduled to reopen. Those with pending MPP proceedings as of April 2020 include **4,863 Hondurans, 4,596 Cubans, 2,540 Guatemalans, 1,796 Salvadorans, 1,308 Venezuelans, 1,301 Ecuadorians, 599 Nicaraguans, and 348 Brazilians**, according to immigration court data analyzed by TRAC.
- ☑ **DHS and EOIR’s recently announced rescheduling policy for the nearly 11,000 cancelled MPP hearings will only cause additional chaos.** For weeks, U.S. officials have forced asylum seekers to travel through dangerous areas of Mexico amid the COVID-19 pandemic just to retrieve rescheduled hearing notices. In late April, a Venezuelan asylum seeker was kidnapped immediately after picking up a hearing notice at the port of entry. Human Rights First and dozens of other organizations that provide services to asylum seekers in MPP informed CBP and DHS of these dangers in an April 14 letter. Now DHS and EOIR are requiring asylum seekers with postponed hearings to appear “one month” after their last scheduled hearing. But the immigration court has no means to instruct asylum seekers to do so, has not explained what those with new hearings that fall on weekends should do, and is continuing to require some asylum seekers to undertake dangerous trips merely to pick up updated notices. The many asylum seekers who miss hearings due to these rescheduling policies could be ordered removed *in absentia*.

Human Rights First urges the Trump Administration to:

- ☑ **Rescind the Health and Human Services (HHS) interim final rule authorizing the CDC order and immediately withdraw the CDC order.**
- ☑ **End MPP and all other policies and practices that violate U.S. asylum and immigration law and U.S. Refugee Protocol obligations**, including the third-country transit asylum ban, turn-backs and orchestrated reductions of asylum processing at ports of entry, and all attempts to send asylum seekers to countries, including El Salvador, Honduras, Guatemala, and Mexico, that do not meet the legal requirements for safe-third country agreements under U.S. law.
- ☑ **Employ effective and humane policies that uphold U.S. laws and treaties and implement measures recommended by public health experts to safeguard asylum seekers, CBP personnel, and public health**, such as by implementing social distancing, using appropriate personal protective equipment, providing hand sanitizer, and regularly disinfecting surfaces – steps CBP and the Border Patrol should already be taking.

- ☑ Direct CBP to parole asylum seekers in MPP, who have already been processed by CBP and have pending immigration court cases, into the United States, and restore timely and orderly processing of asylum seekers and unaccompanied children at ports of entry.

Human Rights First recommends that Congress:

- ☑ Withhold appropriations to DHS and the Department of Justice used to carry out MPP, CDC expulsions, and other forced return programs.
- ☑ Adopt the Asylum Seeker Protection Act and the Refugee Protection Act of 2019.
- ☑ Hold oversight hearings on MPP and the expulsion of asylum seekers without the required legal processes under the CDC order.
- ☑ Request investigations of the claimed justifications and legality of the CDC order by the Offices of Inspector General for DHS and HHS.
- ☑ Conduct official visits, when safe given the COVID-19 pandemic, to Mexican border towns, CBP facilities and Border Patrol stations on the southern border, and immigration courts to monitor the massive human rights violations caused by MPP, the expulsion of asylum seekers and unaccompanied children, and other policies to restrict asylum at the border.

Asylum Seekers, Children Expelled and Turned Away at Southern Border

The administration has now effectively eliminated asylum and other protections at the southern border despite U.S. refugee, anti-trafficking and immigration laws and humanitarian treaties.

For years the Trump Administration has implemented a barrage of policies aimed at blocking, deterring and turning away people seeking refuge at the U.S. southern border.

- **DHS had sent nearly 65,000 people through MPP to some of the most dangerous parts of Mexico by March 2020** – with 20,000 of these cases still pending, as some gave up their requests for U.S. protection given the dangers of waiting in Mexico.
- As of early April 2020, **DHS had also stranded over 14,000 asylum seekers on “metering” lists** along the southern border under its illegal practice of reducing the number of asylum seekers processed at ports of entry, causing back-ups of waiting asylum seekers in Mexico.

Viewing the coronavirus pandemic as an opportunity to advance its long-held goal to close the border to people attempting to request life-saving protections in the United States, the Trump Administration announced a rule and accompanying order—issued by CDC Director Dr. Robert Redfield on March 20, 2020—that purport to empower DHS to immediately turn back and expel asylum seekers at land borders without affording them any legal process whatsoever. **In just six weeks, DHS blocked and expelled more than 21,000 asylum seekers, unaccompanied children, and other migrants at the southern U.S. border under the CDC order**, which was extended on April 20 for an additional 30-day period.

Using the CDC order, DHS is expelling asylum seekers and unaccompanied children who have entered the United States in search of safety. The Border Patrol turns back some to Mexico in the middle of the night in dangerous areas, putting them at even greater risk of kidnapping and assault. Although Mexico claimed it would only accept expelled individuals from Mexico, El Salvador, Guatemala and Honduras, other nationals including Brazilians and Ecuadorians have also been expelled there. DHS has expelled some to other countries of origin, including adults sent to Brazil and some 120 unaccompanied children sent to El Salvador, Guatemala, and

Honduras. **DHS expelled at least 299 unaccompanied children in March and 708 in April**, including reportedly 90 percent of unaccompanied children encountered by the Border Patrol.

DHS and the Executive Office for Immigration Review (EOIR) suspended MPP hearings due to COVID-19 on March 23, a closure extended on April 1, April 30, and May 10; hearings will not restart until at least June 22, 2020. Despite the shutdown, DHS continues to return some individuals to highly dangerous areas of Mexico under MPP, including Cuban and Nicaraguan asylum seekers, to wait months for immigration court hearings. As of May 2020, **over 10,000 individuals returned to Mexico have been waiting six months or more for MPP hearings**, according to analysis of immigration court data by the American Immigration Council. Some will wait much longer for final hearings. Immigration judges have set **over 200 MPP hearings in 2021 (as far out as April) at the El Paso immigration court**, based on review of court schedules released by EOIR and analyzed by Human Rights First.

Trump Administration officials, including Acting CBP Commissioner Mark Morgan, claim that despite the CDC order, asylum remains available on a “case-by-case basis.” But in carrying out expulsions the agency says it “is not operating pursuant to its authorities under Title[] 8”—the section of U.S. law codifying the protections and processing procedures Congress adopted for asylum seekers—according to internal guidance provided by DHS to Border Patrol agents and first reported in a Pro Publica exposé. A steep decline in referrals for credible and reasonable fear interviews to the U.S. Citizenship and Immigration Services (USCIS) and a drop in inadmissible individuals processed at ports of entry, many of whom are asylum seekers, indicates that the **CDC order likely is blocking at least 4,000 asylum seekers a month from requesting protection in the United States**.

- CBP has stopped processing requests for protection at ports of entry under the guise of the CDC order, including for the 14,000 asylum seekers who have been waiting in some instances for more than nine months on metering lists. Between February and March 2020, the number of inadmissible individuals processed at ports of entry on the southern border dropped by 2,500, including over 1,200 individuals in families (the vast majority of whom are asylum seekers), a further indicator that CBP blocked thousands of arriving asylum seekers at ports of entry in March alone. In April 2020, the number of inadmissible individuals processed at ports of entry declined by nearly 5,700 compared to February 2020 to just 927 – more than half of whom (519) were then expelled under the CDC order.
- New referrals for credible fear interviews, the first step in the process to apply for asylum for those DHS puts in expedited removal, fell by 86 percent in April 2020 (661 case receipts) after the CDC order went into effect compared to February 2020 (4,633 case receipts) and by 92 percent compared to April 2019 (8,251 case receipts). In the six months prior to March 2020, USCIS had received more than 4,500 new credible fear cases per month on average. Referrals for reasonable fear interviews, which screen for eligibility for withholding of removal and protection under the Convention against Torture, also fell by 40 percent in April 2020 (596 case receipts) compared to February 2020 (1,011 case receipts) and by 47 percent compared to April 2019 (1,126 case receipts). But not all asylum seekers are placed in expedited removal proceedings – notably asylum seekers who DHS continues to send to Mexico under MPP.
- Thus, Human Rights First can conservatively estimate based on the decline in fear interviews and the drop in processing of inadmissible individuals at the southern border that the CDC order is blocking at least 4,000 asylum seekers per month from requesting protection in the United States.

Some of the thousands of asylum seekers DHS has turned away and expelled at the southern border under the CDC order, include:

- **A pregnant Honduran woman and her two daughters were expelled under the CDC order to Mexico, where the mother had been raped and became pregnant as a result.** The family was

expelled by Border Patrol agents in Arizona in late April 2020 even though the woman was having contractions, asked for medical attention, and said she was afraid to return to Mexico and Honduras. Agents expelled the family to Mexico through a tiny, rural port of entry without giving the woman a fear screening. She told Kino Border Initiative that Border Patrol agents said "you have to do it legally" and that "you can't come to the U.S. without permission," even though DHS has closed the border to asylum seekers under the CDC order and even though U.S. refugee law makes clear that people who cross the border can seek asylum.

- **A Honduran woman seeking asylum and her three-year-old child and five-day-old baby were expelled to extremely dangerous Reynosa, Mexico under the CDC order** by Border Patrol agents in early-April 2020. The baby had been born in a U.S. hospital after the woman crossed the border in late March to seek protection. After being expelled to Mexico, the mother and her very young children were turned away by a shelter that was not receiving new arrivals.
- **A woman who had fled Honduras with her daughter was expelled** by Border Patrol agents under the CDC order on March 24, 2020. Border officers refused the requests of [Jackeline Reyes](#) and her 15-year-old daughter for asylum protection and expelled them to danger in Reynosa. The family had fled Honduras, where Ms. Reyes' brother was murdered, an event which also forced her mother to flee to the Nicaraguan border, according to an article from the Associated Press.
- **A Honduran woman and her daughter were expelled under the CDC order despite requesting asylum and were driven to the Guatemalan border by Mexican authorities who tried to force them into Guatemala.** The family, who crossed the border on March 22, 2020, were [expelled](#) by Border Patrol agents to Reynosa, where Mexican migration officers detained the family, denied them an opportunity to seek asylum, and **drove them to the Guatemalan border and twice attempted to force them to cross** even though the border was closed.
- **A Salvadoran family that had fled threats by a gang leader to “rent” their nine-year-old daughter were expelled to Mexico under the CDC order**, according to an ACLU of Texas staffer who spoke with the family. Salvadoran gangs exert extraordinary control over territory in the country, even now [enforcing](#) their own COVID-19 quarantine measures.
- **A 19-year-old asylum seeker from Honduras** who reported that he had fled an attack by gang members crossed the U.S.-Mexico border in Arizona and was expelled by Border Patrol agents there in mid-April 2020 under the CDC order. He was also expelled through a tiny, rural port of entry without being asked if he feared return to Mexico, according to Kino Border Initiative.
- **A group of adults and children were expelled under the CDC order and met by men with guns in Mexico.** A Salvadoran woman said that Border Patrol agents expelled her and others to Mexico [ignoring](#) their requests for asylum. The group were sent across the U.S.-Mexico border around 2 o'clock in the morning where they were met by a “bunch of men with guns sitting in a truck, staring at us.” “We were terrified,” the woman told an advocate from the ACLU of Texas in early-April 2020.

The CDC order is also blocking thousands of unaccompanied children from seeking protection in the United States. A CBP spokesperson [reportedly](#) claimed that the protections required by Congress under the [Trafficking Victims Protection Reauthorization Act](#) (TVPRA) for unaccompanied children are available, but only on a “case-by-case” basis at the discretion of CBP officers and Border Patrol agents and refused to specify what circumstances would warrant an exemption from expulsion. But data obtained by [CBS News](#) from ORR—the agency in charge of caring for unaccompanied children—shows that **only 58 unaccompanied children were referred to ORR in April 2020 compared to more than 2,200 in February.** Further, ports of entry across the

entire southern U.S. border processed only 32 unaccompanied children in April 2020 – down 92 percent from the month prior. Even prior to the CDC order, CBP officers regularly blocked some unaccompanied children from even requesting protection at ports of entry, according to Kids in Need of Defense (KIND). Taken together, these figures and CBP’s history of turning away unaccompanied children indicate that, in addition to the more than 1,000 unaccompanied children expelled to their countries of origin, CBP is likely blocking even more children from requesting protection at ports of entry because of the CDC order.

- Indeed, **CBP expelled unaccompanied 12- and 15-year-old Central American children alone to dangerous Ciudad Juárez**, Mexico, where they were left homeless and on their own, according to KIND policy brief from April 2020.

In the wake of the CDC order, CBP is severely limiting or has entirely stopped permitting asylum seekers returned to Mexico under MPP to request protection at ports of entry through highly flawed MPP fear-screening interviews.

- **A CBP spokesperson reportedly confirmed that following the implementation of the CDC’s March 20 order DHS is limiting MPP fear screening to a “case-by-case” basis**, further violating DHS’s duty under U.S. law and treaty commitments not to return individuals to persecution or torture and **inconsistent with representations the government made to the U.S. Court of Appeals for the Ninth Circuit and U.S. Supreme Court that individuals in MPP can request a fear screening “at any time.”**
- **A Honduran asylum seeker whose finger had been cut off by kidnappers in Ciudad Juárez when his family failed to pay ransom was denied an MPP fear screening in May by CBP officers at the El Paso port of entry.** He reported that he had been kidnapped sometime after his MPP hearing in late March was postponed. CBP officers told the man interviews were suspended because of the coronavirus and that he must wait to ask for protection until his MPP hearing, now rescheduled to September 2020.
- **CBP officers turned away a Brazilian lesbian couple with a nine-year-old son** when the family attempted to request an MPP fear screening at the El Paso port of entry in late April, telling the family that such interviews were not being offered. CBP officers later confirmed to the family’s attorney, Susan Beaty from Centro Legal de la Raza, that MPP fear interviews are not being conducted due to “Title 42” – the authority invoked in the CDC order.
- **CBP officers in Laredo have also repeatedly refused to refer individuals in MPP for fear screenings** including a **Venezuelan asylum seeker in MPP who requested protection while a gunfight was taking place nearby in Nuevo Laredo** in early April 2020, and an asylum-seeking **Venezuelan family also denied a fear screening** later in April, according to an attorney with the *Proyecto de Ayuda para Solicitantes de Asilo*.
- In addition, several attorneys representing asylum seekers returned by DHS to Ciudad Juárez reported in April that CBP officers at the El Paso port of entry were **refusing to allow unrepresented asylum seekers in MPP to receive fear screening interviews. Nearly ninety-four percent of MPP returnees do not have lawyers**, according to immigration court data analyzed by TRAC.

Prior to the CDC order thousands of asylum seekers were already waiting in Mexico to seek U.S. asylum protection due to CBP’s illegal “metering” reductions in asylum processing at ports of entry. Now, those attempting to seek protection are not even able to add themselves to the ad hoc waiting lists at ports of entry, as most of the managers of these informal lists have stopped accepting new entries given the shutdown in asylum processing. Those stranded in Mexico waiting to request protection in the United States include:

- **A Cuban asylum-seeking couple with two- and three-year old children has been waiting nearly nine-months**, since August 2019, on the metering list at the San Ysidro port of entry, they told a Human

Rights First researcher in May 2020. With the border closed by the CDC order, **“We’re desperate. We try to stay calm and wait for when they reopen the border. . . but what we worry about most are the boys.”**

- In Tijuana, **hundreds of Angolan, Cameroonian, Congolese, Eritrean, and other African asylum seekers, many of whom fled persecution and torture at the hands of rights-violating governments, have depleted their little savings while waiting six months or more on metering lists**, according to Tsion Gurmu with the Black Alliance for Just Immigration. The organization is providing food and other necessities to over 100 asylum seekers in Tijuana, but hundreds more are in need. Black asylum seekers and migrants in Mexico frequently face xenophobia and racially-motivated violence, including by Mexican authorities.
- **A Cuban doctor, her husband, and mother, who have been waiting for two months on the metering list in Nogales as of May 2020, cannot afford another month’s rent and have not been able to find space in a shelter or work to support themselves.** They reported to Human Rights First that they are terrified to go out on the street for fear they will be detained and deported by Mexican authorities, who extorted them as they tried to reach the U.S. border.
- Attorneys reported that **dozens of Mexican asylum seekers** fleeing extreme cartel violence in Michoacán and Guerrero states who had been waiting for months on the asylum metering list for the Brownsville port of entry have been departing from the Matamoros encampment given fears of exposure to COVID-19 and the now indefinite wait to request protection in the United States.

Violence Grows in Mexico: At Least 1,114 Publicly Reported Cases of Rape, Kidnapping, and Assault

Despite escalating violence in Mexico and instead of allowing asylum seekers to remain safely in the United States while their claims are decided, DHS continues to return asylum seekers through MPP to Mexico, and is now using the CDC order to expel asylum seekers, unaccompanied children, and other migrants there.

Violence in Mexico has increased, not abated, during the COVID-19 pandemic. Given disruptions to their operations, cartels are reportedly increasing kidnappings and robberies. Indeed, reported kidnappings rose in March 2020. A man claiming to be a member of the Juárez Cartel told VICE news that the cartel’s kidnappings of Cuban asylum seekers was a recent development due to the U.S. migratory policy that is “keeping people stuck in our country,” describing how they “just pull people off the streets and take them to a safe house.” The cartel contacts family members in the United States demanding payments, and if the family fails to pay, he said, the asylum seeker will “end up where they end up, maybe a mass grave.” The number of murders in Mexico in the first months of 2020 has also risen compared to early 2019, a year when the country suffered its highest homicide rate in more than two decades. Despite pandemic-related movement restrictions, murders remained at near record highs in April 2020 in Mexico.

The Trump Administration is delivering asylum seekers and migrants to this intensifying and deadly violence. Cartels, criminal organizations, and other xenophobic perpetrators target asylum seekers and migrants in Mexico for kidnapping, robbery, rape, and assault. A Guatemalan migrant told journalists in April that during two recent armed robberies in Veracruz and Saltillo attackers stabbed him with icepick and shot him in the cheek. In April, locals in Tapachula threatened to attack a group of migrants abandoned by the *Instituto Nacional de Migración* (National Migration Institute or INM) near the border with Guatemala. In March, death threats against Cuban

migrants were posted in downtown Ciudad Juárez, and residents of a migrant shelter in Tijuana were reportedly “attacked and robbed, express-kidnapped and extorted by police.”

Human Rights First has tracked at least 1,114 public reports of murder, torture, rape, kidnapping, and other violent attacks against asylum seekers and migrants returned to Mexico under MPP. This tally includes 265 children in the MPP program who were kidnapped or subjected to kidnapping attempts. But this count is only the tip of the iceberg, as the overwhelming majority of returned individuals have not spoken with human rights investigators or journalists. Given COVID-19-related travel restrictions in the United States and Mexico, tracking of attacks has become increasingly difficult as very few researchers, reporters or attorneys have been able to meet with and interview individuals forced to remain in Mexico.

Asylum seekers dumped in Mexico under MPP are forced to risk their lives daily to remain in Mexico waiting for hearings, which have now been repeatedly postponed with the closure of immigration courts. They have been forced to travel, sometimes hundreds of miles from where DHS returned them to Mexico, to pick up notices for cancelled hearings. Some have been kidnapped in Mexico immediately after being issued new notices.

- **A Venezuelan asylum seeker was kidnapped in April 2020 after traveling to the Laredo port of entry to pick up a hearing notice for a postponed MPP hearing.** While returning to the bus station in Nuevo Laredo he was kidnapped and robbed. After being released the man contacted his lawyer from *Proyecto de Ayuda para Solicitantes de Asilo* to share that he was temporarily staying in the home of a stranger who offered him help but indicated that he was concerned about his safety there. The attorney has not been able to contact the man since and fears he has been abducted again.

The Trump Administration is well-aware of the extreme and growing violence in Mexico, yet DHS continues to return asylum seekers there under MPP. For instance, in February 2020, a Drug Enforcement Agency spokesperson noted that a wave of homicides in Mexico was the result of a “war for the Tijuana area” among cartels. Recently, the U.S. Consulate ordered U.S. government employees to take shelter in early April 2020 after reports of “multiple gunfights and blockades throughout the city of Nuevo Laredo.” The U.S. State Department designated the state of Tamaulipas, where DHS has returned more than 29,000 asylum seekers under MPP through the cities of Nuevo Laredo and Matamoros, as a Level Four threat – the same threat level assigned to Afghanistan, Iran, Libya, and Syria. In April 2020, the ACLU brought suit on behalf of a group of 26 asylum seekers (including 14 children) returned by DHS to Tamaulipas under MPP. These asylum seekers, the suit alleges, were targeted for brutal kidnappings, rapes, and violent assaults in Tamaulipas because of their status as migrants, gender, and sexual orientation.

Asylum seekers returned to Mexico by DHS under MPP are frequently targets for kidnapping, including when they are forced to travel to or from U.S. ports of entry to attend MPP court hearings:

- **An immigration judge order a Venezuelan asylum seeker removed *in absentia* who had missed her MPP hearing after being kidnapped on the way to U.S. immigration court in Brownsville** in early March 2020. While traveling to the port of entry on the morning of her hearing, cartel members boarded her bus in Reynosa, according to her immigration attorney. The cartel let the woman and other passengers go that night but by the time the woman reached the port of entry the next day, CBP officers informed her that she had been issued an *in absentia* removal order – meaning that her case, and her chance to apply for U.S. protection, were dismissed.
- **Children and families returned by DHS to Nuevo Laredo continue to be kidnapped** there, including a 16-year-old Honduran boy whose kidnappers demanded \$800, which his mother could not pay; an 11-year-old boy and his father from Honduras who were kidnapped just feet from the INM building after a Mexican migration officer threw them out; and a Salvadoran man with two small children kidnapped from

a taxi two blocks from the port of entry and held for five days with 21 other kidnapping victims from Cameroon, Haiti, and Venezuela, according to a [report](#) by Aljazeera in early March 2020.

- **A Honduran asylum seeker and her three-year-old son, who were returned by DHS to Ciudad Juárez under MPP, were held against their will and the woman sexually assaulted by their captor.** After escaping, the kidnapper continued to send the woman messages threatening to find her and take her again, according to the woman's attorney.
- **Two Cuban asylum seekers now staying in the Matamoros tent encampment were abducted in Monterrey by men they believe were police officers, held for days, and beaten** until relatives in the United States paid \$4,000 each, according to a report in [The Nation](#) in April.
- **A pregnant Cuban doctor seeking asylum in the United States, who was beaten and nearly kidnapped in Ciudad Juárez** suffered a miscarriage in CBP custody while seeking an MPP fear screening interview in early-March 2020. The woman managed to fight off the abductors with the help of neighbors but was left bruised. She suffered a miscarriage two weeks later while in CBP custody awaiting an MPP fear-screening interview, which she did not pass, as the woman recounted to Human Rights First.
- **An asylum seeker placed in MPP by DHS and returned to Nuevo Laredo was abducted and tortured by members of the Zetas cartel,** according to a court observer monitoring the man's hearing remotely from the San Antonio immigration court in March 2020. The man who had been blindfolded and held at gunpoint during the abduction told the judge he had crossed the border "to preserve his life."
- A Honduran asylum seeker returned to Matamoros under MPP by DHS, and who is now serving as a [pastor](#) in the tent encampment, was nearly kidnapped by cartels there in early March 2020.

Individuals returned under MPP by DHS have been raped, assaulted, and threatened in Mexico while waiting for their U.S. immigration court hearings, including by cartels, criminal organizations, and other individuals who target asylum seekers because of their status as migrants, their gender, sexual orientation, race, and other protected grounds. Some of those harmed include:

- **A Cuban LGBTQ asylum seeker, who had been returned to Matamoros by DHS, was twice attacked in December 2019 in Reynosa and nearly raped.** Despite a black eye, bloody lip, swollen face, bite marks, and bruises on her body, the woman did not pass a fear of Mexico screening and was again returned to Mexico by DHS, according to her legal representative.
- The Gulf cartel in Matamoros is forcing a Guatemalan LGBTQ asylum seeker returned there by DHS to pay weekly extortion – and to pay higher extortion because he is gay. When the cartel discovered the man is gay, **they raised the extortion demanded, telling him “this [being gay] is more expensive.”** The man, who recently lost his job due to COVID-19, is living in fear: “I know that any time these people can return, and I may not have enough money to pay them,” he told a Human Rights First researcher.
- **A Venezuelan asylum seeker in her sixties was sexually assaulted in January 2020 in Tamaulipas after DHS returned her to Matamoros under MPP.** She subsequently moved to the tent encampment in Matamoros, where she feels in less danger than remaining in the area where the assault took place, according to her immigration attorney Jennifer Scarborough.
- **A Guatemalan asylum seeker returned by DHS to Mexico, was assaulted and robbed in Tijuana in March 2020.** When he tried to make a report to the [police](#), the officers refused to accept his complaint because of his status as an asylum seeker in MPP.

- Cartel members threatened an asylum seeker returned to Matamoros by DHS through MPP March 2020 and forced him to make weekly payments to avoid kidnapping, according to his attorney.

DHS Further Limiting Already Farcical Protection Interviews, Turning Away Vulnerable Asylum Seekers

The screening process for MPP, which is supposedly intended to prevent the return of individuals to persecution or torture in Mexico, is rigged at every stage. Families with children already traumatized from brutal kidnappings and women who fear being sexually assaulted again have been returned to Mexico after these faulty screenings. These interviews lack the basic safeguards Congress created to prevent the deportation of asylum seekers to persecution including the credible fear process and other safeguards to assure access to asylum hearings.

Now, with the CDC order in place, DHS is even further limiting access to already farcical MPP screenings. Because immigration courts are closed, the only opportunity for asylum seekers returned to Mexico who fear persecution or torture there is to request a fear screening by approaching a U.S. port of entry. However, as noted above, as of late April 2020, CBP is limiting, or not permitting, individuals in MPP to request screenings. Even before this apparent policy shift, a study by researchers at U.C. San Diego found that CBP officers failed to refer to screening interviews 60 percent of individuals placed in MPP in California who expressed a fear of Mexico.

Some individuals who managed to receive MPP fear screening before CBP stopped allowing these interviews were nonetheless returned to danger in Mexico after farcical screenings, including:

- **A Guatemalan asylum seeker who had been kidnapped and raped after DHS sent her and her 13-year-old daughter to Ciudad Juárez, were again returned there after failing DHS decided that she had not passed an MPP fear screening interview in March 2020.**
- **DHS returned an unrepresented transgender Honduran woman to Ciudad Juárez after a DHS officer decided that she did not pass an MPP fear screening interview** in late March 2020, despite evidence of widespread persecution and violence against LGBTQ migrants, particularly transgender women, in Mexico.

Indeed, nearly all MPP fear interviews are denied. Despite the pro bono assistance of attorneys experienced in credible fear interviews, **not a single client of nearly 60 assisted by the *Proyecto de Ayuda para Solicitantes de Asilo* passed an MPP fear of Mexico screening in 2019**, according to an attorney working for the project. Asylum seekers assisted by the project who failed these farcical screenings include five individuals subjected to **rape or attempted sexual assault** in Mexico, **a child kidnapped** by cartel members who **threatened to traffic the child's organs**, dozens of individuals kidnapped by cartels in Ciudad Juárez, Matamoros, Monterrey, Nuevo Laredo, and Reynosa, many who suffered other attacks and/or were extorted by Mexican police. An asylum officer speaking to Vox reportedly stated that the standard for fear of Mexico screenings is “all but impossible to meet.” A former asylum officer who resigned in protest over MPP decried the fear interview process as “practically ensur[ing]” the violation of international law.

On January 14, 2020, a federal district court issued a preliminary injunction requiring that DHS allow individuals receiving MPP fear screening, but only in California, to speak with and be represented by their attorneys during these interviews. But DHS continues to fail to ensure access to counsel during MPP fear screenings in many cases. For instance, the officer conducting the interview of Alejandra, described above, failed to call her attorney, Brooke Bischoff from Las Americas Immigrant Advocacy Center, to monitor and participate in the interview even though the lawyer had submitted a notice of appearance in advance.

CBP also continues to return and refuse to remove vulnerable asylum seekers placed in MPP in violation of internal MPP policy restricting the return to Mexico of individuals with “known physical/mental health issues.” Some of those returned with evident and serious health conditions, including some also denied parole, include:

- **A ten-year-old indigenous Guatemalan child with cerebral-palsy** returned by DHS to Ciudad Juárez with his asylum-seeking family. The boy is unable to walk, according to attorney Nico Palazzo with Las Americas Immigration Advocacy Center.
- **CBP twice refused to remove from MPP a Brazilian asylum-seeking family with a one-year-old girl suffering from hydrocephalus, a serious brain condition, and a two-year-old boy with respiratory distress syndrome** despite medical records and letters from two experts documenting their conditions, according to attorney Nico Palazzo. After denying their first parole request in March 2020, CBP returned the family to dangerous Ciudad Juárez at 1 a.m.
- CBP also refused in early March 2020 to remove from MPP a **60-year-old Venezuelan asylum seeker with U.S. citizen children who suffers from COPD and diabetes and is at severe risk of COVID-19**. The woman is living in the tent encampment in Matamoros because she feels in less danger there after suffering a sexual assault in a rented accommodation, according to her attorney Jennifer Scarborough.



DHS and EOIR Needlessly Put Asylum Seekers in MPP at Risk of Attack and COVID-19 Exposure, Create Scheduling Chaos

Because of immigration court closures during the pandemic, MPP hearings for over 10,700 individuals have been cancelled, according to immigration court schedules released by EOIR and analyzed by Human Rights First. Fifty-seven percent of those with postponed MPP hearings will have been waiting six months or more in Mexico by June 22, 2020, when the immigration courts are currently scheduled to reopen,

including 1,236 who will have been waiting for one year or more. Because MPP hearings have been postponed four times to date, some asylum seekers have already had hearings cancelled multiple times. Asylum seekers and migrants with pending MPP proceedings include **4,863 Hondurans, 4,596 Cubans, 2,540 Guatemalans, 1,796 Salvadorans, 1,308 Venezuelans, 1,301 Ecuadorians, 599 Nicaraguans, and 348 Brazilians**, according to TRAC.

For weeks DHS and EOIR needlessly forced asylum seekers to travel through dangerous border regions of Mexico to U.S. ports of entry, exposing them to the risk of COVID-19 infection, merely to pick up notices of MPP hearings cancelled due to COVID-19 court closures. CBP officers threatened that asylum seekers who failed to pick up updated notices would be deported, distributed hearing notices at some ports of entry in the middle of international bridges putting asylum seekers at additional risk of kidnapping, and at times failed to provide new hearing notices to asylum seekers who had traveled to the port of entry on the date of their hearing. In mid-April 2020, Human Rights First and 26 other organizations providing services to those in MPP wrote to CBP and DHS warning of these and other dangers and called on DHS to parole asylum seekers in MPP into the United States and, at a minimum, to implement other practical steps to protect asylum seekers. On May 10, DHS and EOIR announced a new MPP rescheduling policy claiming that asylum seekers would no longer be required to travel to ports of entry and asserting that the agencies are “deeply committed to ensuring the health and safety of aliens.”

In reality, DHS and EOIR instituted a poorly planned alternative that creates even more confusion and is likely to result in asylum seekers missing their hearings and being ordered removed *in absentia*. U.S. officials are now asking asylum seekers in MPP to report to court “one month later than the date indicated on their most recently noticed date.” But the immigration courts have no means to provide notice to asylum seekers in Mexico of this change, have not explained what those with new hearings that fall on weekends should do, and is continuing to require some asylum seekers to undertake dangerous trips merely to pick up updated notices.

This latest rescheduling policy for MPP is already creating additional chaos for asylum seekers.

- For instance, attorney Taylor Levy reported that more than 100 asylum seekers traveled to the El Paso port of entry on Monday, May 11 and Tuesday, May 12, 2020, unaware of the change in scheduling, which had been announced at 8 p.m. on a Sunday night. On Monday, CBP turned them away without hearing notices and told them to return again on June 11 – a date when MPP hearings are cancelled. Adding even further to the confusion, the EOIR court information system indicates their hearings are re-set for August. On May 11, CBP officers refused to even explain the new policy to confused asylum seekers who had waited in line on the bridge from 4 a.m. Indeed, DHS suspended “in-person document service” through June 8, and CBP is not providing updated hearing notices even to asylum seekers who have traveled to ports of entry.
- Some asylum seekers in MPP, many of whom are living in shelters or have lost whatever minimal work they were able to find before the COVID-19 pandemic, do not have access to the Internet to check online scheduling changes, even if they knew where to find such information, and **94 percent of individuals in MPP do not have a lawyer**, according to TRAC, **who could advise them of the rescheduling policy.**
- DHS and EOIR have not explained when individuals with “new” MPP hearings that fall on weekends should appear for court. For instance, under the announcement asylum seekers with hearings set for Wednesday, May 13, and Thursday, May 14, should appear for rescheduled “hearings” on Saturday, June 13, and Sunday, June 14. **Nearly 800 asylum seekers are nonsensically “scheduled” for hearings that would fall on weekends under the new policy**, based on court schedules released by EOIR and analyzed by Human Rights First.

- These schedules also show that **the new rescheduling policy instructs some 1,500 MPP asylum seekers with hearings set between May 11 and May 19 to appear at ports of entry on dates prior to the reopening of MPP courts on June 22, apparently solely to pick up new hearing notices.**

Prior to the recent policy change, CBP officers were claiming that asylum seekers who did not follow DHS and EOIR instructions to receive notices for rescheduled hearings would be ordered deported.

- Human Rights First received multiple reports that CBP officers threatened that asylum seekers who fail to pick up hearing notices would be deported and that asylum seekers who attempt to attend rescheduled hearings without official updated hearing notices would not be permitted to attend their new hearings.
- While CBP does not have legal authority to order an asylum seeker in immigration court proceedings removed, these officers control whether individuals in MPP are permitted into the United States for their hearings and have repeatedly prevented asylum seekers at ports of entry from attending their hearings.

Despite the change in rescheduling policy, many asylum seekers in MPP must and will still continue to undertake long and dangerous journeys through the border region to reach ports of entry. Asylum seekers returned by DHS to Nogales “face a nine-hour, 370 mile-long trek through disputed cartel territory to reach Ciudad Juárez” for MPP proceedings. Similarly, asylum seekers sent by DHS to Piedras Negras must brave dangerous travel to Nuevo Laredo, where kidnappings of asylum seekers in MPP from the city bus station, taxis, and streets are common.

- **CBP was distributing hearing notices in the middle of the international bridge in Nuevo Laredo without verifying the identity of the individuals who receive updated hearing notices**, according to a Venezuelan asylum seeker who picked up a notice for a postponed hearing at the Laredo port of entry in March 2020. **This practice puts asylum seekers at additional risk of kidnapping in Nuevo Laredo because it clearly marks them as migrants to the cartel scouts waiting at the foot of the bridge.**
- **A Venezuelan asylum seeker was kidnapped in April immediately after receiving a hearing notice on an international bridge while walking away from the Laredo port of entry**, as discussed above.
- Updated hearing notices were also being distributed by CBP officers in the middle of the international bridge in Matamoros in March and April 2020, according to multiple asylum seekers who received notices for rescheduled hearings at the Brownsville MPP tent court.

Many asylum seekers have had to make difficult decisions about whether to expose themselves and their family members to COVID-19 or risk the possibility that CBP will block them from attending MPP hearings, including:

- A pregnant Cuban asylum seeker whose high blood pressure puts her at serious risk for complications were she to be infected with COVID-19 undertook the dangerous journey from Reynosa to Matamoros with her husband in early-May 2020 to receive their updated MPP hearing notice from CBP. **“We ha[d] to expose ourselves [to the risk of COVID-19], sitting in a car with people we don’t know, waiting in line with a crowd,”** her husband observed to Human Rights First.
- An LGBTQ Cuban asylum seeker who traveled from Reynosa to Matamoros in late April for an updated hearing notice said she was terrified **“not only because of the pandemic, but also because of the situation that migrants face . . . we are often kidnapped, or raped, or worse.”** She told a Human Rights First researcher that she risked the journey, fearing she would otherwise be blocked from seeking asylum in the United States: **“I didn’t have a choice. . . . I had that date scheduled, and I knew that if I didn’t show up, I would have a deportation order.”**
- An indigenous **Guatemalan asylum seeker with a one-year-old child could not travel the hundreds of miles** to Ciudad Juárez from Nogales, where DHS had returned the family, to receive new MPP

hearing notices in late March, as the family had nowhere to stay with city shelters closed to new arrivals due to COVID-19, according to Joanna Williams with the KINO Border Initiative. The family's rescheduled hearing, set for mid-May 2020, was subsequently postponed again.

Even when asylum seekers travel to ports of entry some CBP officers have failed to distribute hearing notices, putting asylum seekers at risk of not being allowed to attend their rescheduled hearings and being ordered deported as a result.

- CBP officers at the El Paso port of entry repeatedly refused to provide notices to parents who appeared alone at the port of entry to pick up documents on behalf of their families to reduce the risk of exposure to COVID-19 and ordered the parents to return with their children and/or partner.
- At the Brownsville port of entry, CBP officers refused to provide hearing notices to a Nicaraguan asylum-seeking family, including two children, because they were not wearing masks, according to an asylum seeker who witnessed the incident. This requirement, if such a requirement exists, has not been announced publicly, nor enforced for returning U.S. citizens, residents, or other travelers passing through the same port of entry.
- At multiple ports of entry, attorneys and advocates reported that CBP officers refused to distribute hearing notices to some asylum seekers who appeared on the date of their postponed hearings, provided no explanation as to why, and told asylum seekers to return again even when the asylum seekers explained that they had no means to travel to the port again.

No Public Health Rationale to Close Border to Asylum Seekers

The administration's claims that the CDC order authorizing the closure of the border to and expulsion of asylum seekers is intended to prevent the introduction of COVID-19 to the United States are a pretext for advancing its long-held goal of eliminating legal protections for asylum seekers and unaccompanied children at the border. The CDC order lacks a public health rationale, according to public health experts. Explaining that both public health safeguards and procedures for protecting children and people seeking refuge can be upheld, experts have stressed that these goals "are not in conflict and can be served side by side."

- Professor Lawrence Gostin, director of the O'Neill Institute for National and Global Health Law at Georgetown University, stated that "there is no scientific evidence" to support the use of the "categorical classification" instituted by the Trump Administration to supposedly halt COVID-19 at the border.
- A recent study by researchers at U.C. San Diego, found no relationship between the number of asylum seekers who apply for protection at the southern border or who are permitted to enter the United States at the southern border to continue their asylum proceedings and the prevalence of infectious diseases, like the flu, in the United States.
- Dr. Monik Jiménez, Assistant Professor at Harvard Medical School and Harvard T.H. Chan School of Public Health, said that the restrictions implemented in the CDC order are "not based on sound epidemiological evidence of groups that may be at higher or lower risk" of COVID-19 infection.
- Dr. Ronald Waldman, physician and professor of global health at George Washington University and president of Doctors of the World – USA has observed, "[t]here is no reason why asylum seekers would be more likely to be at risk of contracting or transmitting the virus than any other group of people."

Human Rights Watch and other leading health and human rights organizations have noted that the order is based on misleading and unsubstantiated factual allegations by DHS about processing of asylum claims at the border.

CDC inaccurately claims that individuals covered by the order lack places where they could self-isolate in the United States to reduce the spread of COVID-19. But an October 2019 study by researchers at [U.C. San Diego](#) of 607 asylum-seekers subjected to MPP found that nearly 92 percent had family or close friends in the United States with whom they could stay.

At the same time that the administration is blocking refugees from seeking asylum protection in the United States, supposedly on the ground that processing asylum seekers in DHS border facilities would risk contagion, CBP and Border Patrol are failing to use basic public health measures to prevent the spread of COVID-19 to the public.

- CBP does not require officers at ports of entry interacting with members of the public to wear masks or gloves, according to a CBP spokesperson. Despite being provided masks and gloves, CBP officers may choose not to use personal protective equipment, according to a CBP union representative. In April, CBP also cancelled a schedule modification that had “limit[ed] the number of CBP personnel at ports while still meeting operational needs” – a policy intended to facilitate social distancing.
- Attorneys, humanitarian volunteers, and members of the public who have crossed the border on foot or vehicle at [San Ysidro, California](#), [Nogales, Arizona](#), Columbus, New Mexico, and [El Paso](#) and Brownsville, Texas ports of entry in April and May reported inconsistent use of masks and gloves by CBP officers at these ports. **All the individuals who recounted experiences at ports of entry to Human Rights First reported seeing CBP officers in vehicle lanes and inside ports of entry who were not wearing masks**, although many were using gloves. **None were offered nor observed hand-sanitizing gel available for use by the public.** Nor are CBP officers observing social distancing among themselves, according to news [reports](#), or ensuring social distancing in lines of individuals waiting at or outside of ports of entry, including in El Paso and Brownsville.
- For instance, CBP officers from the Brownsville port of entry posted in the middle of the international bridge in early May 2020 were observed not wearing gloves or masks and not maintaining social distancing of travelers lined up to approach the port of entry. At the El Paso port of entry in early May, an ACLU advocate reported that CBP officers in the port of entry failed to maintain social distancing from one another and only three of the eight CBP officers who were speaking in groups together were wearing masks. Some members of the public, including at the San Ysidro port of entry, at high risk for COVID-19 have confronted CBP officers were not wearing masks when those officers have not maintained social distancing and demanded the travelers remove protective gear.
- Individuals recently traveling to the United States through land ports of entry on the southern border all reported to Human Rights First that CBP officers are not administering health screening questions or taking temperatures.
- Recent photographs posted by Border Patrol officials on Twitter show uniformed, on-duty agents in [California](#), [Arizona](#), [New Mexico](#), and [Texas](#) not consistently using masks and not maintaining social distancing, even among agents not wearing protective gear.

Mexico Complicit in U.S. Schemes to Block Asylum

The Mexican government is facilitating the United States’ violations of international protections for refugees by agreeing to receive Mexicans and Central Americans expelled under the CDC order. Mexico also continues to receive non-Mexican asylum seekers and migrants returned under MPP, including [Brazilian](#) nationals who DHS began to return under MPP in January 2020. Mexico detains many individuals expelled by the United States, failing to consistently provide asylum seekers with an opportunity to seek protection, officially deporting some and

illegally attempting to force others to cross the southern Mexican border to Guatemala. These deportations raise serious concerns about the potential widescale return of asylum seekers, including those expelled from the United States, by Mexico to the countries they were fleeing.

- **A Honduran asylum seeker and her daughter expelled by the United States under the CDC order in late March 2020 to Reynosa were detained by Mexican migration authorities, denied an opportunity to seek asylum, and forced with dozens of others, mostly mothers with their children, by Mexican migration into Guatemala in the middle of the night.** The Guatemalan military returned the family to Mexico but INM again tried, unsuccessfully, to force them across the border since the official crossing point was closed.
- Mexican migration authorities deported more than 3,500 Central Americans in April from INM detention centers, including an unknown number expelled under the CDC order from the United States. INM agents have often failed to inform detained individuals of their right to seek asylum in Mexico, pressuring asylum seekers not to file applications, and failing to forward requests to the Mexican asylum agency.
- A Cuban asylum seeker in MPP who was returned by DHS to Matamoros in September 2019 was previously detained by Mexican migration in Tapachula in southern Mexico and deported in early 2019 despite a pending asylum application in Mexico. “At 2 a.m. they [INM] pulled me out and deported me despite my application with COMAR [the Mexican asylum agency],” he told Human Rights First. The man fled Cuba again and made his way to the U.S. border to seek protection.
- Doctors without Borders staff in Matamoros witnessed the “**coerced transportation**” of asylum seekers and migrants expelled under the CDC order in late March 2020 and sent by INM from Matamoros to southern Mexico.

Asylum seekers in MPP are now at increased risk of deportation because Mexican migration authorities are creating hurdles for them to renew Mexican migration permits (*forma migratoria múltiple* or FMM). Because FMM’s for those in MPP are typically valid only until their next MPP hearing, permits for thousands of asylum seekers with postponed cases have or will soon expire. INM generally renews FMMs only when presented with updated U.S. documents indicating the individual’s next MPP hearing. But many asylum seekers have been unable to receive these documents, as discussed above, or cannot travel hundreds of miles during the pandemic to the port of entry where they were returned to Mexico in order to renew the permit. In late April 2020, INM issued a new policy to permit renewal of FMMs in any INM office upon presentation of an expired MPP FMM, but some attorneys have reported that individuals in MPP have been denied permit renewals by INM even when they presented a copy of the new policy to officials. Further, in Ciudad Juárez, several immigration lawyers reported that beginning in late April the local INM office restricts the number of MPP FMMs renewed each day, turning away asylum seekers in MPP once the limit is reached. These restrictions are a deliberate choice by local INM officials, as the INM delegation in Baja California has extended an automatic 180-day extension for all individuals in MPP.

Individuals with expired FMMs may be detained and deported by INM. Although Mexican police do not have authority to enforce immigration laws they often harass and arrest individuals who appear to be migrants. For example, in late April 2020, **a Salvadoran asylum seeker and her two children were unable to pick up updated hearing notices at the El Paso port of entry because police in Ciudad Juárez stopped the family based on their accents, held them for questioning and confiscated their FMMs**, according to attorney Tania Guerrero with CLINIC (the Catholic Legal Immigration Network, Inc). When the family went to the bridge the next day, CBP refused to provide them new hearing notices. In May 2020, Mexican President López Obrador gave the Mexican army and marines authority to detain migrants, further increasing the likelihood of abuses against asylum

seekers. [Human Rights Watch](#) found that deploying the military as a police force in Mexico “has produced widespread human rights violations – including executions, enforced disappearances, and torture.”

Mexican officials are also making it more difficult for asylum seekers to attend their U.S. immigration court hearings by moving some individuals thousands of miles from the ports of entry where their MPP hearing will be held. INM has sent many in MPP to [Tapachula](#) in southern Mexico and, according to reports from immigration attorneys and advocates in Matamoros and Tijuana, around 100 were sent from Matamoros to a shelter in Tijuana. The voluntariness of these transfers is highly questionable, given the serious dangers and terrible conditions for asylum seekers returned to the tent encampment in Matamoros and the fact that some of the individuals sent to Tijuana have already left in an attempt to return to Matamoros on their own.

COVID-19 Makes Desperate Circumstances Even Worse

Asylum seekers forced to remain in Mexico under MPP and expelled under the CDC order are stranded in brutal conditions, made worse by the pandemic; many are without safe and secure housing, adequate medical care, or sufficient food. Shelters are cutting capacity, not accepting new residents, and in some cases closing all together. Some shelters do not allow residents to leave to search for work or purchase necessities due to the pandemic, leaving them without any income and totally dependent. The many who are living outside of shelters – in migrant hotels, rented apartments, or on the streets – have largely lost the little work they managed to find, and many are facing eviction and hunger as their savings quickly run out.

Measures taken by migrant shelters along the northern Mexican border to avoid the spread of COVID-19 are likely leaving many desperate asylum seekers who were returned or expelled to Mexico with nowhere to stay. Service providers reported that some migrants in Mexicali are sleeping in the streets due to the [closure](#) of shelters to new arrivals there. Others not accepting new asylum seekers include [LGBTQ](#) and [family](#) shelters in Tijuana and the [only shelter](#) in Reynosa. In Tijuana, the [Casa de Migrante](#) closed entirely in early April 2020, displacing three dozen adults and children staying there at the time. In Piedras Negras, all migrants shelters were also [reportedly](#) emptied and closed in early April. In March 2020, authorities [reportedly](#) ordered all 14 shelters in Ciudad Juárez to close to new arrivals. A “[filter](#)” shelter in Ciudad Juárez was finally designated in April to quarantine asylum seekers for 14-days before transfer to other shelters, but many asylum seekers reported that shelters remained closed to new arrivals. [Other shelters](#) are severely limiting capacity to enable social distancing.

Because most shelters are [restricting](#) migrants from leaving their facilities to work or for any other reason except to attend MPP hearings and have closed to outside visitors, including [volunteers](#), due to the pandemic, many shelters that rely on [donations](#) are struggling to provide [food](#) and other necessities. Paulina Olvera Cáñez of the Espacio Migrante shelter in Tijuana said that feeding the two dozen parents and children in the shelter has become increasingly difficult, particularly as donations decline and stores limit the amount of food that can be purchased.

Access to already extremely limited medical care for asylum seekers stranded in Mexico has become even more restricted during the COVID-19 pandemic.

- **A Haitian asylum seeker waiting months in Reynosa to seek asylum at the U.S. port of entry was forced to give birth in an ambulance because the local maternity hospital turned her away** in March 2020. The hospital did not have doctors available due to COVID-19 cases, according to [Doctors without Borders](#).

- Emergency services in Ciudad Juárez refused to respond to calls for help for a woman returned to Mexico under MPP who appeared to be having an acute psychological breakdown in late April 2020, citing limited capacity to attend to non-COVID-19 related cases, according to attorney Tania Guerrero with CLINIC.

Due to the pandemic many asylum seekers waiting to seek protection in the United States, the majority of whom are not staying in shelters, have lost the minimal work they could find to pay for rent and buy food. They include:

- A pregnant asylum-seeker from Cuba and her partner, who were returned to Mexico under MPP, are out of work and struggling to pay for medical appointments for the woman who is suffering high blood pressure. **“It’ll either be the doctor’s visit or the rent,”** she told Human Rights First from Reynosa.
- An LGBTQ Guatemalan asylum seeker in MPP, who was fired due to the pandemic and went for nearly a month without income in Matamoros, reported to a Human Rights First researcher, **“I had problems getting food. I used the last money I had to pay rent.”** Cartel members who weekly extort him at his rented room gave him a “break” on extortion payments due to the COVID-19 quarantine, but he fears they will soon return to demand payments he may not be able to meet.
- A Cuban doctor returned by DHS to Ciudad Juárez to await MPP court proceedings said that the migrant self-help group she works with is assisting **40 to 50 asylum-seeking families from Cuba, Honduras, and El Salvador in Juárez because many have lost what little income they were making before the COVID-19 pandemic and have been evicted.** Some are living together with multiple families in a single room. But with shelters closed, “there are people living in the streets,” she commented to a Human Rights First researcher.
- A Venezuelan asylum-seeking family with a five-year-old daughter, who was sent to Nuevo Laredo by DHS, is struggling to survive in Monterrey after the couple lost their main source of income. **“We are completely vulnerable with everything that’s happening.** We’ve been in Mexico for nine months and the truth is that we find ourselves desperate in this situation. **We don’t have enough to pay our rent where we our living, and our daughter can’t go to school,”** they related to Human Rights First.
- A Cuban asylum seeker returned to Mexico under MPP who is staying in an abandoned house in Reynosa informed Human Rights First that **many asylum seekers had been evicted from rented accommodations because they are no longer able to find work due to the pandemic** to support themselves while they wait for MPP hearings. The man and other Cuban asylum seekers were taking in those who had been evicted.
- A Venezuelan woman and her husband returned to Mexico under MPP lost their jobs in Tijuana as a result of the pandemic and do not have enough money to pay rent. With their MPP asylum hearing postponed to June, they told Human Rights First that they fear the hearing will be pushed back again. The woman has family in the United States, but “[h]ere in Mexico we don’t feel safe and we don’t have a single relative [to help us]. It’s just my husband and me.”
- **Two Cuban doctors who were returned to Nogales through MPP are running out of savings to support their seven- and eight-year-old children as they have been unable to find work.** Given the shortage of medical personnel in Mexico during the pandemic, the doctors, who have training in treating tropical and infectious diseases, have contacted local health authorities in several Mexican cities to offer their services. “Until now, we have heard nothing,” they said to a Human Rights First researcher.

An estimated 2,500 asylum seekers, about one third of whom are children, remain in the MPP encampment in Matamoros sleeping in tents on the banks of the Rio Grande. With daytime temperatures rising and the rainy season soon approaching, conditions in the camp are likely to worsen. Due to COVID-19 most American

volunteer organizations have halted their services in the encampment to reduce the risk of transmission of the virus from the United States. Although some food is still distributed, a Honduran asylum seeker living in the encampment with his two children and pregnant partner told Human Rights First that getting enough to eat is difficult at times. Global Response Management (GRM), a volunteer medical-services organization, has erected a 20-bed field hospital to treat COVID-19 patients from the encampment, but as of early May 2020, there were no confirmed cases and no patients being treated in the field hospital, according to Andrea Leiner, a nurse practitioner working in the encampment with GRM. Doctors without Borders and GRM are taking measures to reduce potential spread of coronavirus by installing 34 additional hand-washing stations, distributing vitamins and masks, ensuring toilets, showers, and phone charging stations are sanitized regularly, moving tents apart, and promoting social distancing and personal hygiene.

In April 2020, INM erected a chain-link fence around the encampment and began conducting temperature checks for individuals entering the encampment with the aim of preventing the introduction of COVID-19. But security at the encampment remains a serious concern. A Honduran asylum seeker told the Nation **“more than anything, we are worried about our physical safety, about violence. There is a gang that controls the camp. They rape women, they beat up men.”** Despite these dangers, some in the encampment expressed relief that local officials had not relocated asylum seekers to an abandoned stadium miles from the border, which they feared would have put them at more risk of kidnapping, extortion, and attack and would have cut them off from already limited legal and social services provided by volunteers.

These terrible conditions for asylum seekers stranded in Mexico, compounded by the ever-present threat of serious violence and the trauma asylum seekers have suffered in their home countries, take a devastating toll on the mental health of asylum seekers.

- The teenage son of a Venezuelan asylum seeker fleeing political persecution, who has been locked with his family in an apartment in Reynosa for months for safety after being returned to Mexico under MPP, has repeatedly told his mother that he will kill himself if they are not successful in their asylum application in U.S. immigration court, according to their attorney.
- A Guatemalan asylum seeker who fled severe domestic violence and has been the victim of repeated kidnappings and attempted kidnappings in Mexico while in MPP is suffering from severe post-traumatic stress exacerbated by the danger of the Matamoros tent encampment where she fears she could be again kidnapped or attacked, according to her attorney Liz Willis with the Asylum Seeker Assistance Project.

Legal Appendix:

U.S. law makes clear—in both Sections 208 and 235 of the Immigration and Nationality Act (INA)—that people can seek asylum at a U.S. port of entry or after crossing into the United States. Since January 2019, the Trump Administration has been using MPP to return those seeking protection to Mexico. Now the Trump Administration is expelling asylum seekers, unaccompanied children, and other migrants who lack valid entry documents from the United States without any legal process under the CDC’s March 20, 2020 order, which invokes public health authority under 42 U.S.C. § 265 to halt the introduction of communicable diseases. These policies are an attempt to circumvent the laws passed by Congress in order to block individuals from seeking protection in the United States. Indeed, unpublished guidance reportedly circulated by DHS to the Border Patrol indicates that the agency believes that with the CDC order in place it is not required to follow the refugee, immigration, and anti-trafficking laws adopted by Congress in Title 8 of the U.S. Code.

The administration cannot suspend U.S. laws that protect asylum seekers and unaccompanied children. Section 208 of the INA makes clear that asylum seekers who arrive at official border posts can apply for asylum. Second, Section 235(b)(1) establishes specific “expedited removal” procedures for individuals who lack visas or other entry documents (at ports of entry or stopped after crossing the border), which includes most asylum seekers on the southern border as there are no “visas” for seeking asylum. The law provides that asylum seekers placed in expedited removal must be given a credible fear interview and that those who pass the screening be held in U.S. detention or released on parole under INA 212(b)(5) during consideration of their applications. Expelling asylum seekers without any legal process whatsoever contradicts Congress’ clear and specific instructions that asylum seekers remain in the United States while their claims are pending. Further, these expulsions violate the Trafficking Victims Protection Reauthorization Act (TVPRA), which sets out specific procedures for the screening, custody, and treatment of unaccompanied children encountered at the border to ensure that they are not victims of, or returned to a risk of, human trafficking and are provided special procedural protections to ensure they have a fair opportunity to seek asylum.

Congress passed the 1980 Refugee Act to bring domestic law in line with U.S. obligations under the Refugee Convention. Article 33 of the Refugee Convention, which the United States is bound to respect by virtue of having ratified the Protocol relating to the Status of Refugees, prohibits states from returning refugees “**in any manner whatsoever**” to territories where they face a threat to their life or freedom. Expelling asylum seekers to the countries they have fled directly violates Article 33, by returning refugees to the place where they fear persecution without adjudicating their requests for protection. Expelling Central American and other refugees to a third country, such as Mexico, where refugees are at risk persecution or of being returned to their country of persecution also violates Article 33. The United States has also adopted the U.N. Convention against Torture (CAT), which prohibits returning a person to any country where that person would face torture. This obligation has been interpreted to prohibit a country from deporting someone who faces torture to a third country that would subsequently expel the person to a place where he or she faces torture. Expulsions to a country where an individual would be tortured or to a third country, like Mexico, where the individual would be at risk of return to a country where they face torture, also violate U.S. obligations under CAT.

As discussed above, Central American asylum-seekers expelled by DHS under the CDC order have reportedly been detained by Mexican migration officials, denied an opportunity to seek protection in Mexico, and deported.

The authority cited by the administration as justification to expel asylum seekers and unaccompanied children does not supersede the United States’ domestic law and international obligations. As U.S. Senator Patrick Leahy and other senators wrote in expressing their grave concern about these expulsions to DHS, the agency “blatantly misinterpret[s] its limited authorities” under the CDC order in an attempt “to override existing federal statutes.” Members of the Senate Judiciary Committee have also written to DHS and CDC, noting that the expulsion policy clearly violates the TVPRA. Indeed, nothing in the provision cited in the CDC order permits the administration to derogate its legal obligations under U.S. immigration law and treaties. The chairs of the House Foreign Affairs, Homeland Security, and Judiciary committees and ranking member of the Senate Foreign Relations committee described the administration’s legal justification, “apparently concocted after the [order] had been in effect for more than a month”, as “deeply flawed” and itself raising “serious questions about the accuracy of the Administration’s claims of protecting public health, the legality of the [order], and the Administration’s respect for the rule of law.”

Legal guidance issued by UNHCR on asylum protections during the COVID-19 pandemic makes clear that the United States may not put in place measures that categorically deny people seeking protection an effective opportunity to ask for asylum. Further, UNHCR has stated that states should not enact policies that cause “expulsions of asylum seekers resulting in refoulement” to persecution or torture. A spokesperson for the union

representing USCIS asylum officers voiced concern that the Trump Administration is “exploiting the pandemic as a pretext to further curtail and deter asylum seekers – with possibly long lasting adverse consequences for our fractured asylum and refugee protection system.”

The MPP policy also continues to flout asylum laws and due process protections Congress adopted for refugees seeking protection at the border. UNHCR has made clear in an amicus brief in a suit challenging MPP that fear-screening procedures like those used for MPP “lack key safeguards required by international law” as “applicants do not have access to counsel in the screening procedure; a decision is not appealable by the applicant; and applicants cannot meaningfully prepare their refugee status determination claims by meeting with lawyers and/or receive notice of upcoming court dates, or otherwise be assured of due process in their full asylum hearings.” An amicus brief by the union for asylum officers from U.S. Citizenship and Immigration Services, who conduct these screenings, states that, “MPP fails to provide even the basic procedural protections available to asylum applicants subject to [expedited removal].” In February 2020, the U.S. Court of Appeals for the Ninth Circuit upheld a preliminary injunction against MPP finding that the plaintiffs were likely to show that the policy violates the INA and does not comply with U.S. treaty-based obligations to prevent the return of refugees to persecution. While the U.S. Supreme Court stayed the enforcement of the injunction, it has not ruled on the merits of the challenge to MPP.

The Acting Commissioner of CBP, Mark Morgan, and various CBP spokespeople claim that asylum and non-refoulement protections are currently available to asylum seekers and individuals in MPP, respectively, only on a “case-by-case” basis. Limited “case-by-case” access to asylum and non-refoulement protections do not meet U.S. law and treaty-based obligations to refugees. With respect to MPP these restrictions also directly contradict representations made by the Trump Administration in federal court, including most recently to the U.S. Supreme Court, that individuals in MPP can request a fear screening “at any time” and further undermine the government’s claim that the MPP policy satisfies U.S. obligations not to return asylum seekers to persecution or torture.

ON HUMAN RIGHTS, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

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We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

Human Rights First is a nonprofit, nonpartisan international human rights organization based in Los Angeles, New York, and Washington D.C.

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Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger

The Trump Administration continues to break U.S. laws and treaty obligations that protect refugees from persecution, returning to danger people seeking protection at the southern border. In addition to implementing its notorious “Remain in Mexico” program, the Trump Administration has weaponized public health powers since the beginning of the pandemic to ban children, families, and adults from requesting asylum at official ports of entry and to expel those who cross the border in search of protection – delivering them back either to the countries they fled or to escalating violence in Mexico.

The Department Homeland Security (DHS) is expelling refugees without providing them the protection safeguards required by Congress, using as pretext orders that the Centers for Disease Control and Prevention (CDC) issued on the instructions of White House officials and over the objections of the CDC’s own senior experts. The March 2020 order, indefinitely extended in May and reissued in October, has led to secret expulsions of asylum seekers, including dissidents flown back to Nicaragua and handed over to the very authorities who jailed and tortured them. At the same time, crossings by U.S. citizens and others deemed “essential” have continued with 40 million pedestrians and vehicle passengers entering through the southern border between April and September 2020.

Under Remain in Mexico – the perversely named “Migrant Protection Protocols (MPP)” – the administration continues to return asylum seekers and other migrants to areas of Mexico where violence is escalating. Asylum seekers from, among other countries, Cuba, El Salvador, Guatemala, Honduras, Nicaragua, and Venezuela are forced to wait in Mexico for U.S immigration court hearings delayed indefinitely since March 2020 because of the pandemic. Many have been kidnapped, raped, and assaulted. The number of reported attacks continues to rise – now at least 1,314 – despite reduced in-person research due to pandemic-related travel restrictions.

This is both a humanitarian disgrace and a legal travesty.

Turning away asylum seekers at the border spurns the U.S. commitment to providing safe haven to refugees and serves no public health rationale, as public health experts have repeatedly stressed. These experts note that fair treatment of refugees does not undermine efforts to combat COVID-19, and that these goals “are not in conflict and can be served side by side.” U.N. Refugee Agency (UNHCR) legal guidance makes clear that a public health emergency cannot justify “blanket measure[s]” blocking asylum seekers and, in November 2020 the UNHCR Assistant High Commissioner for Protection urged states to ensure that “measures restricting access to asylum must not be allowed to become entrenched under the guise of public health.”

The administration’s effective elimination of humanitarian protections at the border violates U.S. asylum and anti-trafficking laws, due process protections, and treaty obligations. In late November 2020, a federal court preliminarily blocked DHS from using the CDC order to expel unaccompanied children, finding that the administration is unlikely to show that U.S. public health laws authorize expulsions. In early 2021, the Supreme Court will consider a challenge to MPP, which the Ninth Circuit found likely violates U.S. immigration laws and treaty mandates to prevent the return of refugees to persecution.

Remain in Mexico and CDC expulsions are on a long list of illegal and dangerous Trump Administration policies aimed at curtailing asylum and punishing those who seek U.S. protection, including a ban on asylum for people

who cross into the United States between ports of entry, a ban on asylum for people who travel through other countries (where they are not safe), and agreements to send asylum seekers to third countries – Guatemala, Honduras and El Salvador – that are not safe for refugees and do not have effective asylum systems.

An amicus brief submitted by the union representing U.S. Citizenship and Immigration Services (USCIS) asylum officers described these policies as “an assault” on the U.S. commitment to the persecuted. Along with new regulations that decimate asylum, these policies not only illegally turn away refugees but prevent those who manage to receive limited forms of protection from bringing their children and spouse to safety – leaving refugees with the choice of pursuing U.S. protection or remaining permanently separated from their families.

In early November 2020, a Biden campaign spokesperson told CBS News that, if elected, he would “direct the CDC and DHS to review this policy and make the appropriate changes to ensure that people have the ability to submit their asylum claims while ensuring that we are taking the appropriate COVID-19 safety precautions, as guided by the science and public health experts.” The Biden campaign also pledged, on its first day, to end MPP.

Instead of blocking people seeking humanitarian protection, the U.S. government should employ measures recommended by public health experts – such as distancing and masks, health screenings, testing, and use of non-congregate settings – to expeditiously process and parole asylum seekers under existing legal authority, pending immigration court proceedings. Case management alternatives to detention can be employed where asylum seekers sheltering with family or friends need additional appearance support.

To gather information for this report, Human Rights First researchers interviewed asylum seekers, immigration attorneys, academic researchers, humanitarian volunteers, and legal monitors. The interviews were conducted remotely because of pandemic-related restrictions on movement in both the United States and Mexico. Staff also reviewed reports from the media and human rights organizations. This report builds on our prior reporting on MPP in March 2019, August 2019, October 2019, December 2019, January 2020, and May 2020.

Key findings:

- ☑ **The Trump administration continues to wield the CDC order to block and expel asylum seekers, turning them back to escalating violence in Mexico and other highly dangerous places, including El Salvador, Guatemala, Haiti, Honduras, and Nicaragua, where their lives are at risk.**
- ☑ **Asylum seekers denied U.S. humanitarian protection due to the CDC order include:** prominent political dissidents who were flown back to Nicaragua where they were detained by the very authorities that had initially jailed and tortured them; a transgender Honduran asylum seeker to Mexico; Ethiopian and other African asylum seekers expelled to Tijuana; a pregnant asylum seeker expelled to Mexico while experiencing contractions who had been repeatedly raped there; a Nicaraguan asylum seeker, who having been hospitalized for nine days for dialysis, was expelled to Mexico in a hospital gown without socks, shoes, or underwear; and a Guatemalan asylum seeker, who after being kidnapped for a month in Mexico, was beaten by a U.S. border agent with a baton while being expelled to Nogales, Mexico.
- ☑ **The CDC order is also blocking asylum seekers from requesting protection at ports of entry, pushing some to undertake dangerous crossings.** A Cuban man has been presumed dead since July 2020 when he attempted to cross the Texas desert to seek protection as U.S. ports of entry were not accepting asylum seekers. Many asylum seekers – including people from Burundi, Cameroon, Cuba, Democratic Republic of Congo, El Salvador, Guatemala, Haiti, Honduras, Mexico, and Venezuela – are waiting in Mexico, blocked from requesting asylum. Those who had arrived at the border before the CDC order were already forced to wait on so-called “metering” lists.

- ✔ **Under the CDC order, the administration has expelled at least 8,800 unaccompanied children and probably as many as 14,000, including children as young as five** (as of September 2020). Children expelled to danger include: a 12-year-old Guatemalan asylum seeker with physical and learning disabilities expelled to Guatemala while his mother waited in Mexico under MPP and a 15-year-old asylum seeker expelled back to Guatemala after fleeing sexual abuse at the hands of her stepfather.
- ✔ **The Trump Administration is turning away and expelling refugees at the border using debunked public health claims that senior CDC and public health experts have rejected.** In issuing its initial March order, CDC cited DHS claims that it needed to avoid holding asylum seekers and migrants in custody and lacked capacity to conduct testing. Yet DHS is detaining asylum seekers in border facility cells and immigration jails for days or weeks in order to expel them when they test negative for COVID-19. Border Patrol detained a two-year-old Haitian boy and his asylum-seeking parents for nearly three weeks in September before releasing them. DHS, under the Trump Administration, has refused to scale-up areas appropriate for processing, continuing to choose to use long-criticized congregate areas and keeping asylum seekers detained rather than using its legal parole authority do that asylum seekers can shelter with U.S. family and contacts.
- ✔ **DHS continues to return asylum seekers to Mexico under MPP where they face life-threatening danger**, including an LGBT Cuban woman returned under MPP in August 2020 who had been repeatedly sexually assaulted in Cuba because of her sexual orientation. As of December 15, 2020, Human Rights First has tracked 1,314 incidents of murder, rape, kidnapping, torture, and assault. But this count is only the tip of the iceberg, as the overwhelming majority of returned people have not spoken with human rights investigators or journalists (COVID-19-related restrictions have further limited reporting). Of the reported attacks, 318 were kidnappings or attempted kidnappings of children. Other victims include a Cuban asylum seeker beaten and raped by Mexican police in Ciudad Juárez, a gay Honduran asylum seeker kidnapped in Matamoros, and a Honduran asylum seeker drugged and raped while looking for work in Ciudad Juárez.
- ✔ **Violence in Mexico—and the dangers of harm facing asylum seekers forced back there—is on the rise.** The country's homicide rate for 2020 is likely to be the highest in decades, according to Mexican government data. Drug cartels have reportedly taken advantage of the pandemic and reductions in security operations, including in the state of Tamaulipas, where tens of thousands of asylum seekers have been returned under MPP. In October 2020, the *New York Times* reported that cartel members kidnap and assault asylum seekers in the Matamoros encampment. In November 2020, the Mexican federal prosecutor for Ciudad Juárez confirmed that cartels have effectively deputized organized criminal groups to kidnap and extort migrants in the areas they control.
- ✔ **Asylum seekers forced back into Mexico under MPP and the CDC order face brutal conditions, made worse by the COVID-19 pandemic.** Many shelters have shut down or restricted new arrivals while unemployment has soared, and asylum seekers find it increasingly difficult to obtain food, pay rent, and access medical care. The Matamoros encampment, where approximately 600 migrants live, was battered by hurricanes and heavy rains throughout the summer, causing insects and feces to wash up from the river. Asylum seekers unable to access medical care during the pandemic include: a seven-year-old suffering from seizures and developmental delays who has difficulty eating, speaking, and communicating; a Honduran asylum seeker suffering from a rectovaginal fistula that requires surgery as a result of being raped in Ciudad Juárez; and a paraplegic Honduran asylum seeker.
- ✔ **DHS is expelling and turning back asylum seekers without using the refugee protection measures required by U.S. law. Torture screenings for CDC expulsions are virtually non-existent.** Customs

and Border Protection (CBP) referred only 85 out of more than 43,000 migrants expelled under the CDC order for screening through May. Nearly half were referred in the first four days the CDC order was used. While these screenings are inadequate and flout U.S. non-refoulement obligations, the vast majority of refugees expelled under the CDC order are denied any opportunity to explain their fear of return. **CBP has also largely refused to permit MPP fear screening interviews, which have always been legally deficient, farcical and perfunctory**, leading to returns of asylum seekers subsequently harmed in Mexico including a Honduran asylum seeker who was kidnapped and sex trafficked after she was found to not have a fear of return to Mexico where she had been previously kidnapped and raped. Since the start of the pandemic, CBP has denied the vast majority of people in MPP who face harm in Mexico fear interviews. Between April and October 2020, only 1,159 people placed in MPP were screened – just seven percent of the total screenings in the eight months before the CDC order.

- There are approximately 23,000 pending MPP cases, leaving many asylum seekers returned to Mexico under MPP waiting indefinitely in danger** in the wake of the COVID-19 closure of immigration courts. According to immigration court schedules analyzed by [TRAC](#), **70 percent of those with postponed MPP hearings will have been waiting in Mexico for one year or more by January 2021**, when the Biden Administration takes office. Those with pending MPP proceedings as of October 2020 include **6,463 Cubans, 5,422 Hondurans, 3,979 Guatemalans, 2,142 Ecuadorians, 1,408 Venezuelans, 1,397 Salvadorans, 813 Nicaraguans, and 445 Brazilians**.

Human Rights First urges the incoming Biden Administration to adopt the recommendations in our blueprint to uphold refugee and asylum protections, including:

- Immediately withdraw the discredited CDC order and rescind the Health and Human Services (HHS) final rule authorizing the CDC order**. UNHCR legal guidance confirms that entry measures relating to COVID-19 should not prevent people from seeking asylum and may not deny entry to persons at risk of refoulement.
- End MPP and all other policies and practices that violate U.S. asylum and immigration law and U.S. Refugee Convention obligations**: immediately revoke the DHS memorandum implementing MPP; rescind the rules implementing the asylum entry ban, the third-country transit asylum ban, and so-called asylum cooperative agreements, and settle pending litigation; revoke memoranda authorizing turn-backs and orchestrated reductions of asylum processing at ports of entry and fast-track deportation programs that detain asylum seekers in inadequate border facilities and block them from legal counsel; and halt all attempts to send asylum seekers to other countries, including El Salvador, Honduras, Guatemala, and Mexico, that do not meet the legal requirements for safe-third country agreements under U.S. law.
- Employ effective and humane policies that uphold U.S. laws and treaties and implement measures recommended by public health experts to safeguard asylum seekers, CBP personnel, and public health**, such as social distancing, appropriate personal protective equipment, providing hand sanitizer, testing and health screenings, reducing processing delays, repurposing outdoor areas and nearby locations to facilitate distancing and ventilation, and using legal parole authority rather than congregate detention – steps that CBP and the Border Patrol should already be taking.
- Direct CBP to parole asylum seekers in MPP – all of whom have already been processed by CBP, have immigration court cases, and can be swiftly transited through ports of entry – into the United States and restore timely and orderly processing of asylum seekers and unaccompanied children at ports of entry**, as well as ensuring humane processing that upholds U.S. refugee and anti-trafficking law along the border.

- ☑ **Provide redress for asylum seekers denied a fair opportunity to pursue their requests for U.S. refugee protection** under Trump Administration policies that have blocked, turned back and expelled them to danger.
- ☑ **Address human rights abuses in the countries that refugees are fleeing and support regional resettlement initiatives to provide other pathways to safety.**

Human Rights First recommends that Congress:

- ☑ **Withhold appropriations used to carry out MPP, CDC expulsions, and any other programs or policies that violate U.S. legal obligations to protect refugees.**
- ☑ **Adopt the Asylum Seeker Protection Act and the Refugee Protection Act of 2019.**
- ☑ **Hold oversight hearings to establish accountability for the violation of U.S. refugee law and treaty obligations and harms to refugees under Trump Administration policies.**
- ☑ **Conduct official visits, when safe given the COVID-19 pandemic, to Mexican border towns, CBP facilities and Border Patrol stations on the southern border, and immigration courts, to ensure DHS does not continue to violate U.S. law and treaty obligations.**

Asylum Seekers, Children Expelled and Turned Away to Danger

Through the CDC order, the Trump Administration has attempted to eliminate asylum and other humanitarian protections at the southern border in contravention of U.S. refugee, anti-trafficking and immigration laws and treaty obligations. The expulsion of children and asylum seekers under the March 2020 CDC order joins a barrage of policies implemented by the Trump Administration with the aim of blocking, deterring, and turning away people seeking refuge at the U.S. southern border. Despite repeated criticism from public health experts and revelations that senior CDC experts objected to the order, which was drafted by a political appointee at the Department of Health and Human Services, the CDC indefinitely extended the order on May 19, 2020 and re-issued it with minor modifications on October 13, 2020. In late November 2020, a federal court issued a preliminary injunction blocking DHS from expelling unaccompanied children under the CDC order, finding the government was not likely to prevail on its assertion that the U.S. public health laws cited as authority for the order authorize expulsions. Despite the injunction, DHS continues to block unaccompanied children and asylum seekers who seek protection at ports of entry and expel families and adult asylum seekers who cross the border in search of safety.

- **DHS has used the CDC order to expel over 260,000 migrants and asylum seekers** between March and October 2020 without providing access to the protection systems required by U.S. law – returning them to the countries they fled and sending some non-Mexican asylum seekers to danger in Mexico. **These expulsions include at least 7,600 individuals in families and 8,800 unaccompanied children.**
- **DHS has sent more than 68,000 people through MPP to some of the most dangerous parts of Mexico as of November 2020**, including 4,400 returned since March 2020 even as all MPP immigration court hearings have been cancelled. Some 23,000 MPP cases are still pending, with many people still stranded in danger in Mexico. Some asylum seekers and migrants returned to their countries due to the dangers of waiting in Mexico and the risks of COVID-19, while some are feared or reported missing.
- As of November 2020, **DHS had stranded approximately 15,000 asylum seekers on “metering” lists** along the southern border under its illegal practice of reducing the number of asylum seekers processed at ports of entry, causing back-ups of waiting asylum seekers in Mexico. DHS stopped accepting asylum

seekers at ports of entry, including from these lists, in March 2020 after the issuance of the CDC order. However, the precise number of people waiting to request asylum at the border is unclear, as many people on “metering” lists may have abandoned their claims due to violence against migrants in Mexico or may have been expelled under the CDC order after crossing the border to seek protection.

DHS has expelled thousands of asylum seekers from the United States using the CDC order. These expulsions take place without the screening interviews required under U.S. law and treaty obligations – resulting in the return of refugees to the very dangers they were attempting to escape, including to Brazil, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, and Nicaragua, among other countries. In addition, DHS is expelling many non-Mexican asylum seekers to extreme danger in Mexico, including refugees from Cameroon, Cuba, Ecuador, El Salvador, Ethiopia, Eritrea, Ghana, Guatemala, Haiti, Honduras, Somalia, and Uganda, among others. The Black Alliance for Just Immigration reported that CBP appears to frequently expel African asylum seekers to Tijuana even when they inform U.S. officers that they are seeking asylum and fear harm in Mexico. **Among those expelled under the CDC order, as of early September 2020, were 7,000 individuals in families expelled by DHS to Mexico – despite the fact that any who were asylum seekers were being returned directly to their country of feared persecution - and 600 families transferred to Immigration and Customs Enforcement (ICE) custody for expulsion by air directly to the countries they fled or left.**

DHS has used the CDC order to expel refugees to the very countries from which they fled persecution and torture without the legal processes Congress requires to screen asylum seekers, including:

- **In July 2020, DHS expelled a prominent political dissident, Valeska Alemán, labeled as the “face of rebellion” by local newspapers, to Nicaragua under the CDC order without an opportunity to seek asylum,** as reported by the *Washington Post*. Alemán sought refugee protection in the United States after Nicaraguan authorities detained and tortured her. DHS officers refused to give her a protection screening interview or consider evidence that she was likely to be tortured or killed if expelled to Nicaragua. After her expulsion, government authorities in Nicaragua jailed and interrogated Alemán, and she remains under surveillance by the police, who have searched the house where she is staying.
- **DHS expelled opposition activist, Moises Alberto Ortega Valdivia, and his family to Nicaragua in July 2020 under the CDC order after they attempted to request asylum at the U.S.-Mexico border,** as reported by the *Washington Post* and covered in a recent episode of *This American Life*. On the flight expelling the family to Nicaragua, Ortega Valdivia was forced to swallow five pages of his asylum paperwork out of fear that Nicaraguan police would discover it. He, his wife, and nine-year-old daughter fled after government agents imprisoned and tortured him—including by attaching live wires to his genitals. Nicaraguan police also beat Ortega Valdivia’s wife while pregnant and she later suffered a miscarriage. After his expulsion to Nicaragua, authorities took Ortega Valdivia to jail, interrogated him, and searched his home.
- In October 2020, the Border Patrol expelled a young Mexican asylum seeker under the CDC order after he attempted to request refugee protection after crossing into the United States. Border Patrol expelled the young man through the Nogales port of entry at midnight, when temperatures were freezing and humanitarian services were unavailable. He told Kino Border Initiative (KBI) that Mexican immigration authorities refused to help him, and he was forced to sleep outside at the bus station.
- CBP used the CDC order to expel a Mexican asylum seeker to Matamoros, Mexico with her two-day-old infant, who had been born in the United States after the woman went into labor while in the custody of Border Patrol.

- A Cuban asylum seeker expelled to Nogales under the CDC order in October 2020 reported that a Mexican asylum seeker traveling with him was transported by Border Patrols agent to the rural port of entry at Sasabe, Arizona and expelled to Mexico there under the CDC order.

DHS has also used the CDC order to immediately turn away and expel non-Mexican asylum seekers across the border to highly dangerous areas of Mexico. Border Patrol carries out expulsions to Mexico in a manner that further endangers lives. Agents expel asylum seekers and migrants in the middle of the night to dangerous areas, putting them at risk of violence and exploitation, and intentionally transport asylum seekers hours from the areas where they crossed the border and force them into Mexico through remote ports of entry where humanitarian assistance is extremely limited. CBP has also expelled migrants in need of urgent medical attention, including a woman with a broken arm, a woman in extreme pain who could not walk, and a man with a bleeding head wound who was carried across the border by other migrants, according to attorney Taylor Levy who observed CDC order expulsions in Ciudad Juárez. Dora Rodriguez, a volunteer with *Salvavision* told Human Rights First that the organization has treated multiple migrants and asylum seekers suffering from dehydration and other injuries who CBP had expelled through the remote Sasabe port of entry. “If we were not there to help these people, there would be nobody.” Expulsions to Mexico under the CDC order include:

- **In April 2020, Border Patrol agents used the CDC order to expel to Mexico two Honduran children and their pregnant asylum-seeking mother, who had been repeatedly raped in Mexico, in the middle of the night while she was in the midst of contractions.** The woman had to be rushed to a hospital. Border Patrol agents near Nogales, Arizona had ignored the woman’s pleas not to be returned to Mexico where she feared further harm and immediately expelled the family, telling the woman to seek protection in Mexico, according to the Florence Immigrant and Refugee Rights Project (Florence Project).
- **Using the CDC order, Border Patrol agents expelled a Cuban asylum seeker, who was seven months pregnant, and her husband in September 2020.** The couple, who had waited ten months in Mexico to request asylum in the United States, repeatedly expressed fear of returning to Mexico but were immediately expelled. The couple told KBI that rather than refer them for a fear screening interview, a Border Patrol agent suggested that the only way the woman could remain in the United States would be to break her own water to prematurely induce labor.
- **In September 2020, Border Patrol expelled a Nicaraguan asylum seeker to Mexico, who had been hospitalized for nine days and required dialysis for kidney damage resulting from dehydration, in a hospital gown without socks, shoes, or underwear.** Despite repeatedly expressing fear of being returned to Mexico, Border Patrol agents removed him from the hospital in a wheelchair before he had been medically cleared for release and expelled him to Nogales, according to KBI, who later provided the man humanitarian aid.
- **Border Patrol agents threatened to separate a Guatemalan asylum seeker from her two young children, ages five and eight, in October 2020, when she begged them not to expel the family to Mexico.** The agents handed the family over to Mexican migration officers at a Texas port of entry, who held the family in a Mexican immigration detention center for days. The officers told the family they were being deported to Guatemala. Instead, they were bused several hours south and dumped in Veracruz, which had the second highest number of reported kidnappings and femicides in Mexico in 2020.
- **In October 2020, CBP expelled a Guatemalan asylum seeker to Nogales, Mexico under the CDC order even though he repeatedly expressed to CBP officers his fear of returning to Mexico where he had been kidnapped for a month and threatened.** As CBP officers expelled the man through the downtown Nogales port of entry at 2 a.m., the man pleaded with the agents not to expel him to Mexico. A

CBP agent beat the man with his baton, leaving him bruised and with difficulty walking, according to KBI advocates who tended to the man.

- **CBP officers expelled a transgender asylum seeker from Honduras under the CDC order around May 2020 when she attempted to request refugee protection in the United States.** She told an advocate from the Florence Project that she explained to CBP officers that she feared persecution in Mexico, where violence and discrimination against transgender individuals is well documented, but they immediately expelled her there.
- **An Ethiopian man fleeing political persecution reported that DHS expelled him and other African asylum seekers to Mexico under the CDC order.** In September 2020, CBP officers drove the Ethiopian man and a Cameroonian asylum seeker more than 100 miles to expel them through the San Ysidro port of entry after they crossed the border near the Calexico port of entry to seek refugee protection. Two French-speaking Black asylum seekers with them were immediately expelled at the Calexico port of entry. The man reported that other African asylum seekers have also been expelled to Mexico after crossing the border near Calexico, including a pregnant Cameroonian asylum seeker, a Ghanaian asylum seeker, and a Ugandan asylum seeker twice expelled under the CDC order. It appears that CBP may be expelling to Mexico people, including these African asylum seekers, with temporary humanitarian visas or other permits even though these documents do not confer permanent residence. Returning asylum seekers to Mexico places them at risk of refoulement to the countries they fled, as Mexico's asylum system remains deeply flawed.
- **In October 2020, Border Patrol agents expelled a Guatemalan asylum seeker to Nogales, Mexico under the CDC order without his diabetes medication, which the agents had seized and discarded along with his other property.** The man went days without medication, according to KBI.
- **Border Patrol expelled a 10-year-old Honduran girl and her asylum-seeking mother, who was in her sixth month of a high-risk pregnancy and suffering from thyroid problems, under the CDC order.** The family was immediately expelled through a Texas port of entry, according to attorneys from the Florence Project, even though the woman told officers that she had been robbed in Mexico and feared for her safety there.
- **CBP is using the CDC order to expel asylum-seeking women who have given birth in the United States.** The non-profit organization *Al Otro Lado* is providing legal services to five asylum seekers expelled under the CDC order with newborn U.S.-citizen infants including a Haitian woman expelled to Tijuana in the middle of the night, Honduran women expelled to Reynosa and Tijuana, and a Mexican asylum seeker expelled to Matamoros. One woman was expelled immediately after a Cesarean section without adequate time in the hospital to recover. None of the women were provided birth certificates for their babies, making it difficult to establish their citizenship and potentially leaving the children stateless.

The CDC order has also been used by DHS to expel at least 8,800 unaccompanied children seeking asylum and other humanitarian protection in the United States as of early September 2020. The ACLU estimates that as of November 2020, as many as 14,000 unaccompanied children may have been expelled under the CDC order. These expulsions, which are carried out without trafficking and refugee safeguards required under U.S. law, place children at further risk of persecution, kidnapping, abuse, and exploitation. At least 2,220 children have been expelled by plane to the countries where many were fleeing persecution, including El Salvador, Guatemala, and Honduras. In addition, DHS has expelled at least 6,500 unaccompanied children to Mexico including hundreds of non-Mexican children, in violation of an agreement with the Mexican government prohibiting the return of non-Mexican unaccompanied children there. Even after the November 2020 court ruling blocking

summary expulsions of unaccompanied children, DHS illegally expelled at least 66 more children under the CDC order, including 32 children sent to Guatemala. Some of the children expelled under the CDC order include:

- **A 15-year-old Guatemalan girl fleeing sexual abuse at the hands of her stepfather was expelled by DHS back to Guatemala under the CDC order in November 2020**, according to a *CBS News* report. CBP officers denied the girl, whose biological father is in the United States and who brought records detailing the abuse she had suffered, an opportunity to present evidence of her persecution or to speak with a lawyer before expelling her.
- **CBP expelled a 12-year-old Guatemalan asylum-seeking child with physical and learning disabilities to Guatemala in August 2020 under the CDC order**. According to *Reuters* the boy and his mother had been waiting months in Ciudad Juárez for their MPP hearing. After a stranger tried to kidnap the boy, his mother allowed him to present himself to U.S. officials to request asylum, hoping that her son would be safe in the United States and able to reunite with family there.
- **In April 2020, a 13-year-old Salvadoran girl was expelled to El Salvador by DHS under the CDC order after requesting refugee protection at the border**. The agency expelled the girl to El Salvador without contacting her mother, even though the girl had told CBP officers that her mother, a former Salvadoran police officer, had been granted asylum in the United States and had provided her mother's phone number.
- **A five-year-old Honduran boy was expelled under the CDC order to Mexico after crossing the U.S.-Mexico border in September 2020**, according to a report in the *New York Times*. The boy's mother, with whom he had been waiting in a migrant shelter in Matamoros to seek asylum, sent him across the border when living conditions in the shelter became unbearable. For days after his expulsion, the woman was not able to reunite with her son, who had been handed over to a Mexican child welfare agency.
- **A 15-year-old Salvadoran girl was expelled alone to Mexico by CBP under the CDC order**, according to the *New York Times*. The girl's father in El Salvador only learned of her expulsion to Mexico when he received a phone call from the Salvadoran consulate in Mexico.

In March 2020, CBP ports of entry virtually stopped processing asylum seekers. **Between April and October 2020, only 270 individuals were referred for fear screenings by CBP port of entry officers**. At the same time, an estimated 15,000 asylum seekers' names were on so-called "metering" lists waiting to request asylum, as a result of CBP's illegal reductions in asylum processing at ports of entry prior to the pandemic. However, some list "managers" have closed their metering lists, leaving asylum seekers without any means to enter these illegal and highly flawed queues.

Asylum seekers waiting in Mexico to request protection include individuals from Brazil, Burundi, Cameroon, Cuba, Democratic Republic of Congo, El Salvador, Guatemala, Haiti, Honduras, and Mexico among other countries. Many have been waiting more than a year, including a Cuban family in Tijuana waiting since August 2019. However, it is unclear how many individuals remain waiting at these ports of entry, as some asylum seekers have abandoned their attempts to request protection at ports of entry due to widespread violence and virulent discrimination in Mexico that threatens their safety and lives, as discussed in detail below.

Blocking asylum seekers from requesting protection at U.S. ports of entry pushes some refugees to undertake dangerous border crossings. An October 2020 report by the DHS Office of Inspector General found that CBP's policy of reducing the number of asylum seekers processed at ports of entry – referred to as metering – pushed some asylum seekers to cross the border between ports of entry. With DHS using the CDC order to block asylum processing at ports of entry and as a result of the dangers asylum seekers face in Mexico, some

asylum seekers have undertaken dangerous border crossings away from ports of entry, and in increasingly remote areas of the border, that cost refugees their lives. Indeed, 2020 is shaping up to be one of the deadliest years on record for migrants at the border. For instance, in early December 2020, Ariana González Nieves, a 19-year-old Cuban woman drowned near Del Rio, Texas while attempting to cross the Rio Grande. The whereabouts of María Tasej Gonon, a 23-year-old Guatemalan woman who passed out in the desert while crossing the border near Laredo, Texas in September 2020, remain unknown. Refugees further endangered by DHS's effective elimination of asylum protections at ports of entry include:

- **Ibrain Wencislao Pérez Suárez, a 30-year-old Cuban political activist, has been missing since mid-July 2020 after he crossed the southern border to seek asylum, as U.S. ports of entry were not accepting asylum seekers due to the CDC order.** Pérez Suárez told his partner in Cuba that because U.S. ports of entry were closed to asylum seekers and he could not afford to continue to support himself in Mexico, he would cross the border to request protection. Pérez Suárez's partner and 7-year-old daughter, who have not heard from him since he was preparing to attempt to cross the border and walk through the Texas desert, continue to search for information about his whereabouts.
- **With processing of asylum effectively blocked at ports of entry due to the CDC order, a Nicaraguan asylum seeker nearly died after being abandoned in the desert by a guide in September 2020.** Without food or water for days, the man was hospitalized for 9 days and required dialysis for kidney damage resulting from dehydration. As discussed above, he was later expelled to Nogales alone and in a hospital gown, according to KBI.
- **In October 2020, a Cuban asylum seeker forced to remain in Mexico under MPP who had been repeatedly attacked in Mexico was injured after attempting to cross into the United States between ports of entry.** Despite a dislocated knee and a severe injury to her eye, CBP returned the woman to Matamoros without providing her medical attention.
- **With no way to seek asylum at ports of entry, a 53-year-old Cuban asylum seeker fell off a border wall while attempting to enter the United States to seek refugee protection in August 2020, leaving his left arm paralyzed. The man was subsequently returned to Mexico by CBP under MPP.** He fled Cuba with his wife and children due to political persecution arising from his refusal to disseminate government propaganda in his position as a high school director. In Ciudad Juárez, where the family is waiting for their MPP hearings, the man has been unable to receive physical therapy, according to attorney Nicolas Palazzo.
- **Many asylum seekers reported to Human Rights First, some of whom had been returned to Mexico under MPP, that they crossed the border between ports of entry to seek safety due to brutal conditions and life-threatening dangers.** These include an Ethiopian asylum seeker who said he crossed the border as he could no longer support himself while waiting months to apply for asylum and has faced severe discrimination in Tijuana; a Cuban asylum seeker in MPP who crossed the border after Mexican police kidnapped, beat, and raped her in Ciudad Juárez in June 2020; and two Cuban children and their asylum-seeking mother who fled across the border near Nogales after escaping from their kidnappers. CBP expelled or returned all of them to Mexico.

Since MPP hearings were suspended in March 2020, the Trump Administration has returned an additional 3,513 asylum seekers and other migrants to danger in Mexico under the disastrous MPP policy, as of **October 2020**. The vast majority of individuals DHS is currently returning to Mexico under MPP are from Cuba, Nicaragua, and Venezuela. New MPP cases filed with the immigration courts since April 2020 include 2,075 Cubans, 211 Nicaraguans, and 113 Venezuelans. With MPP courts closed, these asylum seekers now face

indefinite waits, many in highly dangerous areas, for MPP hearings to resume. By the time the Biden Administration takes office in January 2021, **70 percent of the 23,000 individuals with pending MPP cases will have been waiting - many in danger in Mexico - for one year or more for U.S. immigration court hearings.** Some of the asylum seekers DHS returned to Mexico under MPP during the pandemic include:

- **In August 2020, CBP returned an LGBT Cuban asylum seeker to Ciudad Juárez under MPP who had been repeatedly sexually assaulted in Cuba because of her sexual orientation.** Police there frequently harassed and insulted her, and an officer forced her to have sex with another woman at gunpoint, according to attorney Nicolas Palazzo with Las Americas Immigrant Advocacy Center (Las Americas). The woman and her partner were also the victims in Cuba of a gang-rape by three men.
- **A Venezuelan family placed by CBP in MPP in July 2020 and returned to Piedras Negras is seeking refugee protection in the United States because of persecution they suffered for their opposition to the Venezuelan government.** Two members of the family were attacked by *colectivos*, pro-government armed groups, because of their work with the *Primero Justicia* opposition party and participation in anti-government protests, according to an attorney representing clients in MPP.
- **In July 2020, CBP returned a Cuban couple to Mexico under MPP who were persecuted in Cuba due to their participation in anti-government demonstrations and membership in UNPACU, a coalition of dissident organizations.** As a result of their political work, they were beaten and threatened with death. Authorities seized their store and placed them under house arrest. The husband was also kidnapped and beaten multiple times in Cuba, including a kidnapping where he was held for more than 10 days, according to Las Americas.
- **A Cuban asylum seeker returned under MPP in July 2020 who is the granddaughter of a political prisoner was arrested in Cuba, beaten and told by police that she would be disappeared if she continued to participate in opposition marches.** The woman, who is trained as a physical therapist, had refused to serve on a medical mission to Venezuela and had participated in a peaceful political demonstration against the government, according to Las Americas.

DHS is increasingly holding families, adults, and unaccompanied children in Border Patrol holding cells and ICE immigration jails for days or weeks before then expelling them under the CDC order after they test negative for COVID-19. The agency's refusal to allow these individuals to request asylum under U.S. law further undermines the Trump Administration's claim that the CDC order was implemented, and remains necessary, because of the unavailability of testing and to avoid holding asylum seekers in congregate settings. DHS is also blocking legal services organizations from contacting asylum seekers held under the CDC order, subjecting them to virtually incommunicado detention in ICE immigration jails where DHS negligence has contributed to widespread and deadly outbreaks of COVID-19. Refugees and children subject to potential expulsion under the CDC order and detained for days or weeks in inadequate Border Patrol cells and immigration jails that needlessly place them at risk of exposure to COVID-19 include:

- **A two-year-old Haitian boy and his asylum-seeking parents were needlessly held in the Comstock, Texas Border Patrol station for nearly three weeks in late September 2020,** before being released, according to immigration documents reviewed by Human Rights First. The boy's mother was nearly nine-months pregnant at the time.
- **The Border Patrol has detained children as young as eight-months-old for up to 18 days in Border Patrol stations that lack basic facilities to care for children and fail to provide proper protective gear,** according to litigation brought under the Flores Settlement Agreement. Children held by CBP at Weslaco Border Patrol Station reported that they did not have access to soap or hand sanitizer and that

there was no social distancing. An eight-year-old boy said he was separated from his mother and didn't know where she was. "I feel very alone... it is very cold. It is always very cold... I have not received a new mask. My mask is dirty on the inside... I think many people here will get sick from COVID. That makes me feel scared."

In addition, DHS used private contractors to detain at least 860 children in hotels along the border before expelling them under the CDC order until September 2020 when a federal court blocked DHS from holding migrant children in unregulated facilities, often completely cut off from attorneys. The children, many of whom were traveling alone, were supervised with little oversight by transportation workers who were not licensed childcare providers, according to the New York Times. According to Andrew Lorenzen-Strait, a former ICE deputy assistant director for custody management, "kids may be exposed to abuse, neglect, including sexual abuse, and we will have no idea." ICE reportedly detained children at a Quality Suites in San Diego; Hampton Inns in Phoenix and in McAllen and El Paso, Texas; a Comfort Suites Hotel in Miami; a Best Western in Los Angeles; and an Econo Lodge in Seattle. Government documents obtained by Human Rights First through a Freedom of Information Act (FOIA) request indicate that CBP falsely instructed Border Patrol agents that the "TVPRA [Trafficking Victims Protection Reauthorization Act] does not apply under [CDC order expulsions] if [unaccompanied children and families] are not brought into facilities," which may explain why DHS has sought to detain children in hotel rooms.

Instead of jailing and expelling asylum seekers, DHS has the legal authority to parole asylum seekers and release them to shelter with family in the United States. A recent study of asylum seekers waiting at the U.S.-Mexico border found that 92 percent had family or friends in the U.S. with whom they could shelter. Under U.S. law immigration authorities are required to transfer unaccompanied children to the authority of the Office of Refugee Resettlement for placement with family or other community sponsors. Public health experts have emphasized that social distancing, use of masks, use of outdoor processing and other safety measures can safeguard asylum seekers, unaccompanied children as well as DHS staff and the general public while asylum seekers are processed at ports of entry and border patrol stations.

DHS is capable of rapidly processing and releasing asylum seekers. Asylum seekers previously processed by CBP but returned to Mexico under MPP can be swiftly transited through ports of entry. For instance, in July 2020, a 10-year-old Venezuelan girl with a kidney disorder and her asylum-seeking parents and baby brother who had been returned to Mexico under MPP were rapidly paroled into the United States at the San Ysidro port of entry. When the family's request for parole, which had been submitted in May 2020 by the family's attorney at Make the Road New Jersey, was approved, the family reported to the port of entry, received pre-prepared parole paperwork, and were processed at the port in a matter of minutes.

Violence Grows in Mexico: At Least 1,300 Publicly Reported Cases of Rape, Kidnapping, and Assault

Despite escalating violence in Mexico, DHS continues to expel and return thousands of asylum seekers there instead of allowing them to remain safely in the United States while their claims are decided. During the pandemic, DHS is using MPP to return asylum seekers mainly from Cuba, Nicaragua, and Venezuela, and has been using the CDC order since March 2020 to expel other asylum seekers and migrants, including unaccompanied children.

Violence in Mexico has continued to rise during the pandemic. In September 2020, the Mexican government predicted that homicides in 2020 would reach a new record high despite reductions in mobility due to the pandemic, likely surpassing 2019 when the country suffered its highest homicide rate in more than two decades.

Drug cartel violence has reportedly increased as cartels take advantage of reductions in government security operations. One of Mexico’s most powerful cartels, the Jalisco New Generation Cartel, has increased its activities in Tamaulipas, a state already designated by the U.S. Department of State at the highest risk level, where tens of thousands of asylum seekers have been returned under MPP. As of November 2020, Tijuana alone had suffered over 1,800 murders and Ciudad Juárez recorded over 1,500 murders.

Cartels, criminal organizations, and other bias-motivated perpetrators target asylum seekers and migrants in Mexico for kidnapping, robbery, rape, and assault. In November 2020, the prosecutor for the northern zone of Chihuahua state, which encompasses Ciudad Juárez, confirmed that cartels effectively authorize (and charge fees to) organized criminal groups that kidnap and extort migrants in the areas they control.

Organized criminal groups specifically target asylum seekers the United States returns to Mexico. The security situation in Matamoros, where hundreds of asylum seekers live in a tent encampment, has deteriorated further in recent months. In October 2020, the New York Times reported that cartel members kidnap and assault asylum seekers when “camp residents have violated the gang’s rules about when and where they are permitted to roam outside their tents.” A man claiming to be a member of the Juárez Cartel told VICE news that the cartel’s targeting of Cuban asylum seekers for kidnapping was the result U.S. policies that “keep[] people stuck in our country.” The man, who described how the cartel extorts family members in the United States of abducted asylum seekers, claimed that asylum seekers whose families fail to pay will “end up where they end up, maybe a mass grave.”

The Trump Administration is continuing to deliver asylum seekers and migrants to this deadly violence.



Human Rights First has tracked at least 1,314 public reports of murder, torture, rape, kidnapping, and other violent attacks against asylum seekers and migrants returned to Mexico under MPP. This tally includes 318 children in the MPP program who were kidnapped or subjected to kidnapping attempts. But this count is only the tip of the iceberg, as the overwhelming majority of returned individuals have not spoken with human rights investigators or journalists. The true number of attacks is likely far greater. A U.C. San Diego study

of MPP found that nearly one quarter of individuals returned to Tijuana and Mexicali had been threatened with violence while waiting for their U.S. immigration court hearings.

Given travel restrictions in the United States and Mexico, tracking of attacks has become increasingly difficult as few researchers, journalists, or attorneys have been able to meet with and interview individuals forced to remain in Mexico. Many asylum seekers expressed hesitation to divulge details of attacks against them, fearing retaliation by organized criminal groups. A Cuban asylum seeker told Human Rights First, “these are very sensitive topics, and if the information reaches the ears of someone it shouldn’t, a life can end.” An advocate working with asylum seekers in Ciudad Juárez said he was aware of many attacks against asylum seekers there, but that the victims, fearing retaliation, would not permit him to share information.

The Trump Administration is well-aware of the extreme and growing violence in Mexico that asylum seekers returned under MPP face there. In February 2020, a Drug Enforcement Agency spokesperson noted that a wave of homicides in Mexico was the result of a “war for the Tijuana area” among cartels. In early April 2020, the U.S. Consulate ordered U.S. government employees to take shelter after reports of “multiple gunfights and blockades throughout the city of Nuevo Laredo.” The U.S. State Department has also designated the state of Tamaulipas, where DHS has returned more than 30,000 asylum seekers under MPP through the cities of Nuevo Laredo and Matamoros, as a Level Four threat – the same threat level assigned to Afghanistan, Iran, Libya, and Syria.

Individuals returned under MPP by DHS have been raped, assaulted, and threatened in Mexico while waiting for their U.S. immigration court hearings, including by cartels, criminal organizations, Mexican authorities, and other individuals who target asylum seekers because of their status as migrants, gender, sexual orientation, race, and other protected grounds. Some of those harmed include:

- **An October 2020 article by *Buzzfeed News* reported that Francisco*, a 24-year-old Honduran refugee, was returned under MPP to Mexico where he had been kidnapped and raped by a Mexican police officer.** After being returned to Matamoros, a Mexican immigration official forced Francisco to make weekly extortion payments, threatening to hand him over to a cartel if he refused. An immigration judge at the Brownsville MPP court later found that Francisco qualified for asylum.
- **In August 2020, an immigration judge granted asylum to a lesbian woman from Honduras who had been kidnapped and sexually assaulted in June 2019 by men in Mexican police and military uniforms after CBP returned her to Ciudad Juárez under MPP.** The woman was also forced to watch a friend being raped and another person executed by their captors. While escaping, she suffered a serious foot injury that required surgery. Although she was removed from MPP in July 2019, DHS detained the woman until August 2020 in the El Paso Processing Center immigration jail where she contracted COVID-19 after being denied parole, according to her attorney Héctor Ruiz with the Santa Fe Dreamers Project.
- **A Cuban asylum seeker in MPP who had been returned to Mexico under MPP was kidnapped in Ciudad Juárez in June 2020 by Mexican police, who beat and raped her.** After she was released, she immediately crossed between ports of entry, visibly injured, in the hope of protection. When she was apprehended, she begged U.S. immigration officials for medical attention and a fear interview. She was denied both and returned to Juárez, according to an immigration attorney who represents clients in MPP.
- **In June 2020, a Honduran asylum seeker who CBP had returned to Ciudad Juárez in November 2019 with her two-year-old son was raped by a man who had offered her a job as a housekeeper.** The man lured her to his house with the promise of employment, drugged her with a spiked drink, and raped her. According to attorney Nicolas Palazzo with Las Americas, the woman filed a complaint with Mexican police, but no investigation has been conducted.

- **In November 2020, a gay Honduran man who had been returned to Mexico by CBP under MPP was kidnapped in Matamoros.** Charlene D’Cruz, an attorney with Project Corazon, who were assisting the man to file an asylum application, reported that the man managed to escape and is currently in hiding.
- **A Cuban asylum seeker returned to Mexico under MPP was kidnapped in Nuevo Laredo in the summer of 2020, detained for days, deprived of food and water, and beaten.** The men who abducted the Cuban asylum seeker demanded that he provide contact information for relatives who could pay a \$5,000 ransom, which he refused to do. After days in captivity, he was able to escape, according to an immigration attorney who represents clients in MPP.
- **In July 2020, members of a Mexican cartel attempted to kidnap a 17-year-old Honduran boy in Tijuana who had been returned to Mexico under MPP** in October 2019 along with his parents and two siblings. Since the kidnapping attempt, the children and their mother rarely leave the house. They were also forced to relocate repeatedly in search of safer accommodations.
- **In June 2020, an *in absentia* removal order issued against an Afro-Honduran family who was kidnapped on the way to their MPP hearing, and held hostage for months, was rescinded by the Laredo MPP court.** The family – a teenage boy and his mother who belong to the Garifuna minority community – were abducted at the Nuevo Laredo bus station in December 2019 on the way to attend their MPP hearing at the Laredo tent facility. A non-profit attorney, who assisted the family to reopen their case, reported that the child is severely traumatized from their ordeal in Mexico, where the family has also faced chronic homelessness and repeated instances of labor exploitation, as they attempt to survive while waiting for their U.S. immigration court hearings.
- **In October 2020, a Nicaraguan asylum seeker returned by CBP to Mexico under MPP was robbed by police in Tijuana while looking for shelter after he could no longer pay rent for the room where he was living.** Earlier Mexican police in Tijuana had beaten the man after they realized he was a Nicaraguan migrant. He filed a complaint with the police, which has not been investigated, and continued to face repeated harassment by police officers, according to immigration attorney Margaret Cargioli with the Immigrant Defenders’ Law Center (IDLC).
- **In May 2020, an Afro-Cuban asylum-seeking couple were kidnapped immediately after CBP returned them to Nuevo Laredo under MPP and held by armed men in a room covered in blood where migrants with missing body parts moaned on the floor.** After four terrifying days the couple managed to escape but are terrified that they will be required to return to Nuevo Laredo to attend their U.S. immigration court MPP hearings.
- Around September 2020, a Honduran asylum seeker returned to Tijuana under MPP was threatened by a cartel there that also sent messages to her relatives in Honduras expressing animus against Honduran migrants and threatening that they had something horrible and unexpected in store for her. The woman told a Human Rights First researcher: **“I left a country that wasn’t safe only to land in a place that’s the same or worse.”**
- **In August 2020, unknown individuals burned down a home in Mexicali where a Salvadoran asylum seeker returned to Mexico under MPP with her toddler and other migrants were living, leaving them homeless.** The woman attempted to report the arson to Mexican police, but they refused to take her statement or issue a police report, according to an attorney from IDLC.
- **In October 2020, armed men invaded the home of a Honduran asylum-seeking couple and their two young children who had been returned to Mexicali under MPP.** The terrified family filmed the

incident as the men searched for an unknown individual and attempted to present the video to the police to file a complaint, who refused, telling the family since they were migrants, they had "no rights." According to HIAS, the family fled Mexicali after the incident in an attempt to find safety in another city.

Farcical Protection Interviews, Vulnerable Asylum Seekers Turned Away

Through MPP and the CDC order, the Trump Administration has effectively eliminated humanitarian protections at the southern border. DHS has unilaterally and illegally replaced the procedures Congress established to provide access to asylum and screen asylum seekers at the border. Instead of referring people who pass preliminary interviews into the full asylum system, DHS is using farcical screening interviews that are rigged at every stage against asylum seekers and intended to block them from applying for asylum and quickly return them to danger.

The fear screening process for MPP, which is supposedly intended to determine whether individuals returned to Mexico would face persecution or torture there, fails to protect the asylum seekers and migrants CBP forces to remain in Mexico under MPP. Families with children already traumatized from brutal kidnappings and women who fear being sexually assaulted again have been returned to Mexico after these faulty screenings. These interviews lack the basic safeguards Congress created to prevent the deportation of asylum seekers to persecution, including the credible fear process and other safeguards designed to assure access to asylum hearings. An updated MPP policy guidance document issued in December 2020 that DHS billed as "improvements" to MPP indicates that individuals are not entitled to counsel during fear screenings where it would "delay the interview" unless "required by court order." An asylum officer speaking to Vox reportedly stated that the standard for fear of Mexico screenings is "all but impossible to meet." A former asylum officer who resigned in protest over MPP decried the fear interview process as "practically ensur[ing]" the violation of international law.

In the wake of the CDC order, CBP is severely limiting asylum seekers returned to Mexico from requesting protection through these highly flawed MPP fear-screening interviews. **Between April and November 2020, just 1,159 individuals placed in MPP were even permitted fear screenings**, according to government data, **which is just seven percent of the total number screened in the eight-month period before the CDC order was issued**. Attorneys report that CBP has allowed only a handful of asylum seekers to request fear interviews at ports of entry since April 2020. An attorney from the Florence Project, who accompanied a Cuban asylum seeker to the Nogales port of entry in September 2020 to request an MPP fear screening and also a torture screening, was told by a CBP officer that CBP would not refer the man for screening. The few fear interviews being conducted appear to be of individuals in CBP custody who are newly placed into MPP or who have fled again into the United States after being returned to Mexico. Even before this apparent policy shift, a study by U.C. San Diego researchers found CBP officers failed to refer to screening interviews 60 percent of individuals placed in MPP in California who expressed a fear of Mexico.

Asylum seekers returned to Mexico after farcical MPP fear screenings despite having suffered attacks and/or fearing significant harm include:

- **A Cuban asylum seeker in MPP was returned to Ciudad Juárez after a farcical March 2020 fear screening during which she suffered vaginal bleeding and was told the interview would be terminated if she did not calm down.** The woman, who had been dragged down an alley, beaten, and kicked in the stomach while pregnant, suffered a miscarriage as a result. She suffered vaginal bleeding and severe pain in CBP custody while waiting for the fear interview but was denied medical attention. The asylum officer interviewing her did not permit her to submit evidence during a call that dropped five times. The woman's husband who received a separate fear screening interview was asked irrelevant questions during the interview, including the spelling of apparently random words. The couple were subsequently

returned to Ciudad Juárez, where they have been threatened and the woman attacked again in July 2020, according to immigration attorney Nicolas Palazzo.

- **CBP returned a Cuban woman and her two children, one of whom has a severe disability, were returned in Mexico under MPP after a fear screening interview despite having been assaulted in southern Mexico and kidnapped in Nogales.** The mother told a Florence Project advocate that she and her children were forced into a car in Nogales and driven to a deserted area in the mountains where they were held hostage for three days. The family escaped, crossed into the United States and turned themselves in to Border Patrol in Arizona to ask for asylum. The officer who interviewed the mother about her fear of Mexico told her to “move states.”
- An Afro-Cuban asylum seeker and her teenage son did not pass a fear screening interview and were returned to Mexico under MPP despite having been kidnapped and held hostage in Reynosa. In July 2020, one of the kidnappers found the woman, assaulted and robbed her. She told Human Rights First, **“we have to hide all the time. We are terrified they will find us. We cannot live in peace. We are in constant fear.”**
- **A Honduran asylum seeker, who was kidnapped and raped after being returned to Ciudad Juárez under MPP with her 11-year-old daughter, was subsequently kidnapped and sex-trafficked** after she did not pass a farcical fear screening. During the first kidnapping in December 2019, the woman was raped by multiple men, dressed in makeup and heels, and photographed. The family managed to escape and cross the border for protection. But CBP returned them to Ciudad Juárez after she described the attack during a fear screening. After her return, the woman was again kidnapped and sex trafficked by men who threatened to force her daughter into prostitution. On one occasion she recognized a police officer who had previously helped her to file a report at one of the houses where she was being held, according to attorney Nicolas Palazzo.

Asylum seekers recently denied MPP screenings by CBP despite expressing serious fears about being returned to Mexico include:

- A Honduran couple and their three children were denied a fear interview after their seventeen-year-old son was nearly kidnapped by a Mexican cartel in Tijuana in July 2020. CBP officers refused to refer them for an interview. The family had been returned by DHS to Mexico under MPP in October 2019.
- In July 2020, Border Patrol agents refused to refer a Cuban couple who had been kidnapped for an MPP fear screening and instead returned them to Nogales. A government official in southern Mexico had put the couple in contact with the woman who then kidnapped them. The couple had managed to escape their abductors after being held hostage for months but continued to receive threatening messages claiming that the kidnapper knew they were hiding in Nogales. The couple told KBI that after expressing their fear of return, the Border Patrol agent who processed them replied, “you think I am here to solve your problems? All Cubans come here with the same story... you are going back no matter what and you will have to figure out what to do.” Both were returned to Nogales without a fear screening.
- In late May 2020, two Nicaraguan asylum seekers, who had been returned to Mexico in April 2020, were refused a fear screening interview despite having been kidnapped in Nuevo Laredo and followed by their kidnappers after their escape. At the Nogales port of entry, where KBI advocates accompanied them, CBP officers refused to refer them for interview and threatened to detain them, which the couple said they would prefer rather than being forced to remain in Mexico.

The Trump Administration is also denying asylum seekers it expels under the CDC order fear screenings required under U.S. law. CBP claims that in carrying out CDC order expulsions it “is not operating pursuant to its authorities under Title[] 8”—the section of U.S. law codifying the protections and processing procedures Congress adopted for asylum seekers—according to internal guidance provided by DHS to Border Patrol agents and first reported in a Pro Publica exposé. Instead, the Border Patrol guidance indicates that agents may refer asylum seekers for limited torture screenings in very narrow circumstances – where the individual makes an “affirmative, spontaneous and reasonably believable claim.” To pass these limited torture screenings asylum seekers must establish a more likely than not probability of torture if returned to their country. This is not the legal standard applied to preliminary fear screenings, but rather the standard immigration judges use to determine - after a full immigration court hearing - whether an individual qualifies for full protection under the Convention against Torture. As a result of this rigged process, very few asylum seekers subject to the CDC order have even been permitted these inadequate interviews, and fewer still have passed them.

- Between March 20 (when the CDC order was issued) and May 27, 2020, CBP referred only 85 individuals out of more than 43,000 asylum seekers and migrants expelled under the CDC order to be screened for a fear of torture, according to a CBS News report. Government records obtained through FOIA by Human Rights First show that nearly half (41) of these referrals were made in the first four days the CDC order was used by CBP, meaning that **during the rest of March, April and May 2020, CBP allowed less than one asylum seeker subject to the CDC order per day, on average, to request protection.**
- **CBP expelled well-known Nicaraguan opposition activist, Moises Alberto Ortega Valdivia, and his family to Nicaragua in July 2020 under the CDC order without referring them for a fear screening.** Ortega Valdivia, who speaks fluent English, had told Border Patrol agents in Texas that he was seeking asylum and presented extensive documentation of the persecution and torture he suffered in Nicaragua.
- **Asylum seekers expelled under the CDC order to Nogales, Mexico have frequently reported to KBI that Border Patrol agents refuse to refer them for fear screening despite affirmative explanations that they fear return to Mexico.** For instance, a Salvadoran woman expelled with her eight- and one-year-old children in October 2020, who explained to a Border Patrol agent that she feared being returned to Mexico where she had been robbed in a nearby town, the agent told her, “it doesn’t matter, there are gangs in the US just like in Mexico.” In September 2020, Border Patrol agents expelled an asylum-seeking Honduran couple and their baby without any fear screening despite the couple articulating their fear of returning to Mexico where they were repeatedly detained and told to seek asylum at the Nogales port of entry, where they were also refused a protection screening. A Salvadoran asylum seeker was twice refused fear screening by Border Patrol agents in October 2020 who expelled her under the CDC order to Mexico, despite her efforts to explain the abuse she had suffered in Mexico.

CBP also continues to return and refuse to remove vulnerable asylum seekers placed in MPP in violation of internal MPP policy restricting the return to Mexico of individuals with “known physical/mental health issues.” In November 2020, *Al Otro Lado* and several individual plaintiffs filed a class-action lawsuit challenging DHS’s continued return of individuals with disabilities and health conditions and their family members to Mexico in violation of the agency’s own policy. Documents obtained through FOIA by Human Rights First show that CBP is intentionally using MPP as a “reliable alternative” to “expel[] pregnant females,” despite the DHS policy prohibiting the return of individuals with known health issues. In December 2020 supplemental policy guidance, DHS announced that “where there is any doubt as to whether a[person] should be included in MPP owing to a known physical or mental health issue, CBP should err on the side of exclusion.” Some of the many individuals with evident and serious health conditions whom CBP has and continues to force to remain in Mexico under MPP, include:

- Among the vulnerable asylum seekers forced to remain in Mexico under MPP despite severe health conditions and disabilities included in the *Al Otro Lado* [suit](#) are: a woman with a pituitary tumor whose 13-year-old child has only one functioning lung; a seven-year-old child with a heart murmur; an eight-year-old boy who has urethral malformation that requires surgery; a seven-year-old child who has seizures, an intellectual disability, and urinary tract problems; a 16-year-old boy with a brain injury that causes memory problems and headaches; a seven-year-old child with developmental delays and seizures; a 14-year-old child with an amputated leg; and a one-year-old baby with congenital hydrocephalus, which causes a buildup of fluid around her brain and spinal cord.
- A five-year-old boy from El Salvador who is partially deaf and suffers from myelomeningocele, a condition where the spinal cord and nerves develop outside the body, has been in MPP since October 2019 and is not receiving needed medical care due to prohibitive costs and COVID-19 restrictions, according to Las Americas.
- A [seven-year-old girl](#) with lissencephaly, a condition that causes seizures and development delays, was returned to Matamoros with her mother under MPP. The child has difficulty eating, speaking, and communicating and suffers from impaired neurological and respiratory functions. After being returned to the MPP encampment in Matamoros, the child's mother was unable to obtain needed medications, resulting in the girl's hospitalization.
- A 19-year-old Honduran whose leg was amputated due to cancer was placed by CBP in MPP in September 2019 but has yet to have a single hearing due to immigration court cancellations, according to Las Americas. The young man does not have access to medical care or physical therapy in Mexico, necessary prosthetics, or even crutches.
- CBP returned a pregnant Salvadoran asylum seeker to Nuevo Laredo under MPP who had suffered repeated rapes in Mexico and experiencing bleeding as a result of the pregnancy. When the woman went into labor in August 2020 after being returned to Mexico, she was forced to wait, bleeding on the street outside the hospital, until the very late stages of her delivery before being provided medical aid, according to an attorney from *Proyecto de Ayuda Para Solicitantes de Asilo* (PASA).
- A Honduran asylum seeker who suffered a car accident in Mexico and is now paraplegic as a result is living in a shelter with his 17-year-old daughter after being returned to Ciudad Juárez under MPP in February 2020. Unable to walk without a wheelchair or crutches, he has been unable to obtain medical care or physical therapy while living in Mexico, according to attorney Nicolas Palazzo.
- A three-year-old Venezuelan girl, who suffers from multiple serious health conditions requiring continuous medical care including spinal hypoplasia, which makes it difficult for her to sit for long periods of time, was returned to Mexico under MPP in March 2020. While in CBP custody, the girl was twice transported to a hospital as she was crying uncontrollably but no diagnostic testing was conducted. Upon return to Nogales, an ultrasound scan identified a kidney disorder causing the child's pain.

COVID-19 Makes Desperate Circumstances Even Worse

Asylum seekers forced to remain in Mexico under MPP or expelled there under the CDC order are stranded in brutal conditions, made worse by the pandemic; many are without safe and secure housing, adequate medical care, or sufficient food. Due to COVID-19 restrictions, [shelters](#) are often [closed](#) to new arrivals and lack adequate resources. Other shelters, including three of Mexicali's main shelters, [shut down](#) entirely in recent months due to lack of federal funding. In [Piedras Negras](#), shelters remain closed due to COVID-

19 as of December 2020. Some shelters do not allow residents to leave to search for work or purchase necessities due to the pandemic, leaving them without any income and totally dependent. The many who are living outside of shelters – in migrant hotels, rented apartments, or on the streets – have largely lost the little work they managed to find, and many are facing eviction and hunger as their savings quickly run out.

With shelters accommodating fewer residents since the start of the pandemic, asylum seekers are left to sleep on the streets or bear the financial burden of paying rent. Many of those living in the streets are targeted by criminal organizations. Asylum seekers who rent housing are vulnerable to abuse and exploitation, and many are reluctant to report abuses to Mexican authorities because of widespread discrimination and fear of deportation. A Venezuelan asylum seeker told Human Rights First that after arriving in Hermosillo, he arranged to rent an apartment for his family and paid a man purporting to be the building owner. The man took the money, but they were not given access to the apartment. A Honduran asylum seeker who paid to rent a room in Matamoros with her husband and young daughter said that immediately after they moved in, the building owner attacked the family, threw their belongings in the street, and locked them out.

Other asylum seekers struggling to survive outside of shelters include:

- Asylum seekers from Cameroon, Uganda, and Ethiopia – unable to seek protection in the United States due to the CDC order – who were sharing a room in a Tijuana hotel suffered terrible conditions and threats and extortion by Mexican authorities. According to an Ethiopian asylum seeker living there, **“the conditions are very horrible. We have to buy everything like bed sheets and everything that we need. They give us these rotten mattresses. There are a lot bugs and animals. But we stay here because this is one of the few places that we can rent in Tijuana.”** When the African residents complained about conditions, the manager summoned INM officers, who handcuffed them, chained some together, and stole their money. In November 2020, a new owner evicted the group because he said that he “does not like Africans,” as the Ethiopian asylum seeker recounted to Human Rights First.
- **A Cuban asylum-seeking couple fleeing political persecution who have been living in Reynosa since being returned to Mexico under MPP in September 2019 with their three-year-old son spent all their savings to rent an unheated apartment for the past three months.** They have been unable to find work since the pandemic began and now cannot afford blankets or warm clothing. They live in fear of the men who tried to kidnap their son and of the Mexican authorities who could deport them because they were unable to renew their Mexican permits. The mother told Human Rights First she considered trying to cross the border between ports of entry because she does not know how her family can survive.
- **A Guatemalan woman stranded in Tijuana with her son under MPP lost her factory job around May 2020 due to COVID-19 and has struggled to buy basic necessities and pay rent.** Her son also lost his factory job in June 2020. Without financial help from family in the United States they would not have been able to survive, according to attorneys from IDLC.
- **The parents of a seven-year-old child with a congenital heart defect, who were returned to Mexicali under MPP, are struggling to care for him and make ends meet as he requires medical supervision at all times due to his condition.** The family’s housing arrangement will end soon, and they are at risk of becoming homeless.

In addition to difficulties affording food and shelter, access to already extremely limited medical care for asylum seekers stranded in Mexico has become even more restricted during the COVID-19 pandemic.

- **A 54-year-old Honduran asylum seeker, who was returned under MPP in the fall of 2019 with her children and was raped by two men in Ciudad Juárez, suffers from a rectovaginal fistula as a**

result of the rape, which causes her bowel contents to leak. She requires surgery but has not been able to obtain medical treatment since April 2020 due to COVID-19 shutdowns.

- **A pregnant Cuban asylum seeker returned to Mexico under MPP experienced brutal medical neglect in Mexico due to her lack of legal status.** She was denied prenatal treatment in Piedras Negras and when she went into labor in September 2020 was repeatedly turned away at Mexican hospitals. At the hospital that finally accepted her, she was forced to wait on the street in the middle of the night before ultimately being allowed into the hospital. The woman fainted twice in the waiting room and was forced to walk out of the hospital with her baby the next day, despite needing multiple stitches due to tearing during delivery. She was not provided antibiotics or pain medications and developed an infection around her stitches, according to attorneys working with PASA.
- **A pregnant 21-year-old indigenous asylum seeker from Guatemala, who has placed by CBP in MPP in January 2020, has been turned away by multiple hospitals in Tijuana where she tried to get a sonogram,** according to Adam Howard, who is assisting the woman's attorney in representing her.
- Since March 2020, a woman returned to Tijuana under MPP who has hypertension, hyperglycemia, scoliosis, kidney stones that require surgery, PTSD, and panic attacks, has not been able to obtain medication for her panic attacks. She is afraid to undergo the operations she needs because she does not know what would happen to her two children who were returned to Mexico with her, if she were to die.
- Three Cuban asylum seekers including an Afro-Cuban woman who all suffer from asthma have been repeatedly turned away in Tijuana when trying to obtain medical care, including inhalers, according to Adam Howard, who is assisting their attorney in representing them.

Due to the pandemic many asylum seekers waiting to seek protection in the United States are unable to work or have lost the minimal work they could find to pay for rent, food, and medical expenses. As businesses have closed and the unemployment rate has risen in Mexico, asylum seekers struggling to find work have endured discriminatory treatment and exploitation.

- A Venezuelan asylum seeker who has been languishing in MPP since August 2019 lost his grocery store job when the pandemic hit and is running out of resources to support himself. He was fired when his employer dismissed immigrant workers to open up positions for Mexican nationals. In June 2020, a cartel threatened him when he refused to work for them, forcing him to go into hiding. He is losing hope: **“I am without work and living in fear. If I return to my home country, they will probably take my life. The difference is at home I would die in my own country. Here they would throw me in a pit and nobody would know. . . . I am exhausted and I do not have the strength to pursue the dreams I had before. I have considered suicide, but God has stopped me.”**
- In October 2020, a Cuban asylum seeker returned to Mexico under MPP was fired after suffering a serious hand injury on the job, which required reconstructive surgery. His employer refused to pay his medical expenses. When the man asked for five weeks of unpaid wages, his employer threatened to “disappear” him. The man was too afraid to make a police complaint because he feared Mexican authorities would deport him. Without health insurance, the man could not afford to return to the hospital for follow up care after the initial operation, and his injury became infected.
- In October 2020, a Mexican police officer asked a Cuban asylum seeker for his immigration documents and told him that Central American immigrants who were trying to work in Mexico were “parasites” because there were not enough jobs for Mexicans.

For asylum seekers with expired FMMs, as discussed above, or who lack legal status in Mexico as they wait to request asylum in the United States, it is generally impossible to obtain formal employment. Many asylum seekers have been forced into exploitative informal labor arrangements.

- An Ethiopian asylum seeker expelled to Tijuana under the CDC order was paid just 80 pesos (U.S. \$4) for washing some 30 cars.
- An Afro-Cuban asylum seeker who applied for a job as a cleaner in a distribution warehouse in spring 2020 was told that Black immigrants could only work in nude bars or as sex workers.

An estimated 600 asylum seekers remain in the MPP encampment in Matamoros sleeping in tents on the banks of the Rio Grande. During a presidential debate in October, now President Elect Biden condemned MPP for forcing asylum seekers to stay “in squalor on the other side of the river.” Asylum seekers living in the camp must cope with frequent flooding from heavy rain and hurricanes, rotting food and garbage, insects, and feces washed up from the Rio Grande. An asylum seeker told the *New York Times*: **“You have to withstand everything here: sun, water, cold, heat, we have it all.”** Hurricanes during the summer months flooded the camp, damaged tents, destroyed asylum seekers’ possessions, and brought an infestation of rats, snakes, and mosquitos. A Salvadoran asylum seeker told Human Rights First that he decided to send his two young children across the border alone when they became sick from conditions in the camp. His 12-year-old son developed a severe rash all over his body and his 10-year-old daughter showed signs of malnutrition. The onset of cold temperatures brings a new host of dangers for those living in the camp. Asylum seekers living in the camp also suffer violence and threats at the hands of a powerful drug cartel operating in Matamoros. In October 2020, the *New York Times* reported that cartel members kidnap and attack migrants if they leave their tents at certain times. A Honduran asylum seeker told the *Nation* that **“more than anything, we are worried about our physical safety, about violence. There is a gang that controls the camp. They rape women, they beat up men.”**

Due to COVID-19 most American volunteer organizations have halted their services in the encampment to reduce the risk of transmission of the virus from the United States. Although some basic food provisions are still distributed through donations from local organizations, asylum seekers have reported that they are desperate without access to work or income and do not have enough to take care of their children. Global Response Management and Doctors without Borders provide healthcare and have implemented measures in the camp that have successfully prevented the widespread transmission of COVID-19, including through the use of masks, hand-washing stations, and vitamin distribution. In April 2020, INM erected a chain-link fence around the encampment and began restricting people’s movements into and out of the camp. As a result, residents must rely on donations for basic necessities and cannot leave the camp to obtain firewood or wash their clothes in the river. Attorneys recently reported to Human Rights First that INM has been instructing people to leave the camp and threatening them with deportation, creating further instability and chaos.

These terrible conditions for asylum seekers stranded in Mexico, compounded by the ever-present threat of serious violence and the trauma asylum seekers have suffered in their home countries, take a devastating toll on the mental health of asylum seekers.

- An Afro-Honduran woman from the Garifuna ethnic group and her daughter have been left traumatized and suffering from depression after enduring discrimination and violence in Tijuana while indefinitely stranded in Mexico under MPP. The woman reported that people in the street have shouted at her and her daughter to “go back” to where they came from, and a resident at the shelter where they were staying tried to attack her daughter. A June 2020 gun fight in front of the shelter left two people dead, further traumatizing the family who have had difficulty sleeping since the incident, according to attorneys at IDLC.

- A girl living in the Matamoros MPP encampment with her parents is despondent and at times refuses to eat because of the family’s dire situation, according to a recent *News Week* article. The girl’s father reports that they feel in constant danger from criminal groups in the area and that snakes have become a new danger in the encampment.
- A Cuban woman twice attempted suicide after CBP returned her and her husband to Ciudad Juárez under MPP. In Mexico members of an organized crime group that had raped the woman in Nicaragua had located the couple in Mexico, leaving the woman desperate and afraid that she would be attacked again, according to HIAS, who spoke with the family in August 2020.
- An 8-year-old Salvadoran asylum-seeking girl returned to Mexico under MPP in January 2020 suffers from severe depression and post-traumatic stress disorder as a result of persecution she experienced in her home country, which has been exacerbated by continued harassment in Mexico. The girl and her family are sleeping on the kitchen floor of an acquaintance, unable to find a shelter able to accommodate them, according to advocates from Jewish Family Services of San Diego. Since the fall of 2020, the girl has also been experiencing paranoia and recurring auditory hallucinations telling her to kill herself.
- An Afro-Cuban teacher and her 16-year-old son, who were returned to Mexico under MPP in September 2019 are traumatized and terrified to leave the abandoned house where they have been living in Reynosa. The family was kidnapped and attacked in Mexico. The woman told Human Rights First, **“we have no hope, and we are living with so much fear. We cannot see any light. Being in MPP is slowly killing us. We are hungry and cold, and we have suffered so much harassment because we are Black. Only my faith and my child give me the strength to wake up each day and continue.”**

MPP Chaos Deprives Asylum Seekers of Due Process, Further Undermines Access to Counsel

In July 2020, DHS indefinitely suspended all MPP hearings, which had been postponed for several periods starting in late March 2020, effectively blocking asylum seekers in MPP from any opportunity to receive refugee protection in the United States. Asylum seekers and migrants with pending MPP hearings include thousands of individuals from Central America as well as Cuba, Nicaragua and Venezuela among other countries, according to government data analyzed by TRAC. There are approximately 23,000 pending MPP cases, meaning many asylum seekers returned to Mexico under MPP are waiting indefinitely in danger in the wake of the COVID-19 closure of immigration courts. According to immigration court schedules analyzed by TRAC, **70 percent of those with postponed MPP hearings will have been waiting in Mexico for one year or more by January 2021, when the Biden Administration takes office.** This scheduling chaos threatens the due process rights of asylum seekers and further undermines already limited access to attorneys for individuals DHS returns to Mexico under MPP.

Pending MPP Cases as of October 2020, by nationality	
Cuba	6,463
Honduras	5,422
Guatemala	3,979
Ecuador	2,142
Venezuela	1,408
El Salvador	1,397
Nicaragua	813
Brazil	445

Asylum seekers who have been forced to wait for more than a year for their immigration hearings, include:

- A Venezuelan asylum seeker who received death threats after denouncing state corruption has been languishing in MPP since August 2019. After narrowly escaping an attempt on his life by Venezuelan government agents, the man fled to the U.S. border and was returned to Mexico under MPP. His next

MPP hearing at the Brownsville MPP court, initially scheduled for April 2020, was delayed twice because of the pandemic and is now scheduled for January 2021.

- A Cuban couple and their teenage son who fled Cuba to request asylum after being persecuted for their political beliefs and after their five-year-old daughter died due to poor medical care have been stranded in MPP since September 2019. Their next MPP asylum hearing at the Brownsville MPP court, initially scheduled for April 2020, has been repeatedly postponed due to COVID-19 court closures and is now scheduled for January 2021. The family, who was extorted and robbed in Mexico, all recently lost their jobs due to the pandemic.

When, and if, MPP hearings resume, many asylum seekers will not know the date of their rescheduled proceedings because DHS fails to notify them of scheduling changes. U.S. immigration law requires DHS to provide individuals in removal proceedings with written notice “of any change or postponement in the time and place of such proceedings,” but the agency has not provided asylum seekers paper hearing notices at ports of entry for postponed MPP hearings since June 2020. Instead, DHS announced that information on rescheduled hearings would be made available through the immigration court website, which is only in English and Spanish, and telephone hotline. Yet even months after the cancellation of MPP hearings and the suspension of document service at ports of entry, on some days scores of asylum seekers still arrive at the Ciudad Juárez port of entry on the date of their scheduled MPP hearing. At some ports of entry CBP officers hand out slips of paper instructing asylum seekers to call the court’s information hotline for updates on rescheduled hearing dates, instead of providing hearing information. Prior to the pandemic, DHS often failed to provide notices with the correct address for asylum seekers to present themselves for MPP court and did not translate these notices into a language the asylum seeker could understand, according to an October 2020 amicus brief filed by legal service providers.

Asylum seekers who are unaware of the need to check, or lack the technology to access, the immigration court website/hotline, are not literate, and/or speak an indigenous language are not likely to receive notice of rescheduled MPP hearings. In addition, faults with these information systems, which are common, also threaten to prevent asylum seekers from learning of the date of their rescheduled hearings.

- **A Honduran man fleeing political persecution whose May 2020 MPP hearing at the Brownsville MPP tent court was cancelled has been unable to ascertain the date of his rescheduled hearing.** The automated case information line and website indicate that information on his case is “unavailable.” According to an attorney with HIAS, the man attempted to ask a CBP officer at the Brownsville port for information about his hearing date but was told that the officer did not have information about his case.
- **CBP officers have falsely informed some asylum seekers whose hearings were rescheduled that because they did not come to the bridge on the date their hearings were originally supposed to take place, they had been ordered deported *in absentia*.** CBP officers falsely told a Cuban asylum seeker who did appear at the port of entry for a postponed May 2020 hearing that he had been ordered deported and that the EOIR printout indicating he had a hearing set for September 2020 was incorrect, according to immigration attorney Taylor Levy.

In addition to extensive delays that expose asylum seekers to life-threatening dangers and conditions in Mexico, the suspension of MPP hearings denies asylum seekers in MPP their only opportunity to meet in person with immigration attorneys in the United States. DHS already limited these brief meetings to individuals who already had an attorney registered in their case and only during the minutes before MPP hearings. In October 2020, Immigrant Defenders Law Center, Jewish Family Services of San Diego and several individuals returned to Mexico under MPP filed a class action lawsuit in federal court challenging the MPP policy for blocking asylum seekers from access to legal counsel and “depriv[ing] asylum seekers of access to the information and tools

necessary to defend against refoulement and to meaningfully present their asylum claims.” Since the pandemic, the few organizations able to provide basic legal support to migrants in some shelters in Mexico have had even more difficulty reaching asylum seekers—especially those recently returned from the United States. In Ciudad Juárez, for instance, CLINIC was previously providing legal services and trainings in shelters to around 100 asylum seekers per week, according to Luis Guerra, an advocate with the organization. Now, CLINIC meets with only about five asylum seekers per week.

The suspension of MPP hearings also threatens to undermine the asylum eligibility of individuals stranded in Mexico. Under U.S. law, asylum seekers must generally file an application for asylum within one year of their last arrival to the United States. While it would be absurd and improper to apply this rule to asylum seekers in MPP, it is not clear how adjudicators rule will apply this flawed rule to asylum seekers returned to Mexico under MPP, but because of the MPP hearing delays, many will be unable to file their applications in person before the one-year-filing deadline. While asylum seekers may file an application by mail, doing so from Mexico is costly and difficult, particularly for individuals who are not represented by an attorney. For instance, few unrepresented asylum seekers will be aware that they must file a copy of the asylum application with the DHS attorney representing the government and a certificate of service with the immigration court. Because the vast majority of asylum seekers in MPP lack stable addresses in Mexico where they can receive mail, applications rejected by the immigration court cannot be returned to them for correction and re-filing.

Other errors by DHS may prevent asylum seekers returned to Mexico under MPP, particularly those without legal representation, from requesting U.S. humanitarian protection where DHS fails to file the notice to appear (NTA), a document required to initiate removal proceedings, with the immigration court. In these cases, immigration judges may close the case for failure to prosecute leaving the asylum seekers without an opportunity to request asylum in court. For example:

- **The MPP cases of at least two Cuban asylum-seeking families were closed as a result of DHS’s failure to file NTAs preventing them from even applying for refugee protection.** The immigration court informed PASA, who has been assisting the families, that the cases were closed for failure to prosecute, as DHS had not filed the NTAs provided to the families when they were returned to Mexico in June 2020 by the date of their rescheduled MPP hearing in September 2020. DHS also failed to file NTAs for a third family from Venezuela also returned to Mexico under MPP in June 2020, who have been unable to obtain information on their rescheduled hearing. Without future hearing dates, the families were initially unable to renew their temporary Mexican migration documents, putting them at risk of deportation by Mexican officials. Members of the two Cuban families who had managed to find jobs in Mexico to support their families as they wait for U.S. immigration court hearings lost their employment due to their inability to renew their Mexican migration permits.

No Public Health Rationale to Close Border to Asylum Seekers

The highly flawed and roundly-criticized March 2020 CDC order - used by the Trump administration and DHS to effectively eliminate humanitarian protection at the border and which the Trump Administration claims is intended to prevent the introduction of COVID-19 to the United States – was issued despite repeated objections by senior CDC medical experts. The CDC experts warned officials that such an approach - pushed by White House Senior Advisor Stephen Miller – lacked a public health justification, as the *Wall Street Journal*, *Associated Press*, and *CBS News* reported. Despite these objections, Vice President Pence called the CDC Director and instructed the agency to issue the order, which a Department of Health and Human Services (HHS) lawyer – a Trump Administration political appointee – wrote, according to the *Associated Press* and *CBS News*. While the CDC order was presented as an urgent response to the pandemic, a New York Times report revealed that it “was in

large part repurposed from old draft executive orders and policy discussions that have taken place repeatedly” since the administration came into office, with the idea of invoking public health powers “on a ‘wish list’ of about 50 ideas to curtail immigration” crafted early on by Stephen Miller. The CDC order, which was subsequently indefinitely extended on May 19, 2020, and re-issued with minor modifications on October 13, 2020, as well as a separate Trump Administration proposed rule to use public health to deny refugees protection, have been described by public health experts as “immigration policy masquerading as a public health policy.” Despite these major flaws, Vice President Pence called the CDC Director and instructed the agency to issue the order, which a Department of Health and Human Services (HHS) lawyer – a Trump Administration political appointee – wrote, according to the Associated Press and CBS News. While the CDC order was presented as an urgent response to the pandemic, a New York Times report revealed that it “was in large part repurposed from old draft executive orders and policy discussions that have taken place repeatedly” since the administration came into office, with the idea of invoking public health powers “on a ‘wish list’ of about 50 ideas to curtail immigration” crafted early on by Stephen Miller. The CDC order, which was subsequently indefinitely extended on May 19, 2020, and re-issued with minor modifications on October 13, 2020, as well as a separate Trump Administration proposed rule to use public health to deny refugees protection, have been described by public health experts as “immigration policy masquerading as a public health policy.”

In May 2020, leading epidemiologists and public health experts wrote to the HHS Secretary and CDC Director urging that the March CDC order be rescinded – a call which they reiterated to DHS and DOJ leaders in August 2020. Explaining that the nation’s public health laws should not be used as a pretext for overriding humanitarian laws and treaties that provide life-saving protections to refugees seeking asylum and unaccompanied children, the letter expressed the experts’ grave concerns that the administration was using the “imprimatur” of the CDC “to circumvent laws and treaty protections designed to save lives and enable the mass expulsion of asylum seekers and unaccompanied children.” The letter concluded that the CDC order is based on specious justifications, and “fails to further public health and disregards alternative measures that can protect public health while preserving access to asylum and other protection.” The experts urged the administration to “use rational, evidence-based public health measures to safeguard both the health of the public and the lives of adults, families, and unaccompanied children seeking asylum and other protection,” and recommended, among other measures, that U.S border officials:

facilitate social distancing through demarcations and the use of outdoor and other areas for processing; require wearing of masks or similar cloth coverings over the face and nose for both officers and persons crossing into the United States; use plexiglass barriers and/or face shields for officers during interviews and identity-checks; provide hand-sanitizer and other handwashing for both officers and other persons; and provide requisite distance, as well as masks and other measures, in transport. . . . [I]nstead of holding individuals in facilities widely recognized as dangerous and unsanitary, CBP has the discretion and legal authority to parole adults and families seeking asylum or other legal protection, and the government could facilitate the expeditious release of unaccompanied children from custody.

The CDC order relies on inaccurate assertions about DHS detention and alternatives to detaining asylum seekers in immigration jails. In concluding that alternatives to suspending entry of asylum seekers and other migrants were not viable, the CDC order relied on incorrect and insufficient DHS assertions that the (now barred) individuals likely lack homes or places in the United States to self-isolate and that these individuals must necessarily be held in congregate areas in CBP custody for hours or days. A recent study found that around 92 percent of people returned to Mexico under MPP have family or close friends who live in the United States. Moreover, the CDC order erroneously pointed to CBP’s own flawed processing and detention choices at the border as justification for expelling asylum seekers and unaccompanied children. Contrary to DHS’s claims, CBP

has adequate space and staff to process asylum seekers and unaccompanied children at ports of entry in compliance with recommended public health measures and could swiftly complete processing of asylum seekers and unaccompanied children in as little as one to two hours (even before the pandemic).

At the same time that the Trump Administration is blocking refugees from seeking asylum protection in the United States, supposedly on the ground that processing asylum seekers in DHS border facilities would risk contagion, border crossings by U.S. citizens and other border traffic deemed “essential” have continued with more than **40 million pedestrians, car, bus and train passengers entering the United States through the southern border between April 2020 and September 2020**, according to data from the Bureau of Transportation Statistics.

Currently Mexico and the United States are both experiencing widespread and sustained levels of COVID-19 transmission. Some border communities, particularly along the Texas-Mexico border, are facing serious challenges in containing the spread of COVID-19. Government and non-governmental organizations on both sides of the border are currently undertaking efforts to address the pandemic. Medical and refugee assistance organizations, shelters and others assisting asylum seekers in these regions report that they have implemented public health measures – such as social distancing, masks, hygiene kits, testing, and the use of “filter” spaces, at hotels and in other locations – to help protect asylum seekers and that these measures have helped minimize the spread of COVID-19 in migrant shelters and the refugee encampment in Matamoros.

The DHS Office of the Inspector General, in a September 2020 report, stated that U.S. Border Patrol stations and CBP ports of entry reported that they have implemented measures to process travelers and detained individuals including use of personal protective equipment, use of disinfectant, risk assessments to determine potential exposure to COVID-19, monitoring for symptoms, distribution of masks, processing in outdoor environments, and consulting with local medical personnel. Yet some CBP officers and Border Patrol agents continue to fail to use basic public health measures to prevent the spread of COVID-19 to the public.

Mexico Complicit in U.S. Schemes to Block Asylum

Mexican police, immigration officials and other government authorities are directly involved in kidnappings, extortion and other violent attacks against asylum seekers returned by DHS to Mexico, as discussed above and extensively documented in Human Rights First’s prior research. In addition, the Mexican government is facilitating U.S. violations of international protections for refugees by agreeing to receive Mexicans and Central Americans expelled under the CDC order. Mexico also continues to receive non-Mexican asylum seekers and migrants returned under MPP. Mexico detains some individuals expelled by the United States and fails to consistently provide asylum seekers with an opportunity to seek protection, officially deporting some and illegally attempting to force others to cross the southern Mexican border to Guatemala or dumping them in southern Mexico. Such deportations raise serious concerns about the potential widescale return of asylum seekers, including those expelled from the United States, by Mexico to the countries they were fleeing.

- The number of individuals deported by Mexican migration authorities has been increasing in recent months, with more than 5,500 Central Americans deported in October 2020, according to Mexican government data. INM agents have often failed to inform detained individuals of their right to seek asylum in Mexico, pressuring asylum seekers not to file applications, and failing to forward requests to the Mexican asylum agency.

Asylum seekers in MPP are at increased risk of deportation because Mexican migration authorities are creating hurdles for them to renew Mexican migration permits (*forma migratoria múltiple* or FMM). Many also report being unable to obtain employment or have been fired because they are unable to renew their FMM’s. A Salvadoran

asylum seeker in MPP, who had been working in a factory to support her family, was fired in September 2020 because her FMM expired and she was unable to renew it.

Because FMMs for those in MPP are typically valid only until their next MPP hearing, permits for nearly all asylum seekers in MPP have expired during the pandemic. INM generally renews FMMs only when presented with updated U.S. documents indicating the individual's next MPP hearing. But many asylum seekers have been unable to receive these documents, as discussed above, or cannot travel hundreds of miles during the pandemic to the port of entry where they were returned to Mexico in order to renew the permit. In late April 2020, INM issued a new policy to permit renewal of FMMs in any INM office upon presentation of an expired MPP FMM, but asylum seekers continue to report that they have been denied renewals. Other asylum seekers report that INM officers have demanded bribes to renew their permits. A Cuban asylum seeker in MPP was denied an FMM renewal in August 2020 by INM officers in Matamoros, one of whom later offered to sell him an FMM for 4,000 pesos (US \$200), which he could not pay. The man is now without legal status in Mexico while he waits indefinitely for his next U.S. immigration court hearing.

Individuals with expired FMMs may be detained and deported by INM. Although Mexican police do not have authority to enforce immigration laws they often harass and arrest individuals who appear to be migrants. For instance, in the fall of 2020, a Ugandan asylum seeker was stopped and extorted by Mexican federal police in Tijuana, who threatened to jail and deport the man thereby forcing him to hand over his entire weekly wage, which he had just collected. KBI also reported that a Cuban asylum seeker travelling by bus to Nogales was recently extorted by Mexican federal police who refused to release the woman's daughter until she paid them, even though both had valid temporary visas. In May 2020, Mexican President López Obrador gave the Mexican army and marines authority to detain migrants, further increasing the likelihood of abuses against asylum seekers. Human Rights Watch found that deploying the military as a police force in Mexico "has produced widespread human rights violations – including executions, enforced disappearances, and torture."

ON HUMAN RIGHTS, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability, and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 40 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

Human Rights First is a nonprofit, nonpartisan international human rights organization based in Los Angeles, New York, and Washington D.C.

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Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger

For more than a year, the U.S. government has misused public health authority to expel and block families, adults, and children seeking refuge at the southern border. Under pressure from Trump administration officials, the Centers for Disease Control and Prevention (CDC) disregarded objections of its own senior experts and issued an order under Title 42 of the U.S. Code that is being used by the Department of Homeland Security (DHS) to evade U.S. refugee law – allegedly for the purpose of combating COVID-19. This expulsion policy – which the Biden administration has failed to end – prevents refugees from requesting U.S. asylum at the border. Illegal, immoral, and unneeded to protect public health, the expulsion policy has sparked a chorus of condemnation from [public health experts](#), [legal scholars](#), [former government officials](#), and [members of Congress](#).

Despite his frequent pledges to reverse President Trump’s cruelty at the border, President Biden is continuing a policy that is wreaking havoc: it endangers children, drives family separations, and illegally returns asylum seekers to danger, including Black and LGBTQ refugees forced to endure bias-motivated violence in Mexico. The policy also creates disorder and pushes asylum seekers to cross into the United States between ports of entry. Rather than protecting public health, the expulsion policy threatens the health and safety of asylum seekers and migrants.

Under this policy, DHS is preventing asylum seekers from approaching U.S. ports of entry to seek protection and expelling those who cross the border elsewhere, sending them either to the countries they fled or to dangerous border regions in Mexico. To its credit, the Biden administration has brought to safety more than 6,000 of the asylum seekers whom the Trump administration forced to wait indefinitely in Mexico under the Migrant Protection Protocols (MPP), also known as the “Remain in Mexico” policy. At the same time, however, the Biden administration is misusing Title 42 and turning away people seeking protection to those same life-threatening dangers. Human Rights First has tracked at least [492](#) attacks and kidnappings suffered by asylum seekers turned away or stranded in Mexico since President Biden took office in January 2021.

By sending asylum seekers back to danger without asylum assessments, the administration fails to protect refugees and blatantly violates U.S. refugee laws and treaties – doing so as the world marks the 70th Anniversary of the 1951 Refugee Convention, part of the global system the United States helped build to ensure refugees are not turned away to persecution.

The Biden administration has blocked and expelled asylum-seeking families and adults from Burkina Faso, Cameroon, Cuba, El Salvador, Ethiopia, Ghana, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Nigeria, Russia, Somalia, Venezuela, and Yemen. African, Caribbean, and other Black asylum seekers and migrants have been left particularly vulnerable by this policy, suffering anti-Black violence and discrimination while stranded at the border for months or even years. Since February 2021, the U.S. government has sent 27 airplanes with over [1,400](#) Haitian adults and children, including asylum seekers, directly back to Haiti despite escalating [political instability and violence](#).

While unaccompanied children were exempted from the policy under both the Trump and Biden administrations in the wake of public outcry and a federal court [ruling](#), its continued use for adults and

families has prompted desperate families to send children alone to escape violence, threats, human trafficking, and other dangers. Mexico's refusal in some border regions to take back families with children younger than seven years old has prevented the illegal expulsion of many families. But Customs and Border Protection (CBP) has held other families in horrible conditions and treated them cruelly before transporting them great distances to expel them to other regions of Mexico.

The Biden administration has suggested it is using this expulsion policy to buy [time](#) to put in place a comprehensive process and achieve other legislative objectives. These justifications are neither a proper use of public health authority nor valid reasons for violating asylum laws that save lives. To be sure, the Biden administration faces added challenges due to the Trump administration's damage to asylum and immigration capacities. Three months after President Biden took office, however, the United States can – and must – swiftly restore asylum, employ safeguards [recommended](#) by public health experts, and simultaneously work to upgrade processes and capacities. Sacrificing adherence to U.S. refugee law and adopting a Trump-administration policy that treats human lives as dispensable are not the answer.

For this report, Human Rights First researchers conducted in person and remote interviews with asylum seekers, immigration attorneys, academic researchers, humanitarian staff, and legal monitors. In March and April 2021, a Human Rights First researcher, with assistance from AI Otro Lado, conducted in-person interviews in Tijuana with more than 110 asylum seekers, including some identified by Haitian Bridge Alliance, which also facilitated interpretation in Haitian Creole. Other interviews were conducted in Arabic, English, French, and Spanish. The report includes data from an electronic survey of over 1,200 asylum seekers in the Mexican state of Baja California conducted by AI Otro Lado in February through early April 2021, as well as information drawn from U.S. and Mexican government data, media, and human rights reports.

This report builds on prior reporting by Human Rights First in [May 2020](#) and [December 2020](#), by Haitian Bridge Alliance, Instituto para las Mujeres en la Migración, and Center for Gender & Refugee Studies in [January 2021](#), and by Haitian Bridge Alliance, UndocuBlack Network, and Quixote Center in [March 2021](#).

Key Findings

- ☑ **The Biden administration is blocking asylum-seeking families and individuals at ports of entry and expelling those who cross the border seeking protection to danger in Mexico.** They include refugees from Burkina Faso, Cameroon, Cuba, El Salvador, Ethiopia, Ghana, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Nigeria, Russia, Somalia, Venezuela, and Yemen. Re-starting its [tracking](#) of [reports](#) of attacks on asylum seekers in Mexico, Human Rights First has identified **at least 492 public and media reports of violent attacks since January 21, 2021 – including rape, kidnapping, and assault – against people stranded at the U.S.-Mexico border and/or expelled to Mexico.** In a survey conducted by AI Otro Lado from mid-February through early April 2021 in Baja California, **81 percent of LGBTQ asylum seekers reported that they were subjected to attack or an attempted attack in Mexico in the past month**, including sexual assault by Mexican law enforcement and human trafficking. Those delivered to severe violence in Mexico after requesting protection in the United States include: a woman reportedly [kidnapped and raped](#) in Reynosa after being expelled in February 2021; a [10-year-old Nicaraguan boy](#) and his mother kidnapped immediately after U.S. border officers expelled them in March 2021; and a Cuban asylum seeker expelled to Tijuana where she fears the smugglers who previously kidnapped her and killed her friend.

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- ☑ **Many Black asylum seekers and migrants are being harmed by the expulsion policy.** The administration's failure to restart asylum processing at ports of entry in accordance with U.S. law has disproportionately affected refugees from Africa, the Caribbean, and elsewhere, who were not placed in MPP and therefore are not included in its wind down. They remain stranded in Mexico, and along with Black asylum seekers expelled under Title 42, face severe dangers, including [targeted anti-Black violence](#) and discrimination in Mexico. A survey by AI Otro Lado in Baja California reveals that **61 percent of Haitian asylum seekers blocked from U.S. asylum protections were victims of crime while stranded in Mexico**. The Biden administration has also flown over a thousand Haitians back to their country, which is beset by political turmoil. These policies amount to another inexcusable episode in the U.S. history of [discrimination](#) against Haitian asylum seekers and migrants.
 - ☑ **Asylum seekers expelled to their countries of feared persecution remain in danger and unable to seek U.S. asylum protection,** as the Biden administration continues to use Title 42 to block asylum requests, including at ports of entry. They include an [asylum seeker](#) hiding in Haiti after being expelled in February 2021 even though she had fled Haiti after being kidnapped and raped; a young Mexican asylum seeker who sought protection in the United States after being abducted by cartels; a Nicaraguan political dissident and her family stranded in Tijuana where they fled after a Trump-administration expulsion to Nicaragua had led to detention, beatings, and death threats in Nicaragua; and an asylum-seeking Haitian family trapped in Tijuana after being expelled and forced to flee Haiti a second time.
 - ☑ **The Biden administration continues to use a widely discredited Trump-administration policy to block and expel asylum seekers, illegally denying them refugee protections.** None of the more than 150 asylum seekers whom Human Rights First interviewed in March and April 2021 was referred to apply for asylum or given a protection screening by U.S. immigration officers before being expelled under this policy. Since March 2020, CBP has permitted only 0.3 percent of individuals subjected to the expulsion policy to request these highly limited fear screenings. According to government data obtained by *CBS News*, a mere [143](#) asylum seekers – just seven percent of the miniscule number given interviews – were found by DHS to have established a fear of torture and allowed to seek asylum in the United States. The U.N. Refugee Agency has [repeatedly warned](#) that countries cannot use the pandemic as an [excuse](#) to avoid obligations to refugees and that turning people away at the border without individualized protection screenings violates international law.
 - ☑ **The expulsion policy is separating families and continues to endanger unaccompanied children.** These children include a 17-year-old Guatemalan girl expelled at night to Nogales where she was forced to sleep outside. Families blocked from seeking asylum and facing danger in Mexico are forced to send their children alone to the United States for safety, including a 15-year-old Guatemalan child fleeing domestic violence with her mother, a 12-year-old Honduran boy who entered the United States alone after being kidnapped, and a 17-year-old Mexican asylum seeker who entered alone to escape his persecutors. For example, [16 percent of unaccompanied children](#) screened by Immigrant Defenders Law Center between December 2020 and March 24, 2021 had previously traveled to the border with a parent or other family member. CBP also continues to separate children from their adult relatives who are expelled to Mexico – increasing the number of children held alone in influx facilities and shelters.
 - ☑ **Blocking access to asylum protections at U.S. ports of entry and expelling asylum seekers to Mexico creates confusion and exposes them to further danger.** The expulsion policy pushes asylum seekers, including those facing imminent danger, to attempt risky border crossings, resulting

in [deaths](#) and serious injuries, and makes expelled people more vulnerable to attack. Border Patrol agents and CBP officers continue to mistreat asylum seekers who are injured while trying to seek safety in the United States. Expulsions are also encouraging repeated border crossings. For instance, a shelter director in Mexico reported one migrant had been expelled 17 times. Such so-called “recidivism” means the reported number of expulsions significantly [overcounts](#) the number of people being expelled.

- Border Patrol agents and CBP officers continue to abuse migrants in their custody, deny them emergency medical care, confiscate their belongings, and carry out expulsions at night and to dangerous border towns.** For instance, Human Rights First received reports that in February and March 2021, Border Patrol agents had threatened to unleash an attack dog against a group of migrants, left a three-year-old Guatemalan girl and her asylum-seeking mother freezing and hungry after taking their coats and refused to provide the girl a clean diaper, and deprived a Salvadoran family with a six-year-old child of food, told them that there was “no food for animals,” called them dogs, and referred to them as imbeciles while expelling them. CBP has also denied medical care to pregnant people in custody and expelled them to Mexico while they were in labor or immediately after giving birth.
- There is no public health justification for expelling asylum seekers and migrants, as [repeatedly confirmed](#) by leading public health experts.** Despite widespread condemnation from public health experts and [revelations](#) that objections of senior CDC medical experts were overruled by the Trump White House, the Biden administration continues to [rely](#) on specious public health arguments to defend the expulsion policy. But the administration’s own actions – detaining asylum seekers, sometimes for weeks or months, before expelling them and transporting families thousands of miles to expel them through other southern border ports of entry – contradict the purported [rationale](#) for the CDC order: limiting congregate detention and transmission of COVID-19. In fact, the expulsion policy is actually endangering health and safety. The White House press secretary has effectively acknowledged that the Biden administration is keeping the CDC order in place because it “[need\[s\] some time](#)” to enact legislative [reforms](#) to the immigration system.
- Many asylum seekers expelled to Mexico are stranded indefinitely in desperate circumstances and are at risk of *refoulement* – return to persecution or torture.** Few have access to safe housing, medical care, or work to support themselves while they wait for the United States to restore asylum processing. Expelled people are at risk of being detained and deported by Mexican immigration officials to their countries of persecution. Returning refugees to a place where they would be returned to their country of persecution (chain *refoulement*) violates U.S. treaty commitments.

Recommendations

To the Biden administration:

- Immediately end the use – and withdraw – the discredited CDC [order](#) and rescind the accompanying Health and Human Services (HHS) [final rule](#); stop *refouling* refugee families and adults to countries of feared persecution or places where they are at risk of life-threatening harm; and direct the CDC to employ rational, evidence-based measures to safeguard the lives of asylum seekers and protect public health rather than issuing xenophobic bans.
- Restart processing of asylum requests at the southern border, including at ports of entry, while employing effective and humane policies that uphold U.S. laws and treaties to process people

seeking refugee protection, including appropriate science-based [measures](#) recommended by public health experts to safeguard public health and protect asylum seekers and CBP personnel. These include requiring social distancing, providing appropriate personal protective equipment, hand sanitizer, and testing, reducing processing delays, repurposing outdoor areas and nearby locations to facilitate distancing and ventilation, and using legal parole authority rather than congregate detention.

- ☑ Avoid use of the so-called “metering” policy to artificially reduce capacity at ports of entry to block asylum seekers from requesting refugee protection, [expedited removal](#), or detention of asylum seekers and instead employ steps to [swiftly and safely process](#) asylum seekers at ports of entry and quickly release them using proven community-based case management programs to ensure asylum seekers are able to find attorneys and interpreters in destination locations and understand the process to apply for asylum.
- ☑ Immediately cease all expulsion flights to Haiti and other countries, designate or redesignate [Temporary Protected Status](#) for Haiti, Cameroon, and other countries where returned persons would face grave dangers; direct the DHS Office for Civil Rights and Civil Liberties to investigate the harmful effects of the expulsion and other policies, including metering and prolonged detention, on Black asylum seekers and migrants.
- ☑ Coordinate with and provide logistical and financial support to critical service providers offering shelter, legal services, and humanitarian aid to ensure that asylum seekers are treated humanely and able to quickly and safely transit to destination locations where they can shelter with family or friends and continue the asylum process; ultimately launch a new or reconfigured and elevated U.S. agency with a humanitarian protection mission, expertise, and capacities.
- ☑ Urgently order DHS officers and employees to end mistreatment of asylum seekers and migrants under CBP and ICE custody, including physical and verbal abuse, denial of food and medical care, and destruction of personal property; direct the DHS Office for Civil Rights and Civil Liberties to investigate these abuses.
- ☑ End other cruel Trump-era anti-asylum policies, including fully rescinding the [entry](#), third-country [transit](#) and [other](#) asylum [bans](#) and vacating Trump-era [Attorney General rulings](#) that rig the asylum process against refugees. DHS should also include the families and individuals who were issued *in absentia* decisions or otherwise unfairly denied protection under farcical MPP proceedings, who have not been [included](#) in the MPP wind down so far. Provide redress for asylum seekers denied a fair opportunity to pursue requests for U.S. refugee protection under Trump and Biden administration policies that have blocked, turned back, and expelled them to danger.
- ☑ Address human rights abuses in the countries refugees are fleeing and support regional resettlement initiatives to provide other pathways to safety.

To the U.S. Congress:

- ☑ Withhold appropriations used to carry out expulsions under Title 42, and any other programs or policies that violate U.S. legal obligations to protect refugees; provide needed support for existing non-profit service providers and local communities – at the border and in the interior – that are welcoming and caring for asylum seekers.
- ☑ Hold oversight hearings to establish accountability for violations of U.S. refugee law and treaty obligations and harms to refugees, including the harmful effects of the expulsion policy and other policies, including metering and prolonged detention, on Black asylum seekers and migrants.

- ☑ Conduct official visits to Mexican border towns, CBP facilities and Border Patrol stations on the southern border, and immigration courts, to ensure DHS does not continue to violate U.S. law and treaty obligations.
- ☑ Examine potential structural improvements to manage humanitarian protection, such as a new or reconfigured and elevated U.S. [agency](#) with a humanitarian protection mission, expertise, and capacities.

Delivered to Danger Without Access to the U.S. Asylum System

The Biden administration continues to use an illegal Trump-administration [policy](#) to block and expel people seeking refuge at the southern border in contravention of U.S. refugee, anti-trafficking, and immigration [laws](#) and [treaty obligations](#).

Long before COVID-19 emerged, Trump advisors [wanted](#) to exploit public health to advance their immigration policy objectives and block refugees from the United States. With the pandemic, the Trump-administration found their opportunity to effectively shut down asylum protections at the border. In March 2020, Trump-administration officials pressured the CDC to [issue](#) an order, over [objections](#) of senior [CDC experts](#), that purported to authorize expulsions of asylum seekers and migrants at the border. Indefinitely [extended](#) in May 2020 despite being widely [denounced](#) by public health experts, the order was [re-issued](#) with minor modifications in October 2020 even after health experts [warned](#) it was “xenophobia masquerading as a public health measure.” On January 28, 2021, after President Biden took office, leading epidemiologists, public health and medical experts [wrote](#) to the new CDC director, urging that the order, which the experts concluded has “no scientific basis as a public health measure,” be rescinded.

As a result of the expulsion policy, refugees are being returned to their countries of persecution and the very dangers they were attempting to escape. DHS also continues to block asylum seekers from requesting protection at southern border ports of entry and to expel many non-Mexican asylum seekers to extreme danger and often severe discrimination in Mexico, including refugees from Burkina Faso, Cameroon, Cuba, El Salvador, Ghana, Guatemala, [Haiti](#), Jamaica, Honduras, Nicaragua, Nigeria, Russia, Somalia, Venezuela, and Yemen, among others.

Expelled to Countries of Persecution

Asylum seekers are being expelled by DHS without access to the U.S. asylum system and returned to their countries of persecution. These illegal expulsions under the Biden administration include:

- **In February 2021, a 37-year-old asylum seeker who [fled](#) Haiti after being kidnapped, beaten, and raped because of her involvement with a political opposition group was expelled to Haiti with her husband and baby, where they are now in hiding.** As documented in a recent Haitian Bridge Alliance / UndocuBlack Network / Quixote Center report, the family was not allowed to apply for U.S. asylum or screened for refugee protection and spent nearly two weeks in U.S. immigration detention before being expelled. She told researchers that if the political group that attacked her in Haiti finds them, “**they would just kill us this time around.**”
- **An asylum-seeking Haitian family, including a four-year-old girl, who was expelled by DHS to Haiti in September 2020 and forced to flee again, have been trapped in Tijuana for months as the Biden administration continues to block asylum requests at ports of entry through the use of Title 42.** The mother, a teacher, had received death threats for her political views and the family fled Haiti after the disappearance of her father. When she learned she and her family would

be expelled to Haiti, she recounted: “I was sick with fear ... I wanted to call my family and explain what was happening, but [CBP] didn’t let me call anyone. I was too sick to eat or comfort my child.” After the family was expelled, neighbors in Haiti warned the woman that she was being searched for and remained in danger.

- **Nicaraguan authorities detained a Nicaraguan political activist, her husband, and seven-year-old child for 11 days, interrogated, and beat the couple after CBP expelled the family along with approximately 200 other Nicaraguans in June 2020.** Due to death threats in Nicaragua the family was forced to flee again. They were robbed in Tijuana and are currently waiting for an opportunity to request U.S. protection as the Biden administration is using Title 42 to block refugees from seeking asylum at ports of entry. The family had initially fled Nicaragua to avoid arrest after authorities searched their home following the woman’s participation in opposition protests. Before expelling the family, CBP officers told the woman that “**political asylum does not exist in this country.**”
- **Border Patrol agents expelled a Mexican asylum seeker in mid-January 2021 to Nogales, Mexico, even though he explained to them that he had just been abducted by cartels there.** According to the Kino Border Initiative, cartel members had forced the man to a remote desert area and robbed him. He walked for two days through the desert to request protection at the U.S.-Mexico border. After being expelled, the man attempted to report his earlier kidnapping to Mexican police, but they refused to take his complaint.
- **A 33-year-old asylum seeker, who was expelled by DHS to Haiti with his wife and child in July 2020, is trapped in Baja California, Mexico, after they were forced to flee Haiti a second time.** They are now stranded in Mexico and unable to request asylum in the United States under the expulsion policy. As documented in a recent Haitian Bridge Alliance / UndocuBlack Network / Quixote Center [report](#), the family had first fled Haiti after a violent gang fired shots at their home and were forced to flee again after expulsion, fearing for their lives.

Asylum seekers from Cameroon, Ethiopia, and Eritrea were also expelled to their countries of feared persecution in 2020, according to Tadios Assefa, a program coordinator for the Black Alliance for Just Immigration, who spoke with the asylum seekers by phone after their expulsions.

Since February 2021, the Biden administration has deported or [expelled](#) over [1,400](#) adults and children, including asylum seekers, to Haiti without access to the U.S. asylum system and despite growing political [turmoil](#) and escalating violence. The U.S. Department of State has [designated](#) Haiti a “Do Not Travel” area due to “kidnapping, crime, civil unrest and COVID-19,” and a recent internal [DHS](#) report found that those sent back may “face harm upon return to Haiti.” While detained in CBP or ICE custody prior to expulsion, Haitian migrants report that DHS has blocked access to attorneys and failed to provide Haitian Creole [interpretation](#). As a result, Haitian migrants have been forced to communicate and sign documents in English or Spanish, languages in which they are rarely fluent.

Expelled to Life-Threatening Dangers in Mexico

Under the expulsion policy, the Biden administration continues to expel many non-Mexican asylum seekers to highly dangerous border regions in Mexico. Expulsions are occurring across the dangerous border zone, where violence has continued to rise in 2021. Seventy-nine people were [murdered](#) in Tijuana in the first two weeks of 2021 alone. A dozen Mexican police officers were recently charged in a [massacre](#) in Tamaulipas that left 19 people, including at least 13 Guatemalan migrants, dead in January 2021. Despite this escalating violence, DHS continues to carry out expulsions:

- Asylum seekers are being expelled by CBP to the Mexican state of Tamaulipas, which the U.S. State Department has designated as a “[Do Not Travel](#)” zone—the same threat assessment assigned to Syria, Libya, and Afghanistan—as well as other regions with high rates of homicide, kidnapping, and cartel violence. This includes expulsions of individuals, including families who crossed in other sectors of the Texas-Mexico border, to extremely dangerous Nuevo Laredo, where kidnappings from the international bridge connecting Laredo and Nuevo Laredo were common during the Trump administration when DHS returned asylum seekers to Mexico under MPP.
- DHS is also expelling asylum seekers to Mexicali, including families transferred from Texas via plane to the California border region for expulsion, even though the U.S. Consulate in Tijuana warned on April 9, 2021, of “[heightened violence](#) between rival cartel factions” in Mexicali and western Sonora state and advised U.S. citizens “to avoid the Mexicali area until further notice.”
- Ciudad Juárez, where many asylum seekers and migrants are being expelled, is so dangerous that a CBP officer who apprehended and expelled a woman to Ciudad Juárez called Las Americas Immigrant Advocacy Center in mid-December 2020 because he was concerned for her safety in the hotel where she was staying and asked for assistance finding a safer place, according to attorney Nico Palazzo.

Since President Biden took office, **DHS has continued to expel Black asylum seekers to Mexico where many face [targeted anti-Black violence](#) and discrimination while waiting to seek protection in the United States.** For example, in February 2021, more than 140 [Haitian families and adults](#), including asylum seekers, were expelled to Ciudad Juárez. DHS also continues to expel African asylum seekers to Mexico, including an LGBTQ Ghanaian asylum seeker, a Somali torture survivor, and other asylum seekers from Burkina Faso and Nigeria who were expelled to Tijuana in February 2021, as reported by a Haitian Bridge Alliance coordinator who spoke with them. A survey conducted by AI Otro Lado from mid-February through early April 2021 of asylum seekers in the Mexican state of Baja California who are blocked from seeking protection in the United States due to the Title 42 policy reveals that **61 percent of Haitian asylum seekers blocked from U.S. asylum protections reported being the victim of crime while in Mexico**, including rape, kidnapping, and robbery.

Despite very limited reporting on the impact of Title 42 expulsions on the safety of asylum seekers, **Human Rights First has identified at least [492 violent attacks that have occurred since January 21, 2021, including rape, kidnapping, trafficking, and assault, against people stranded at the U.S.-Mexico border and/or expelled to Mexico during the Biden administration.](#)** But this count barely scratches the surface of the violence asylum seekers experience, as only a tiny fraction of people blocked or expelled under Title 42 have been interviewed by human rights investigators, immigration attorneys or journalists, and many asylum seekers are afraid to divulge details of attacks, fearing retaliation by perpetrators. For instance, an expelled Honduran asylum seeker told a CLINIC advocate that Mexican immigration officials threatened “consequences,” if he reported extortion by Mexican officials. In early 2021, a human rights researcher investigating allegations of human trafficking in migrant shelters in Mexicali received death threats. Several legal and humanitarian aid workers reported that survivors of attacks, fearing retaliation, would not permit them to share information about those incidents.

DHS continues to carry out expulsions to Mexico in a manner that further endangers lives. Border Patrol agents are expelling people in the [middle of the night](#) to dangerous areas, including Ciudad Juárez, [Nogales](#), Mexicali, Piedras Negras, [Reynosa](#), [Sasabe](#), and Tijuana. In March 2021, Border Patrol expelled 100 people to Nogales at 1 a.m. on a single night, according to the Kino Border Initiative. In late March, agents expelled a Salvadoran man and his baby, who was sick and feverish at 3 a.m. to Tijuana

where they had nowhere to sleep for the night. [Nighttime](#) expulsions to dangerous border cities, including Reynosa, expose expelled people to kidnapping, rape, and assault. The *Los Angeles Times* reported that **a woman expelled by DHS to Reynosa in February 2021, “who had tried to take a taxi to a friend’s house [was] [kidnapped and raped.](#)”**

Expelling asylum seekers to [remote](#) border towns that are not [official](#) U.S.-Mexico [repatriation](#) points and lack migrant shelter and transportation infrastructure endangers their lives and safety. Mexican government data shared with Human Rights First confirms that CBP is expelling migrants to towns not designated as repatriation points including Puerto Palomas, Sonoyta, and Sasabe. Expulsions to Sasabe – a small border town in Sonora dominated by criminal organizations and without any shelters or humanitarian services for migrants – frequently force migrants, including women with newborn infants, to sleep in the streets or under trees. According to Dora Rodriguez, who runs the humanitarian nonprofit *Salvavision*, asylum seekers expelled who are unable to pay the fee demanded by criminal organizations that control Sasabe are “out of luck. That’s when they get beat up, disappear.” Expulsions to Sasabe continue despite a [reported](#) request by Mexico’s migration agency that CBP to stop such expulsions “on account of the absence of security in the area.”

Many asylum seekers expelled to Mexico by CBP under the Biden administration have been kidnapped, raped, and subject to other violent attacks after being expelled there:

- **In late March 2021, 10-year-old [Wilton](#) and his mother, asylum seekers from Nicaragua, were abducted hours after being expelled to Mexico under the Title 42 policy, as reported by the *Washington Post*.** Family members were able pay only half of the \$10,000 ransom demanded by the kidnapers, who eventually released Wilton, abandoning him alone in a field in south Texas. His mother has not been released. The family reportedly “cross[ed] the border together because they were in danger.”
- **Nine- and fourteen-year-old Honduran children were kidnapped with their asylum-seeking mother in Monterrey in March 2021 after CBP expelled them three times since December 2020.** The family had relocated to Monterrey in hope of finding assistance while they waited to be able to seek asylum in the United States. Instead, they were kidnapped, held for ransom for days with other kidnapping victims who appeared to have been drugged, and eventually released near the border. Border Patrol agents, who found the family near McAllen, detained them for four days before transferring them to California where they were expelled to danger for a fourth time.
- **In February 2021, a Guatemalan woman who had been expelled by CBP to Mexicali after attempting to seek asylum was raped in Tijuana.** The woman, who was fleeing severe domestic violence with her six-year-old daughter, had relocated to Tijuana to attempt to seek asylum at the San Ysidro port of entry, which she found closed to asylum seekers due to the Trump and Biden administrations’ misuse of Title 42. The woman reported to Human Rights First that Border Patrol agents told her that “**the new president isn’t taking anyone**” and that she should present herself “legally” even though ports of entry were, and remain, closed to asylum seekers in violation of U.S. law, which guarantees access to asylum to individuals at the border, including at ports of entry.
- **In late February 2021, a Guatemalan family with a six-year-old child was abducted at a bus station in Piedras Negras shortly after Border Patrol agents expelled them to Mexico.** They were held by their captors for five days while their family members in Guatemala and the United States were extorted. The couple had fled Guatemala with their child after the husband was

attacked and nearly killed, according to an academic researcher who spoke with Human Rights First.

- **In February 2021, a Honduran man and two other expelled migrants were abducted at gunpoint, forced into a cemetery, and attacked immediately after Border Patrol expelled them to Nogales at 11pm.** According to Kino Border Initiative, the men were searching for shelter for the night when they were attacked. They had been expelled by Border Patrol with a group of more than 40 people from Central America and Mexico.
- **Multiple asylum seekers reported that a woman flown from Texas and expelled to Mexico was kidnapped in March 2021 just outside of a shelter in Tijuana housing hundreds of expelled families.** The pastor running the shelter has instructed families not to leave the shelter for their safety.

Pursued by Persecutors to Mexico

Asylum seekers expelled to Mexico by DHS without access to the U.S. asylum system or protection screenings are vulnerable to attack by the same persecutors who forced them to flee their home countries in search of refugee protection in the United States.

- **In March 2021, a Honduran asylum seeker who was followed to Mexico by her persecutors was expelled by Border Patrol to Piedras Negras along with her two- and seven-year-old daughters and other family members.** The woman, whose brother-in-law was kidnapped and beaten in Piedras Negras in February 2021, had attempted to present evidence to Border Patrol that the Honduran gang she had testified against had tracked her to Mexico. She told Human Rights First: **“Every time I see my daughters suffering here, I feel a lump in my throat. I cry during the nights.”**
- **CBP expelled a Guatemalan asylum-seeking family with two teenage daughters to Ciudad Juárez in February 2021 where they continue to be targeted by the gang that threatened and extorted them in Guatemala and tracked them to Mexico.** After DHS expelled the family to Mexico, the gang destroyed the family’s home in Guatemala in retaliation for their failure to make extortion payments. According to attorney Megan McDonough with the International Refugee Assistance Project, the gang tracked the family down at the home in Ciudad Juárez where they had been staying, forcing the family to relocate to a migrant shelter.
- **In March 2021, CBP expelled a Salvadoran asylum seeker and her three children to Tijuana even though her husband, whom she fled El Salvador to escape, had tracked her to Mexico and threatened to kill her and her children.** She remains terrified that her husband, who had sexually assaulted, choked, and beaten her so severely that she could not walk, will harm her again. She told Human Rights First that Mexico-based members of the transnational gang to which her husband belongs tracked her to a Tijuana migrant shelter.
- **In February 2021, Border Patrol expelled a Salvadoran asylum-seeking family that had been attacked in Mexico by the same gang that had threatened to kill them in El Salvador and forced them to flee.** In Tijuana, the father recently witnessed a kidnapping while waiting for a bus. He told Human Rights First, **“I don’t feel safe. I’m so afraid. It’s a dangerous place.”**
- **Border Patrol expelled a Honduran asylum-seeking family to Piedras Negras in February 2021 even though a family member traveling with them was being held by kidnappers at the**

time in Mexico and the family had received death threats in Mexico from Barrio 18, the gang that had burned down their home and forced them to flee Honduras.

Expelling Asylum Seekers Previously Attacked in Mexico

DHS is expelling asylum seekers to Mexico without referring them to apply for asylum or conducting fear screenings, even in cases where individuals attempt to explain to U.S. immigration officers that they have previously been kidnapped, raped, or assaulted in Mexico and fear returning there, including:

- **CBP expelled a 15-year-old Guatemalan boy and his asylum-seeking mother to Ciudad Juárez where they had been kidnapped in February 2021.** The woman told Human Rights First researchers that when she tried to explain the danger she faced, U.S. immigration officers told her that they didn't care because **"the president is not giving political asylum to anyone."** CBP expelled the family to dangerous Ciudad Juárez at night during a snowstorm after they were held in CBP custody for days without food or water.
- **A Honduran asylum seeker was expelled by CBP to Mexico in March 2021 even though he had just been kidnapped in Piedras Negras by masked men who brutally beat, drugged, and threatened him with decapitation.** Two Honduran migrants were also abducted and beaten along with the man. One of them sought protection in the United States days after being released by the kidnappers, but was expelled by CBP, according to an academic researcher who spoke with Human Rights First.
- **In April 2021, CBP expelled a Honduran asylum-seeking family, including three children under the age of five, to Mexico even though they had been abducted in Reynosa by Mexican police officers who sold them to a cartel.** While being held for ransom, a cartel member held a gun to the mother's head and demanded phone numbers of family members to pay the ransom.
- **CBP expelled to Tijuana a Yemeni asylum seeker in February 2021 who had required treatment in a U.S. hospital for back and head injuries after falling from the border wall while trying to reach the United States to request protection.** The man had previously attempted to request asylum earlier in 2021 but was told by CBP officers, who interrogated him about how and why he had come to the United States, that asylum was not available.
- **In February 2021, CBP expelled a 14-year-old Cuban boy and his grandmother to Mexico, where they feared they would be hunted down by smugglers who had kidnapped and threatened them and killed another Cuban kidnapping victim in front of them.** The boy chewed off his fingernails from stress and anxiety. CBP officers who expelled the family to Mexico threatened to expel them to Cuba if they attempted to seek protection in the United States again. The woman asked a Human Rights First researcher: **"Please tell the president to take mercy on us."**
- **A Honduran asylum seeker who had been kidnapped in Mexico by a cartel, raped, and slashed with a knife was expelled to Mexico six times by CBP.** The woman had previously applied for asylum in Maryland but returned briefly to Honduras to briefly attend her grandmother's funeral. Despite presenting evidence of the danger she faced in Mexico, CBP refused to process the woman and turned her back to Mexico, according to her attorney, Arlene Grant. As a result, the woman was separated from her three-year-old U.S. citizen child in the United States.

- **DHS under the Biden administration expelled a 26-year-old Central American asylum seeker who had been kidnapped, raped, and beaten in Mexico and forcibly transported across the U.S.-Mexico border by her captors.** The Florence Immigrant and Refugee Rights Project reported that the woman required hospitalization for her injuries, but she was expelled by DHS before she could receive recommended follow-up medical care.
- **In late March 2021, CBP expelled a Honduran asylum-seeking family with five- and six-year-old children to Tijuana where one of the men who kidnapped them in Reynosa has been prowling outside of their shelter.** The family fears that a woman who had been kidnapped with them has been abducted again after she disappeared days after they were expelled together. They are terrified to leave the shelter.
- **A 12-year-old Honduran girl and her mother who sought asylum at the Hidalgo, Texas port of entry in February 2021 were detained by CBP for three days and expelled to Mexico, where they had been repeatedly robbed by members of the Mexican military.** The soldiers robbed the family and other asylum seekers at a migrant shelter in Miguel Aleman in January and February 2021, leaving the girl terrified to remain in Mexico.
- **In March 2021, Border Patrol expelled a Honduran asylum seeker at 2 a.m. even though he explained that he had been kidnapped and robbed in Mexicali after CBP turned him away from requesting asylum at the port of entry.** The man had fled Honduras after authorities violently attacked him and tried to yank out his eye for filming illegal government acts. Border Patrol agents threw out the evidence he had brought with him in support of his asylum claim, according to Kino Border Initiative.
- **Around January 2021, CBP expelled an asylum seeker to Mexico a second time even though he had been kidnapped and held hostage for two months in squalid conditions and subjected to forced labor after he was first expelled in November 2020.** The man had first attempted to seek asylum near Tijuana and then relocated to another part of the border when he was kidnapped, according to the Florence Immigrant and Refugee Rights Project.

Expelled Without Protection Screenings

DHS under the Biden administration [continues to use](#) Title 42 and the CDC order to turn away and expel people seeking asylum without providing them the opportunity that is guaranteed under U.S law and treaties to apply for asylum or at least have a statutory credible fear screening. The deficient screenings created by the Trump administration are [virtually nonexistent](#). Supposedly designed for people who fear expulsion to torture and reportedly available only to those who somehow know they must [affirmatively](#) request them, these screenings are totally inadequate legally.

- **None of the more than 150 asylum-seeking asylum seekers interviewed by Human Rights First in March and April 2021 received a protection screening by U.S. immigration officers before being expelled to Mexico.**
- **Since March 2020, CBP has permitted only 0.3 percent of individuals subject to the expulsion policy to request a torture screening.** A mere 143 asylum seekers – **only seven percent of the miniscule number given interviews – have been found by DHS to have established a fear of torture and allowed to request asylum in the United States**, according to government data obtained by [CBS News](#).

- The few torture screenings conducted under the Biden administration continue to deny protection to asylum seekers with bona fide protection claims. **In February 2021, a young woman who was kidnapped in Mexico, held hostage for weeks, repeatedly raped and tortured by her captors, trafficked into the United States, and then dumped in Phoenix, was not found to have a fear of Mexico under the Title 42 torture screening.** CBP expelled the woman to Mexico after she was taken to a hospital for evaluation of the sexual trauma she suffered, according to the Florence Immigrant and Refugee Rights Project.
- DHS officers under the Biden administration have even used Title 42 to [expel](#) trafficking victims who “were never asked [by CBP] if they were asylum seekers” after they were rescued in Phoenix, Arizona in late January 2021, more than 100 miles from the U.S.-Mexico border.
- A Honduran asylum seeker expelled to Mexico with her husband and two- and nine-year old daughters in March 2021 told Human Rights First about the family’s repeated efforts to ask CBP officers for refugee protection. **“We said we wanted to ask for asylum. I said, ‘I have the right to ask for asylum.’ I kept asking and asking. They didn’t listen to us.”**

Asylum Seekers Blocked from Protection at Ports of Entry

With the expulsion policy in place since March 2020, many asylum seekers have been waiting in danger in Mexico terrified of being immediately expelled to their home countries if they attempt to seek protection at a U.S. port of entry or after crossing the border. As of February 2021, there were more than [16,000](#) asylum seekers on so-called “metering” waitlists along the border, but the true number of refugees waiting to request protection is unclear, as many waitlists closed in March 2020, and some asylum seekers have left the dangerous border region. Haitian Bridge Alliance estimates that there may be [10,000 to 15,000](#) Black migrants stranded at the southern border.

Many asylum seekers in Mexico are blocked from seeking protection because of the administration’s failure to restore asylum processing, including those subjected to violent attacks there:

- **A 29-year-old Venezuelan asylum seeker was abducted and sexually assaulted in November 2020 after CBP turned her away from requesting asylum at the Hidalgo port of entry.** A man impersonating a Mexican immigration official near the port told the woman he would help her register on an asylum waitlist but instead took her to a rundown hotel where he held her against her will, threatened her at knifepoint, and sexually assaulted her, according to attorney Nico Palazzo.
- **A Haitian radio journalist who is currently trapped in danger in Tijuana and is afraid to even attempt to request protection at a U.S. port of entry for fear that he would be expelled to Haiti.** The man fled Haiti after surviving an assassination attempt, prompted by his criticism of the Haitian government. His mother was killed in Haiti, and his father remains in hiding there.
- **A Cameroonian refugee who has been waiting in Tijuana for nearly a year for an opportunity to seek U.S. protection after being detained by Mexican immigration officials, robbed and threatened,** according to attorneys with AI Otro Lado. At times, he has gone hungry, unable to find work in Mexico where Black asylum seekers often face extreme discrimination. The man fled Cameroon after authorities detained and assaulted him, killed his baby son, and shot his wife.
- **A Guatemalan asylum seeker who has been blocked from requesting asylum at a U.S. port of entry was attacked while pregnant in Tijuana in January and February 2021 by the gang that threatened to kill and dismember her in Guatemala if she refused their sexual demands.**

The woman narrowly escaped the gang while they ransacked the place in Tijuana where she had been staying and beat her partner, who subsequently disappeared, according to Margaret Cargioli, a lawyer with the Immigrant Defenders Law Center. The woman suffered a miscarriage in March 2021 because she was too terrified to leave her home to seek prenatal care after the attack.

- **A 13-year-old Honduran girl who was raped in Mexico and threatened by the rapist after she and her asylum-seeking mother reported him to the police are waiting in danger in Tijuana after CBP expelled the family to Mexico in October 2020.** The girl's mother told Human Rights First: "My daughter is afraid to go out. She can't go to school. She feels like [the man who raped her] is always watching her."
- **An asylum-seeking Guatemalan family, including five- and twelve-year-old children, who were kidnapped immediately after CBP expelled them to Nogales on Christmas Eve 2020, are waiting in terror in Tijuana for an opportunity to seek asylum.** The kidnappers released the family to Tijuana after receiving a ransom payment, threatening to kill them if they reported the kidnapping to the police. The family are terrified to leave the shelter where they are staying.
- **An asylum-seeking Mexican family who received death threats from a Tijuana cartel in March 2021 for refusing to work for the cartel remains trapped in Tijuana.** One of their children went missing after he was attacked and chased. The family has not been able to locate him for two weeks.
- **Four [Nicaraguan siblings](#), including two minor children, have been trapped at the border for a year due to the continued use of the expulsion policy, prevented from reaching their father in the United States.** Their father fled Nicaragua after he was beaten, stabbed, and tortured by the Nicaraguan military. Their mother and sibling are missing in Nicaragua and one of the children, a 17-year-old girl, was nearly kidnapped in Mexico. The father told a reporter: "I can't even sleep thinking about my kids every night, that something's gonna happen to them." A U.S. immigration court recognized the father as a refugee, but because he was granted only the limited protection of withholding of removal, he is unable to petition to bring his children to the United States.
- **A Honduran [asylum seeker](#) who was the victim of labor trafficking in Mexico and broke her hand escaping from her captors remains trapped in Mexico unable to seek U.S. protection.** She fled Honduras with her three young daughters after being threatened with rape and murder. She is staying with her children in an informal tent encampment in Tijuana near the San Ysidro port of entry, where she told reporters: "It's scary here. We don't feel safe."
- **In late January 2021, a Honduran asylum seeker was kidnapped for 20 days in Nuevo Laredo while en route to the border and witnessed his captors assault other kidnapped migrants.** He was subsequently released but is blocked from requesting protection at a port of entry due to the continued Title 42 expulsion policy. Living with HIV, the man has been unable to consistently obtain needed treatment.

Trapped in Their Country of Persecution

The expulsion policy is trapping Mexican nationals, who are attempting to seek asylum in the United States, in Mexico - the country where they fear persecution and torture. Mexican asylum seekers in danger at the border due to the continued use of Title 42, who are waiting for U.S. asylum processing to restart at U.S. ports of entry include:

- **An indigenous Mexican asylum seeker has been forced to wait in danger for nearly a year in Tijuana to apply for asylum after being abused and starved by kidnappers who held her for six months while she was pregnant.** The woman told Human Rights First that her baby was born premature with severe birth defects, which went undetected and untreated during her abduction, and that the infant later died. The kidnappers continue to send the woman messages threatening to kill her.
- **A Mexican asylum seeker, whose husband and other children were massacred by a brutal Mexican cartel, has been trapped in Tijuana with her two surviving children since January 2021 unable to seek protection at the U.S. port of entry.** She told Human Rights First that when she is permitted to request asylum, she will present U.S. immigration officers photographs and documents corroborating the massacre of her family.
- **A Mexican asylum seeker fleeing brutal violence by her partner, who choked her, split her head open, and threatened to kill her, remains in danger in Tijuana with her three-year-old child.** In early 2021, the woman was forced to send her six- and fourteen-year-old U.S. citizen children alone to the United States as she feared for their safety in Mexico.
- **A Mexican asylum seeker whose father was murdered by a cartel has been stranded in Tijuana with her family under the expulsion policy since February 2020.** The woman is terrified of remaining in Mexico, where her husband was also targeted by a cartel after her father's murder, according to Margaret Cargioli with Immigrant Defenders Law Center.

LGBTQ Asylum Seekers Targeted

LGBTQ asylum seekers stranded in Mexico who are unable to seek U.S. protection due to the continued use of Title 42 frequently face attacks and discrimination in Mexico due to their sexual orientation and/or gender – as well as their race, nationality, and other characteristics. The Transgender Law Center, which is providing legal services as part of a multi-organizational coalition of LGBTQ organizations to 150 LGBTQ asylum seekers stranded in Mexico, reports that escalating violence and worsening access to already limited employment, housing, food, and medical care compound the trauma many LGBTQ asylum seekers faced in their home countries, resulting in acute Post-Traumatic Stress Disorder (PTSD) and depression. The survey of asylum seekers in Baja California conducted by Al Otro Lado in February through early April 2021 revealed that **81 percent of LGBTQ asylum seekers reported being subjected to an attack or attempted attack in Mexico in the past month, including rape, human trafficking, kidnapping, and other violent assaults.** LGBTQ asylum seekers stranded in danger in Mexico due to the expulsion policy include:

- **At least 20 LGBTQ Jamaican asylum seekers are stranded in Mexico facing violence and discrimination, but they are too terrified to approach the U.S.-Mexico border to request protection for fear they will be immediately expelled to Jamaica where they would face continued persecution,** according to Emem Maurus, an attorney with the Transgender Law Center. In March 2021, a group of Jamaican LGBT asylum seekers in Tijuana were attacked while being thrown out of a restaurant; one man had his face cut with a broken bottle. In addition, an LGBT Jamaican man was assaulted in Cancun in front of his 8-year-old son. Both attacks were motivated by anti-LGBTQ and anti-Black prejudice.
- **A 22-year-old gay man reported that he was raped in Mexico after fleeing persecution in Guatemala based on his sexual orientation.** He told Human Rights First that he has been waiting at the U.S.-Mexico border since May 2020 to request U.S. protection.

- **Four Salvadoran transgender woman, who were attacked in southern Mexico, are currently waiting in danger in Ciudad Juárez after CBP expelled them in December 2020 following their attempt to seek asylum in the United States.** The women are terrified to go outside because of threats they have received from men who are frequently waiting near the place where they are staying, according to Emem Maurus of Transgender Law Center.
- **A gay Central American man persecuted for his sexual orientation was kidnapped and trafficked for months around Mexico, where he was beaten, assaulted, and forced to perform sex acts.** Since escaping his captors, the man has been waiting more than seven months in hiding for the opportunity to request U.S. asylum. He is experiencing PTSD symptoms and tested positive for HIV in early April 2021. He told Human Rights First that his traffickers are searching for him and that he is afraid to leave his shelter to obtain care.
- **Other LGBTQ asylum seekers waiting in danger in Tijuana and unable to request refugee protection at the U.S. port of entry due to the expulsion policy** include: a transgender Cuban woman, who was sexually assaulted in Mexico, contracted HIV as a result, and continues to receive threats, and an LGBTQ Cameroonian asylum seeker, who has been in hiding in Tijuana for eight months waiting for an opportunity to apply for U.S. refugee protection, as reported by Al Otro Lado. In addition, Emem Maurus of Transgender Law Center reported that two gay Salvadoran men, who were kidnapped after being expelled three times by Border Patrol agents to the Mexican state of Chihuahua in December 2020, are currently in Tijuana waiting for the United States to restore asylum protections at ports of entry.

Endangering Children, Separating Families

U.S. immigration officers are not consistently processing unaccompanied children as required by U.S. refugee and anti-trafficking laws. Some children are being blocked and expelled to danger in Mexico despite a February 2021 [temporary exemption](#) for unaccompanied children from the expulsion policy. DHS continues to refuse to accept requests for protection from some unaccompanied children at ports of entry, according to immigration attorneys assisting children along the U.S.-Mexico border.

CBP officers also continue to expel some unaccompanied children despite their exemption from the expulsion policy. For instance:

- In March 2021, CBP expelled a group of eight unaccompanied children to highly dangerous Reynosa in Tamaulipas, according to attorney Jennifer Harbury.
- In February and March 2021, Kino Border Initiative reported that CBP expelled multiple unaccompanied children to Nogales, Mexico, including a 17-year-old Guatemalan girl expelled at night and forced to sleep outside. Some unaccompanied children expelled to Mexico have reported that Border Patrol agents said they did not believe they were minors, even when presented with evidence, and did not perform human trafficking screenings required by law.
- In late February 2021, CBP expelled a 16-year-old Mexican boy who had fled Chiapas. According to the Florence Immigrant and Refugee Rights Project, the boy told U.S. immigration officers his age, but they expelled him to Nogales a day later, without asking any further questions or screening him for protection needs in violation of the Trafficking Victim's Protection Reauthorization Act. The boy was left alone and homeless.

Family Separations

The Biden administration's continued use of Title 42 to block and expel asylum seekers is leading to family separations. The number of unaccompanied children crossing at the border has been [rapidly rising](#) under the Biden administration driven by its policy of expelling parents and adults to danger, forcing children to attempt to reach safety alone. Like other [policies](#) that indefinitely strand families in extreme danger at the southern border, the expulsion policy also pushes some desperate families to send their children across the border to protect them from [kidnapping](#), sexual assault, and other violence – resulting in needless family separations and [increasing](#) the number of unaccompanied children at the border. For example, [16 percent of unaccompanied children](#) screened by Immigrant Defenders Law Center between December 2020 and March 24, 2021 had traveled to the border with a parent or other family member who was blocked from seeking protection with the child due to the Title 42 expulsion policy. In April 2021, a Border Patrol official told *CNN* that more than [400](#) unaccompanied children taken into custody in South Texas had previously tried to enter the United States with their families. A *Politico* journalist reported that all of the [families](#) he spoke with in the informal tent encampment of asylum seekers waiting in Tijuana near the San Ysidro port of entry had considered sending their children across the border alone to protect them.

DHS Secretary Mayorkas recently [acknowledged](#) the brutal and impossible choice that families face in deciding whether to send their kids alone, resulting in indefinite or even permanent separation: “[O]ut of desperation, some children might not wait. Some loving parents might send their child to traverse Mexico alone to reach the southern border.” Yet, in many cases, it is the expulsion policy that pushes families trapped at the border and unable to seek asylum together to send children alone to safety in the United States. For example:

- **In March 2021, a 15-year-old Guatemalan child fleeing severe domestic violence and gang threats with her mother crossed the border alone, a few days after Border Patrol expelled the family to Tijuana.** The girl remains separated from her mother, who is indefinitely trapped at the border due to the expulsion policy, according to Yliana Johansen-Méndez with the Immigrant Defenders Law Center.
- **A 15-year-old child from El Salvador crossed the U.S. border alone in March 2021 just days after being expelled with her mother,** according to Yliana Johansen-Méndez.
- **A [14-year-old](#) Honduran boy wounded in an attack by members of the Honduran military that killed his father was sent alone by his mother to the United States, after his family was repeatedly expelled to Mexico.** The boy's mother told the San Diego Union Tribune that her son needs medical care for bullets still lodged inside of him from the attack. The boy's mother and nine-year-old brother were last expelled from the Texas-Mexico border to Tijuana in April 2021.
- **In March 2021, a 12-year-old Honduran boy who had been kidnapped in Reynosa crossed alone into the United States after his family paid ransom to secure his release.** His asylum-seeking parents and sister who separately crossed the border near Reynosa were expelled to Tijuana without an opportunity to seek asylum.
- **In March 2021, an asylum-seeking Mexican family blocked at the border due to the expulsion policy was forced to send their 17-year-old son to the United States to avoid dangerous cartel persecutors who had tracked them to Tijuana,** as reported by *Al Otro Lado*.

- Around March 2021, 12- and 16-year-old Salvadoran asylum-seeking [brothers](#) crossed into the United States alone after CBP twice expelled them with their mother. The mother, who is trapped in Reynosa with her seven-year-old son, doesn't know when she will see her children again. She told CNN: **"I felt like I was dying. I didn't want to separate from them."**
- A Honduran woman stranded in Mexico due to the expulsion policy is indefinitely separated from her teenage daughters whom she sent across the border alone in January 2021. She [told the Washington Post](#): **"Sometimes I consider throwing myself in [the river] to die because the longer I'm here, the more I feel like I don't want to live anymore."**
- A Honduran asylum-seeking family in the Tijuana tent encampment is considering sending their infant baby alone to safety in the United States after another family member was murdered in Mexico. The baby's aunt [reportedly](#) said: **"It breaks my heart to even think about it."**

In addition, CBP continues to separate children from non-parent family members, such as aunts, uncles, and [grandparents](#), with whom they travelled to the border, and is expelling those adults to Mexico. The result of this practice is that children who arrived with their families are rendered unaccompanied. Organizations working with immigrant children estimate that a staggering [10 to 17 percent](#) of the total unaccompanied children in government custody were separated from relatives at the border. Other family members, including spouses, have also been separated with one spouse expelled by CBP to Mexico without explanation. These cases include:

- **In March 2021, CBP separated a [four-year-old Guatemalan girl](#) from her asylum-seeking [aunt and cousin](#) when they asked for protection at a U.S. port of entry.** The girl was held in a separate CBP cell while her family members were expelled to Mexico. The girl's parents, who live in Maryland, did not know the girl's whereabouts for days, and when her mother eventually spoke to her on the phone, the girl cried uncontrollably and could not speak.
- **In late March 2021, an 18-year-old indigenous asylum seeker from Guatemala was separated by Border Patrol agents from her two younger sisters and expelled alone to Mexico,** according to the Florence Immigrant and Refugee Rights Project. Their mother is currently in immigration court proceedings in the United States seeking asylum.
- **Border Patrol agents separated a Cuban asylum seeker from his wife in March 2021, then expelled him alone to Mexico after falsely claiming that he would be reunited with her.** Two weeks after his expulsion, **the man still did not know where his wife was,** according to Kino Border Initiative.
- **In February 2021, CBP separated [Leonardo](#), a ten-year-old boy from Guatemala, from his aunt and cousin.** His aunt, who was eight-months pregnant at the time, was expelled to Ciudad Juárez with her child and fainted near the international bridge. She told reporters: **"I had no idea where I was, I had no idea where to go."**
- **Around February 2021, a 16-year-old Salvadoran boy was separated by Border Patrol agents from his 19-year-old brother after they crossed the border from Baja California to seek asylum.** Their grandmother who lives in Washington was granted asylum based on the same persecution the boys feared in El Salvador. Border Patrol agents expelled the older brother to Mexico near San Luis Colorado, according to the Florence Immigrant and Refugee Rights Project.
- **In February 2021, Border Patrol separated 15- and 14-year-old Honduran brothers from their grandmother, who had raised them after their parents abandoned them, and expelled the**

grandmother to Mexico. Without a sponsor in the United States, the children were placed in long-term foster care. They had fled Honduras with their grandmother after a gang threatened to kill the family and shot one of the boys, according to Yliana Johansen-Méndez with the Immigrant Defenders Law Center.

- **CBP separated [9- and 11-year-old Honduran children](#) at the Texas-Mexico border from their uncle.** The man was expelled by CBP from Roma, Texas to Miguel Aleman, where he was kidnapped and held for ransom.

Creating Confusion and Disorder at the Border, Pushing Dangerous Crossings

The expulsion policy is creating significant confusion at the border and [spurring](#) additional crossings between ports of entry. Asylum seekers unable to seek protection at U.S. ports of entry are undertaking dangerous, sometimes repeated, border crossings. Other migrants who are being expelled immediately back to Mexico are also crossing the border repeatedly. Other inhumane policies that unlawfully block asylum seekers requesting protection at ports of entry, including metering, have similarly [pushed](#) desperate people fearing for their lives to cross between ports of entry. The lack of information and clarity around U.S. asylum protections has also led some asylum seekers to sleep in informal encampments close to U.S. ports of entry and international bridges hoping to be processed into safety in the United States along with individuals being processed out of the Migrant Protection Protocols (MPP). Many Haitian asylum seekers, for example, have mistakenly understood asylum protections to have been restored with the suspension of MPP. As a result, many have entered the United States with the aim of turning themselves in to Border Patrol agents to request asylum, only to find themselves subjected to the expulsion policy. These dynamics are creating needless confusion and disorder at the border.

Driving Up the Numbers

The policy of blocking and expelling asylum seekers is leading to increased numbers of attempted crossings and encounters counted as Border Patrol apprehensions. The Title 42 expulsion policy, like metering and MPP, leaves people stranded in dangerous conditions and pushes them to repeatedly attempt crossings between ports of entry to reach the United States. Since the expulsion policy was implemented in March 2020, repeat crossings have [skyrocketed](#), making up over 37 percent of apprehensions, as compared to seven percent in 2019. CBP officials themselves have [acknowledged](#) that repeated crossings have “gone up dramatically” because of Title 42 expulsions. Asylum seekers interviewed for this report reported as many as six attempts to cross the U.S.-Mexico border to safety. The head of a shelter in Piedras Negras reported to Human Rights First that some migrants at the shelter have attempted to cross 17 or more times during the expulsion policy. These repeated crossings drastically inflate the total number of apprehensions and expulsions reported by [CBP](#). Thus, the actual number of distinct individuals who have been expelled under Title 42 is a fraction of the total number of expulsions. In addition to forcing people to risk their lives repeatedly to attempt dangerous crossings, the policy has [increased business](#) for smugglers, who charge hefty fees for assisting people with unlawful border crossings and have increased their fees to cover multiple attempts.

CBP Disinformation

As desperation grows for asylum seekers and migrants trapped in Mexico, the Biden administration’s failure to provide information about when it will restore asylum processing at the border, including at ports of entry, as well as false information disseminated by some CBP officers, is creating further confusion and

trauma for asylum seekers who have already suffered for months or years waiting to request refugee protection in the United States.

In Tijuana, a tent encampment near the port of entry continues to grow due to [widespread confusion](#) fueled by the lack of information about when the United States will restore asylum processing at ports of entry. For instance, in late January 2021, an attorney with AI Otro Lado observed CBP officers turn away a Honduran family who had asked for asylum at the San Ysidro port of entry, and falsely instruct the family to put their names on an informal asylum waitlist even though no such list existed at the time. Misinformation about informal asylum waitlists, which previously [appeared](#) at ports of entry along the entire U.S.-Mexico border due to the [Trump](#) administrations' illegal policy of "metering" to slow asylum processing at ports of entry, has pushed some desperate asylum seekers to camp out in a plaza in front of the port of entry, afraid that they will miss their opportunity to request asylum. According to AI Otro Lado attorneys, CBP officers have, in some instances, effectively encouraged asylum seekers to remain close to the port of entry by falsely instructing asylum seekers to return to the port of entry at 4 a.m. on a designated date, even though CBP stopped processing new requests for asylum at ports of entry over a year ago in March 2020. The informal tent encampment is controlled by organized crime, leaving asylum seekers vulnerable to attack and traumatized by the lack of concrete information about how to request asylum protection in the United States. An asylum seeker in the encampment with his wife and two children reported to Human Rights First that, "**the camp is a center for disinformation – no one knows what's going on.**" Asylum seekers also reported to Human Rights First that Mexican migration officials have further fueled disinformation by instructing them to move to the encampment and wait.

- [Cristina](#), a Mexican asylum seeker who fled Guerrero state with her husband and daughters and is now living in the Tijuana encampment in the hope of obtaining information about border processing told a reporter she wants to see if the government "**give[s] us some news, see if they respond to our pleas. Nothing is clear.**"
- **A CBP officer told a Honduran asylum seeker who attempted to cross the border in October 2020 to seek protection to "enter legally" even though U.S. ports of entry have not accepted asylum seekers since March 2020.** The woman, who was expelled with her three children to Tijuana, asked the officer how she could do so, and he merely responded, "**You have to find a way.**" The woman told Human Rights First: "**There has been no clarity, no information. We are still waiting in hiding. We just keep being told the border is closed.**"
- A [Honduran asylum seeker](#) in the tent encampment at the San Ysidro port of entry, who has been waiting in Tijuana since March 2020, told a reporter in March 2021: "**We are here waiting for our turn to enter...the only thing we ask at this time, at the very least, give us some information.**" The woman fled Honduras after being tortured by a gang and is terrified of remaining in Mexico, where her nephew was murdered.
- Multiple Haitian asylum seekers living in the Tijuana encampment, including one who was threatened and robbed there, told Human Rights First that even though they do not feel safe, **they will continue sleeping in tents near the port of entry so that they can enter the United States as soon as asylum processing resumes.**
- **In March 2021, CBP officers at the Mariposa port of entry in Nogales told a Mexican family fleeing death threats that there was "no asylum" at the Arizona border and instructed them to travel to the California border to request asylum,** despite the fact that U.S. ports of entry are turning away asylum seekers pursuant to Title 42. In the Tijuana tent encampment where the family

is now hiding, the mother explained to Human Rights First, “[CBP] told us that they would help us at the California border. So we came here.”

Smugglers have taken advantage of the void left by the U.S. government’s failure to provide information to asylum seekers. They disseminate false information to desperate migrants to [drum up business](#). For instance, a shelter director in Piedras Negras told Human Rights First that given the lack of accurate information from U.S. authorities about border asylum processing, smugglers are able to convince parents to pay huge sums to send children alone to the United States. Misinformation is also a major concern for Haitian asylum seekers, who are desperate to leave Mexico and unable to return to Haiti. According to Haitian Bridge Alliance, many Haitian asylum seekers have fallen prey to smugglers’ false promises of bringing them to safety in the United States.

Spurring Dangerous Crossings

Asylum seekers who fear for their lives in Mexico and are unable to access U.S. protection because of the expulsion policy are [increasingly attempting](#) dangerous crossings away from ports of entry. These risky crossing can cost migrants their lives: 2020 was reportedly the [deadliest year](#) on record for migrant crossings in Arizona. People who have already died while attempting to cross into the United States during the Biden administration include:

- In mid-April 2021, a [Honduran mother](#) traveling with her three children died shortly after crossing the Rio Grande near Hidalgo, Texas.
- In February and March 2021, an [eight-year-old Honduran boy](#), 53-year-old [Mariela Aguilar Rodríguez](#) from Venezuela, a [nine-year-old Mexican girl](#), and two [teenage boys](#), all died while trying to cross to the United States via the Rio Grande.
- In early March 2021, 13 migrants, including a [Guatemalan asylum seeker](#) who was studying to be a lawyer and fled after receiving threats and a [Mexican asylum seeker](#) fleeing severe domestic violence, [died](#) in a car accident while being smuggled near the border in southern California.
- A [Honduran mother](#) drowned in Tijuana in March 2021 attempting to cross the border wall. Her 11-year-old and 13-year-old [children](#) are now alone in a shelter in Tijuana.
- A [Cuban man](#) died in March 2021 while attempting to swim around the border wall between Tijuana and San Diego.

Dangerous border crossings have also resulted in severe injuries, hypothermia, and starvation, as well as kidnappings and other violent attacks perpetrated by cartels. Among the asylum seekers injured while attempting to reach safety in the United States are:

- **CBP expelled an 18-year-old Salvadoran asylum seeker, who attempted to cross into the United States after twice being kidnapped in Mexico, after he fell from the border wall and suffered a severe back injury.** The young man was expelled in the middle of the night to dangerous Ciudad Juárez in a hospital nightgown, barely ambulatory, and in pain after spinal surgery. His mother and brother, who had also been kidnapped twice in Mexico, were separated from him and expelled to Mexico, leaving the young man alone in hospital, according to his lawyer Kenneth Mayeaux.
- **In April 2021, three men shot at and kidnapped a Guatemalan asylum seeker who became lost in the Arizona desert with another person.** The kidnappers transported the men to a house, where they removed their clothes, tied them up, and beat them before eventually abandoning the

men on the side of a road. Border Patrol agents expelled them to Nogales even though the men expressed their fear that the kidnappers would locate them in Mexico, according to Kino Border Initiative.

- **Douglas, a Guatemalan asylum seeker, suffered severe frostbite that may require amputation of his hands while attempting to cross into the United States in search of safety in February 2021.** CBP agents initially threatened to expel him to Guatemala, but after media coverage of his case, Douglas was permitted to remain in the United States to pursue his asylum claim.
- **In February 2021, an asylum-seeking woman fell from the border wall while attempting to seek protection in the United States, suffering a broken foot and a spinal fissure that may require surgery.** CBP immediately expelled the woman's husband and daughter to Mexico while she was taken to the hospital, and the family remains separated, according to attorney Nico Palazzo with Las Americas Immigrant Advocacy Center.
- **In March 2021, a Guatemalan migrant struggled to cross through the Arizona desert during a brutal snowstorm and saw other migrants around him falling unconscious and dying.** His brother, who was traveling with him, was so cold that he started suffering from cramps. According to the Kino Border Initiative, they eventually turned themselves in to Border Patrol and were expelled to Mexico.
- **A Yemeni asylum seeker was severely injured when he fell off the border wall in March 2021 while attempting to seek asylum in the United States.** The injuries to his head and back, which is now severely scarred, required treatment in hospital and follow-up care. But Border Patrol agents expelled him to Tijuana, where his ear has become infected, and where he is unable to access necessary medical care.

Abysmal Conditions, Abuses in DHS Custody

Asylum seekers and migrants being expelled by DHS are often detained for days or weeks in CBP custody in abysmal conditions and subjected to physical and/or verbal abuse by Border Patrol agents and CBP officers. For instance, **Kino Border Initiative reported that one third of the hundreds of individuals expelled from Arizona in the second half of February 2021 reported verbal and/or physical abuse by U.S. Border Patrol agents.** Since January 21, 2021, the organization has filed over a dozen complaints to the DHS Office of Civil Rights and Civil Liberties detailing allegations of physical and verbal abuse, denial of access to asylum, inhumane detention conditions, and medical neglect in CBP custody in Arizona.

Conditions in CBP custody are appalling. Officers confiscate sweaters, jackets, and other warm clothing while holding people in freezing cells; throw out personal belongings, including important documents, medicine, and shoes; limit access to shower and use the bathroom; and deny detained people access to adequate medical care. **Dozens of expelled Central American families reported to Human Rights First that CBP detained them for days in freezing holding cells** in Texas, where their children became sick with fevers, coughing, vomiting, and diarrhea, threw out their personal belongings, and expelled them to Tijuana in March and April 2021.

U.S. immigration officers often [do not explain](#) to asylum seekers that they are being expelled to Mexico, or to their home countries, or falsely claim they will be reunited with family members in the United States, leaving expelled individuals and families even more confused and desperate.

- Some Border Patrol agents rely on cruel jokes and threats to traumatize and deter asylum seekers whom they expel. **A Honduran family with a baby was told: “Congrats, you’re going to New York City” before they were expelled to Tijuana** in March 2021. Agents **threatened a Honduran woman seeking asylum with her two-year-old son that she would be imprisoned for six months**. When a Honduran couple asked Border Patrol agents where they were taking them, they said “We have a surprise for you,” before expelling them to Tijuana in April 2021. In mid-April 2021, Border Patrol forcibly expelled a group of approximately 30 Venezuelan asylum seekers, including pregnant women and children, according to attorney Rolando Vazquez. Agents pushed them off a bus used to expel the fearful asylum seekers to Sonora. A young Guatemalan man expelled to Nogales in April 2021 reported to Kino Border Initiative that Border Patrol agents threatened to run him over with their vehicle. Another Guatemalan migrant expelled to Nogales told Kino Border Initiative that Border Patrol agents threw away his water and fed the apples he had with him to their horses before expelling him.
- **Border Patrol agents do not inform, or lie to, asylum seekers who are expelled to Mexico after so-called “lateral transfers” from the Rio Grande Valley about where they are being sent**, which cruelly traumatizes asylum seekers who believe they have reached safety in the United States. Dozens of families interviewed by Human Rights First in March and April 2021, who had been expelled to Mexico through the Otay Mesa port of entry after transfer from Texas, reported that CBP officers failed to explain that they were being expelled to Mexico. A migrant shelter director in Tijuana confirmed that since mid-March 2021, the shelter has been receiving dozens of disoriented Central American families each day, many of whom arrive believing they are in California. Advocates in El Paso have formally requested that the local Border Patrol chief instruct her agents to accurately inform asylum seekers that they are being expelled, according to Marisa Limón Garza with the Hope Border Institute.

Families and adults subjected to the expulsion policy also report abysmal conditions in CBP custody and numerous abuses by CBP officers and Border Patrol agents:

- **In March 2021, Border Patrol agents confiscated sweatshirts and coats from a three-year-old Guatemalan girl and her asylum-seeking mother, held them in a freezing cell for 18 hours, then expelled them to Mexico**. The agents took and did not return the girl’s medicine and diapers, according to the Kino Border Initiative. Border Patrol agents refused the mother’s requests for a clean diaper after the child had soiled herself, soaking her pants, **and yelled at the family, “I don’t know what you’re doing in this country.”**
- **An expelled Honduran family reported that Border Patrol agents screamed in the face of a deaf child, pushed him, and forced him to sit separately from his mother on the plane** while the families were being transported for expulsion to Tijuana in March 2021. The family said they went four days with little food in CBP custody and that U.S. immigration officers threw cookies on the floor and instructed children to eat them. Despite freezing conditions in custody, **officers confiscated blankets and forced detained migrants to remove their outer layers of clothing, throwing them into the trash**. “They treat us like dogs, animals,” the family said.
- **In mid-April 2021, Border Patrol agents denied a Venezuelan asylum-seeking couple access to the antidepressant and epilepsy medication they had brought with them**. Agents refused to provide medical attention to the man as he suffered a panic attack resulting from not taking antidepressant medication and told him to drink water. The woman told Human Rights First that she

was terrified that she would suffer a seizure from missing her daily epilepsy medication. The couple and their adult son were expelled to Sonora after two days in CBP custody.

- **Three African asylum seekers from Burkina Faso, Ghana, and Somalia were expelled together to Tijuana in February 2021 after spending three days in freezing CBP holding cells with little food.** The Ghanaian asylum seeker, who had fled persecution due to his sexual orientation, told a Haitian Bridge Alliance coordinator: **“during those three days I thought I was going to die from hunger and cold.”** The Somali asylum seeker, who had been tortured by terrorist groups in Somalia, **reported that a Border Patrol agent insulted him in Arabic, calling him a terrorist** and accusing him of belonging to Al-Shabab.
- **A Nigerian asylum seeker expelled by CBP to Tijuana in February 2021 without a protection screening was held for days in a cold cell that he described as “hell,”** according to a Haitian Bridge Alliance outreach coordinator who spoke with him. The man reported that the lights were kept on constantly and that he did not know whether it was day or night. He explained that other migrants detained with him, including eight asylum seekers from Haiti, had been held for more than a week.
- **In February 2021, Border Patrol agents assaulted a Honduran asylum seeker and her husband while he was holding their two-year-old child.** The woman told Human Rights First that when she begged not to submit her fingerprints fearing that she would then be expelled, an agent violently yanked her arm. When the woman’s husband stood up in protest, holding their child in his arms, agents shoved him. In late March 2021, the family again crossed the border attempting to seek protection. When the woman complained of being assaulted in February, an agent responded, **“You see, we have to use violence when you don’t do what we tell you to.”**
- **In February 2021, Border Patrol agents confiscated a Haitian asylum seeker’s belongings, including clean clothes for her four-month-old [baby](#), while she was detained pending expulsion.** The officers refused to let the woman get clean clothes for her baby even when she told officers that the baby’s clothing was soiled. The woman developed an infection after Border Patrol agents did not allow her to shower for 11 days. She also reported that when her baby was sick in custody, officers told her that they **“didn’t have any doctors.”**
- A Honduran asylum seeker reported that **Border Patrol agents refused to give her husband food while he was detained, prior to being expelled in March 2021 to Piedras Negras.** The agents told him **“there is no food for Central Americans,”** and he was forced to rely on detained Haitians, Nicaraguans, and Cubans to share food they were given by the Border Patrol agents.
- In February 2021, CBP detained a 12-year-old girl and her asylum-seeking mother for three days in an extremely cold cell, giving them only a hamburger and cheese to eat before expelling them to Reynosa. The girl’s mother told Human Rights First: **“It was devastating to see children who didn’t have food to eat. Kids can’t go without food. Afterward, my daughter said to me, ‘Mommy, please don’t take me back to immigration.’ This country should not treat kids this way.”**
- **In February 2021, Border Patrol agents threatened to unleash a dog against detained migrants and failed to provide them food, according to a Salvadoran man expelled by CBP in the middle of the night to Sonora** who spoke with the Kino Border Initiative. The man reported that a Border Patrol agent yelled at him and other migrants: **“Don’t move, you mother fuckers.”** The group of expelled migrants spent the night sleeping outside in the cold and had gone for three days without food by the time they arrived at Kino Border Initiative for help.

- In December 2020, **two Honduran children were separated from their mother when she was hospitalized and held alone in CBP custody where they suffered from rashes because of a bedbug outbreak**, according to Al Otro Lado. The family was later expelled to Tijuana.
- In March 2021, **Border Patrol agents near Hidalgo, Texas deprived a Salvadoran family with a six-year-old child of food while they were detained for three days, told them that there was “no food for animals,” and called them dogs.** Agents transferred them by plane to California before busing them to border and expelling them in Mexico. When the plane landed in San Diego, agents said, “Congratulations, you’re in the United States,” and called them imbeciles.
- **Many [Haitian families and adults](#) expelled to Ciudad Juárez by CBP in February 2021 reported that U.S. immigration officers subjected them to racist abuse** and failed to return documents and other belongings when they were expelled, according to Victor Andres Flores, an advocate with CLINIC. Among those [expelled](#) by CBP without their belongings was a Haitian man who fled Haiti after a political group threatened him, burned down his family home, and assassinated his sister.

Blocking Access to Counsel

Additionally, CBP and ICE officers block asylum seekers and migrants from speaking with attorneys prior to expulsion through threats, intimidation, and physical destruction of property. For example:

- In February 2021, Border Patrol agents prevented a hospitalized pregnant woman from speaking to attorneys with the Florence Immigrant and Refugee Rights Project, despite the attorneys’ requests for access.
- In February 2021, guards at the Karnes family detention center harassed a [Haitian](#) man detained under Title 42 because he had obtained the phone number for RAICES, a legal services non-profit providing legal representation at the facilities. Guards repeatedly interrogated him about how he received the number, since the guards had refused to provide it. On another occasion, he witnessed a guard tear up a piece of paper with RAICES’ phone number written on it that a detained woman had attempted to provide to a detained family, demanding to know whether she had shared the number.
- In February 2021, Border Patrol agents attempted to [expel](#) a Haitian asylum-seeking family represented by RAICES and denied their requests to speak with their attorney. They were forced to sign documents in English that they could not read or understand. Upon realizing they would be expelled, the father, who had been persecuted in Haiti for his religious beliefs, told researchers: **“I began thinking many bad thoughts because we were about to be returned to a country that we hoped to never return to again.”**

No Public Health Rationale for Expulsion Policy

Despite pledges to review the CDC order, the Biden administration continues to use widely discredited public health arguments to defend the expulsion policy. President Biden’s February 2, 2021 [executive order](#) on asylum directed CDC and HHS, in consultation with DHS to “promptly review and determine whether termination, rescission, or modification” of the CDC order is “appropriate.” The Biden campaign also [pledged](#) to order a review of the expulsion policy and “ensure that people have the ability to submit their asylum claims while ensuring that we are taking the appropriate COVID-19 safety precautions, as guided by the science and public health experts.” When the Trump administration first implemented the policy, then-Senator Kamala Harris [agreed](#) that it was an “executive power grab” with “no known

precedent or clear legal rationale.” Yet the Biden administration now claims that it is “[executing the directive of the CDC](#)” and that it must send families and adults to danger “[in the service of public health](#).” In March 2021, DHS Secretary Mayorkas claimed that whereas the prior administration used the policy as a “bludgeoning tool,” the Biden administration was now using the order as a public health tool.

Like the Trump administration, the Biden administration’s use of the Title 42 and CDC order to continue expulsions appears to be a pretext for carrying out immigration policy objectives. Indeed, the White House press secretary effectively acknowledged that the Biden administration is keeping the CDC order in place because it “[need\[s\] some time](#)” to enact legislative [reforms](#) to the immigration system. In addition, the administration’s own actions undermine the supposed [rationale](#) for the CDC order—that expulsions are necessary to avoid holding individuals in congregate detention and thereby limit transmission of COVID-19.

Lateral Transfer Expulsions

The administration’s unjustifiable decision to carry out lateral transfer expulsions further undermines the purported rationale of the CDC order – to reduce exposure and potential transmission of COVID-19 in CBP custody. DHS is routinely expelling families after detaining them for days in freezing border facilities, where many fall sick, before transporting parents and children by plane and bus hours from the Rio Grande Valley to ports of entry in [Texas](#) and to [California](#) for expulsion, likely causing spread of COVID-19 in Mexico. [Witness at the Border](#), which regularly tracks deportation flights, has identified 66 lateral transfer flights (which are estimated to transport approximately 100 individuals per flight) from Brownsville to San Diego and El Paso between March 8, 2021 and April 10, 2021. DHS is subjecting families to these lateral transfer expulsions even though Brownsville has capacity to provide temporary shelter and other support to asylum-seeking families and individuals transiting through the border region. In late March 2021, the [mayor of Brownsville](#) said that the city could assist around 400 individuals processed and released by CBP per day, but that typically 150 of these spots were going unused every day. Advocates reported that the city’s capacity to receive released families and individuals in Brownsville increased in early April 2021, as processing of asylum seekers out of MPP slowed.

Since early March 2021, CBP has expelled thousands of families via lateral transfer expulsions.

- The *San Diego Union Tribune* reported that more than [2,000](#) people – all families – have been transferred from Texas and expelled through San Diego as of early April 2021. Many of these families are being expelled to [Mexicali](#) or through the Otay Mesa port of entry and bussed by Mexican migration officials to a shelter on the outskirts of Tijuana, where Human Rights First interviewed dozens of asylum-seeking families in March and April 2021 who reported that their children became ill with fevers, vomiting, coughing and diarrhea after being held for days in freezing CBP border facilities, as discussed above.
- Approximately 100 individuals, including young children, are being expelled by CBP to [Ciudad Juárez](#) every day, after they are flown hours from southern Texas to El Paso. Mexican officials have agreed to make shelter arrangements for individuals expelled through these transfers, but the city’s already-taxed migrant shelter system is operating near capacity leaving some expelled individuals without safe shelter, according to Marisa Limón Garza from Hope Border Institute in El Paso.
- Lateral transfers by bus to Laredo from other parts of south Texas for expulsion to extremely dangerous Nuevo Laredo are also being carried out by CBP.

Because expelled families and individuals subjected to lateral transfers have frequently been held in Border Patrol facilities for days and are not tested for COVID-19 before expulsion, these expulsions raise heightened concerns that the United States is exporting the coronavirus as it expels asylum-seeking families. Indeed, advocates in El Paso and San Diego reported that expelled individuals returned to shelters in Mexico have tested positive for COVID-19. These outbreaks are impacting the MPP wind down process as asylum-seekers waiting to be processed out of MPP staying in these same shelters have also contracted COVID-19. Instead of detaining these families for days, transferring them across the country, and expelling them to Mexico, DHS could promptly process and release asylum seeking adults and families on parole or other legal authority.

Delayed Expulsions

DHS also continues to detain individuals for prolonged periods before expelling them, despite the purported rationale of the CDC order to avoid congregate detention. For instance, an asylum-seeking woman with two children told Felicia Rangel-Samponaro of the Sidewalk School, which provides classes for asylum-seeking children stranded in cities along the border, that her family was held in the CBP Donna tent facility for a week before being expelled to Reynosa. The Florence Immigrant and Refugee Rights Project reports that individuals have been held in some instances in Immigration and Customs Enforcement (ICE) custody for two to three months or transferred to different detention centers pending expulsion. According to RAICES, which provides legal services to families detained at Karnes County Family Residential Center, migrant families are detained on average between [two to four weeks](#) at Karnes before being expelled to their home country. Some have contracted COVID-19 in ICE detention centers, where DHS' failure to rapidly reduce detained populations and continued transfers of detainees have resulted in large numbers of infections.

Ignoring Public Health Recommendations

As leading epidemiologists and other public health experts have [repeatedly explained](#) in letters to the CDC and HHS, the CDC order lacks a valid public health rationale. These experts have [condemned](#) the CDC order as lacking any “scientific basis as a public health measure,” and have called upon the agency to “restore its position as a trusted source of objective, reliable, scientific information for the American public.” Public health experts issued detailed [recommendations](#) in May 2020 and an updated set of [recommendations](#) in December 2020 outlining rational, science-based measures that would both protect public health during the COVID-19 pandemic and allow asylum seekers and children to seek protection in line with U.S. legal obligations. These measures include the use of masks, social distancing, testing, expanding quarantine and isolation capacity, and avoiding congregate detention.

Rather than implementing these science-based measures and exercising existing [legal authority](#) to avoid congregate detention and release asylum seekers to shelter with families or friends, the Biden administration continues to single out and expel asylum seekers and migrants to danger. At the same time, U.S. citizens and other travelers deemed “[essential](#)” continue to enter the country through the southern land border. For instance, between April and December 2020 (when data was last made available), 70 million pedestrians and vehicle passengers were permitted to [enter](#) the United States through ports of entry on the U.S.-Mexico border.

The March 2020 CDC order also cites the health of CBP [personnel](#) as a rationale for the expulsion policy, but the measures outlined by public health experts address these concerns. If CBP personnel safety was really a priority, DHS would ensure broad vaccination of CBP staff. But as of March 10, 2021, only [23](#)

[percent](#) of CBP front line personnel had been vaccinated – the best available public health measures to safeguard asylum seekers held in or processed through CBP custody as well as CBP officers.

Stranded in Desperate Circumstances, Blocking and Expelling Medically Vulnerable Asylum Seekers

Asylum seekers and migrants expelled to Mexico are stranded in dire living conditions, without immigration status, access to medical care, employment authorization, or the means to survive. They are at constant risk of being deported by Mexican authorities back to the countries they fled. Due to the pandemic, starting in March 2020, most migrant shelters in Mexico [closed or quarantined](#) and did not allow new migrants to enter. Many shelters [remain closed](#) or operating at reduced capacity, leaving many migrants who cannot afford to pay for an apartment or motel room without housing.

DHS is expelling dozens of asylum seekers and migrants each day to extremely dangerous Reynosa. As of mid-April 2021, CBP was continuing to expel families in the middle of the night without their shoelaces, a practice which clearly marks the families as expelled migrants and makes them even more vulnerable to kidnapping by cartels, according to Felicia Rangel-Samponaro of the Sidewalk School. Dozens of [expelled families and children](#) unable to find shelter have been forced to sleep outside in a plaza near the port of entry or in a nearby park where migrants have reported [kidnappings](#) and attacks by cartels that control the city.

In Tijuana, approximately [1,500](#) people are living in a makeshift [tent encampment](#) outside the San Ysidro port of entry, many of whom have been stranded in Mexico for over a year unable to request U.S. asylum protection due to the Title 42 expulsion policy. There is no security in the encampment, and [sanitation](#) and medical assistance are very limited. In March 2021, the camp flooded, further exacerbating the dire conditions for migrants living there. Haitian asylum seekers and migrants have faced severe discrimination in the encampment, including being refused food and told that “the food isn’t for the Haitians.” Asylum seekers have reported that organized criminal organizations operate in the camp and threaten stranded asylum seekers, including Mexican asylum seekers who fled attacks by the same criminal groups in other parts of Mexico. Cartels operating in the [encampment](#) have kidnapped migrants, including in the middle of the night, and targeted migrants who cooperated with the subsequent police investigations, forcing them to flee the encampment.

- In April 2021, multiple asylum seekers informed Human Rights First that members of a violent gang that operates throughout Central America and Mexico **forcibly abducted at least 8 individuals from the encampment** in recent days, including some pulled from their tents at night. They remain missing.
- A Mexican asylum seeker told Human Rights First that she **witnessed a group of men kidnap a Salvadoran woman and her three children near the tent encampment** in mid-March 2021.
- A Salvadoran asylum seeker reported that in March 2021, her **daughter was nearly kidnapped from the Tijuana encampment by a man who grabbed the girl** and ran several blocks before the girl’s uncle could stop him.

In Piedras Negras, many expelled migrants are [forced](#) to sleep in the streets, parks, or in abandoned buildings because shelters remain [closed](#) and migrants are prohibited from renting rooms without proof of Mexican immigration status. A December 2020 [local regulation](#) prohibits shelters and churches from providing meals to arriving migrants, further harming migrants who cannot work due to lack of status.

CBP under the Biden administration continues to **expel people with disabilities and those in need of urgent medical care, including women with complex pregnancies** and who are actively in labor. They include:

- **In April 2021, Border Patrol agents in Arizona removed a Guatemalan asylum seeker from a hospital where they had taken her for emergency treatment before she could receive surgery on her shattered foot and expelled her to Mexico.** According to a complaint filed with the DHS Office of Civil Rights and Civil Liberties, which was reviewed by Human Rights First, a Border Patrol agent told the woman to “shut up” when she tried to ask to apply for asylum. The woman was struggling to walk with a temporary cast when she arrived at Kino Border Initiative aid center in Nogales.
- **In March 2021, CBP expelled a Honduran woman who was nine months pregnant and in labor to Tijuana.** Weeks earlier, CBP had expelled the woman when she tried to cross the border and denied her medical care even though she was bleeding as a result of her pregnancy, according to *Al Otro Lado*.
- **In March 2021, a 20-year-old Central American man who is deaf and cannot speak was separated from his sister and her young children and expelled alone by CBP to Mexico under Title 42.** The man is dependent on his sister to communicate through informal home sign language and was unable to explain his situation to the Mexican immigration officers who detained and attempted to deport him, according to attorney Suchi Mathur with the Instituto para las Mujeres en la Migración.
- **Border Patrol agents expelled a cognitively-impaired young Honduran woman who was struggling to walk and whose legs were bleeding along with her mother in February 2021.** A Nicaraguan asylum-seeking family expelled along with the young woman reported that Border Patrol agents rolled her onto a blanket, carried her to a van, and returned her to Mexico without medical attention.
- **In March 2021, Border Patrol agents expelled an eight-year-old child with Down syndrome and hyperthyroidism along with his family at 11:30 p.m. to dangerous Reynosa.** The family were subsequently able to find a place to sleep at a migrant shelter in Matamoros but are unable to obtain critical medical care for the child, according to an academic researcher who spoke with the family.
- **In February 2021, Border Patrol expelled a 23-year-old Salvadoran woman who was nine months pregnant to Nogales after she was discharged from a hospital even though she was in the early stages of labor.** Kino Border Initiative reported that, while in CBP custody, the woman had earlier been repeatedly denied medical care and accused of lying about feeling ill by a Border Patrol agent who threatened that she would be criminally prosecuted.
- **Border Patrol officers expelled a Guatemalan woman with a life-threatening infection to Agua Prieta in January 2021.** Despite complaining of severe pain and evident inflammation from the infection, Border Patrol officers expelled the woman without providing any medical assistance, according to Dora Rodriguez with *Salvavision*.
- **In late March 2021, Border Patrol expelled a two-year-old Honduran child who urgently needs surgery for a hernia to Tijuana with his mother and seven-year-old sibling.** The mother

told Human Rights First that prior to the expulsion, CBP confiscated the children's jackets and detained the family for three days in a cold room.

- **In January 2021, Border Patrol turned back to Mexico a Mexican asylum seeker suffering from schizophrenia and traumatic stress disorders.** He was previously living in the United States during his immigration court proceedings, for which he had been assigned counsel by the court due to his mental illness, but mistakenly left the United States while suffering from severe symptoms of his condition. A request for parole, filed by his attorneys, was denied in February 2021, according to the Florence Immigrant and Refugee Rights Project.

The Biden administration has continued the Trump administration's [practice](#) of [expelling](#) mothers who have just given birth in the United States with their newborn U.S. citizen children to Mexico without U.S. birth certificates, leaving families without evidence needed to establish the citizenship of their children. For instance:

- **In mid-March 2021, a Mexican asylum seeker was expelled under Title 42 with her newborn U.S. citizen infant and other family members to Tijuana without receiving a birth certificate for her child.** When the family had entered the United States to request asylum, the woman was separated from her husband and three-year-old daughter, taken to a hospital to give birth, and denied information about her family's whereabouts. After two days in the hospital, Border Patrol agents transported her to a CBP detention facility where her family had been held in a cold room with barely any food before expelling them, according to attorneys with AI Otro Lado who are assisting them.

In Mexico, migrants without legal status are frequently turned away by hospitals and clinics that refuse to provide care to undocumented people. Asylum seekers blocked in Mexico due to Title 42 and unable to access urgent medical care include:

- **In February 2021, a Honduran asylum seeker blocked from requesting U.S. protection suffered a miscarriage while seven-months pregnant.** The woman had been unable to find specialist care in Tijuana to treat a fetal pulmonary issue, according to attorneys with AI Otro Lado.
- **A Honduran asylum seeker with an infection from a gunshot wound has been stuck in Tijuana since July 2020 without adequate medical care and unable to seek asylum in the United States due to the Title 42 expulsion policy.** The man is in danger of losing his leg or dying of the infection without surgery but has been unable to obtain surgery in Tijuana. CBP has not responded to a request for humanitarian parole that AI Otro Lado assisted the man in filing.
- **CBP officers blocked a Honduran asylum seeker whose arm and leg were amputated after falling off a train while fleeing across Mexico from requesting asylum protection at a port of entry due to the expulsion policy.** The man has been unable to access needed medical care in Tijuana. CBP has not responded to a request for humanitarian parole filed by AI Otro Lado.
- **A Haitian woman stranded in Tijuana because of the expulsion policy was turned away from hospitals while pregnant, leading to her suffering a miscarriage in November 2020,** after which she has been unable to obtain medical care despite ongoing illness and pain. She told Human Rights First that she spent the little money she had to bury her child. Border Patrol expelled the woman, despite her urgent need for medical care, in February 2021, when she tried to enter the United States.

- **Three hospitals in Tijuana turned away a Salvadoran woman suffering from kidney and gall stones that cause her unbearable pain and urgently require surgery in early 2021.** She told Human Rights First that even when she was eventually given pain medication at one hospital, staff used racial slurs against her and forced her to leave before she could receive further treatment.

Mexico Complicit in U.S. Policies Blocking Asylum

The Mexican government continues to facilitate U.S. violations of international protections for refugees by agreeing to receive expelled Mexican and Central American asylum seekers. In some locations, local Mexican immigration officials are [refusing](#) to accept families with children under seven years old. However, the Mexican government has [reportedly](#) offered to alter or delay implementation of a law prohibiting detention of migrant children, which has in some Mexican states led to restrictions on the expulsions of migrant families, under pressure from the Biden administration.

Non-Mexican asylum seekers expelled under the expulsion policy generally do not receive legal status in Mexico and are subject to deportation while waiting indefinitely in Mexico to seek U.S. refugee protection. Mexico detains some individuals expelled by the United States and has long failed to consistently provide asylum seekers with an opportunity to seek protection or [inform](#) them of their [right to seek asylum](#) in Mexico. Expelled Central American individuals have been detained by Mexican migration after expulsion and transported to Chiapas, on Mexico's southern border, according to the Instituto para las Mujeres en la Migración (IMUMI). Agents from the National Institute of Migration (INM) have [pressured](#) asylum seekers not to file asylum applications in Mexico and failed to [forward](#) requests to the Mexican asylum agency. Subjected to awful conditions in detention centers, some asylum seekers have [abandoned](#) their claims in order to be released.

Haitian and other Black asylum seekers have complained of significant anti-Black [discrimination](#) by Mexico's asylum office and the INM. As outlined in a [report](#) by Haitian Bridge Alliance, IMUMI and the Center for Gender & Refugee Studies, the INM started delaying and even denying issuance of travel visas to Black immigrants in 2019 under pressure from the Trump administration, causing these migrants to be detained, deported or [stuck in Chiapas](#) for months and sometimes years. A combination of procedural violations, the asylum office's lack of knowledge of country conditions in Haiti, and Haitians' marginalization and language barriers account for the arbitrarily low rates of asylum grants to Haitians. According to interviews conducted by Haitian Bridge Alliance, Haitians who have obtained temporary visas and work permits in Mexico complain that they do not understand how or whether they can renew the visas after they expire (within a year), making it difficult to work and live in Mexico as they wait for the U.S. border to open to asylum seekers.

Mexican immigration officials have directly deported some expelled migrants, attempted to illegally force others to cross the southern Mexican border into Guatemala, and [coercively](#) transported many to southern Mexico where they have little choice but to cross the border. In Piedras Negras, for instance, Mexican authorities routinely [detain](#) and deport migrants in the streets, at shelters, and near the border. The head of a shelter in Piedras Negras reported to Human Rights First researchers that Mexican police and immigration agents target migrants who stop at the shelter for food or medicine and deport those who lack immigration status. Some expelled migrants are [terrified](#) to stay at government shelters due to the risk of detention and deportation, and sleep in the streets instead. Many asylum seekers report that Mexican officials have forced them to pay bribes to avoid illegal deportations and detentions, including three Haitian asylum seekers and an Ethiopian asylum seeker living in Tijuana who spoke with Human Rights First.

Deportations of individuals by Mexican immigration officials raise serious concerns about the potential widescale return of asylum seekers, including those expelled from the United States, by Mexico to the countries they were fleeing, and violate the United States' [obligations](#) under international law to avoid sending refugees to countries where they are likely to be deported to persecution and torture. Mexican migration authorities have continued to deport and return thousands of Central Americans each [month](#), according to Mexican government data.

In addition, Mexican police, immigration officials and other government authorities are directly involved in kidnappings, extortion and other violent attacks against asylum seekers and migrants forcibly returned by DHS to Mexico. The U.S. Department of State [reported](#) in 2020 that Mexican police, military, and government officials are involved in killings, kidnappings for ransom, forced disappearances, and torture. Mexican immigration agents and police officers routinely [demand](#) bribes from asylum seekers to avoid being deported, [kidnap](#) asylum seekers for ransom, and [deliver](#) migrants into the hands of cartels. INM officers confiscate the identity documents of asylum seekers expelled to Mexico, including those of a Guatemalan asylum seeker expelled in February 2021, according to Victor Andres Flores, an advocate with CLINIC.

Recent attacks on migrants in Mexico involving Mexican police and other authorities, include:

- **During the second half of March 2021, 15 migrants reported abuse by Mexican officials, including police, military, and immigration officers** to Kino Border Initiative in Nogales. A Guatemalan man said that he and other migrants were assaulted and robbed near the U.S.-Mexico border by Mexican military officers, who also burned their food and clothing. Mexican federal police also kidnapped a Guatemalan migrant near Nogales, demanding \$1,000 to release him.
- **In February 2021, a man with a baton severely beat a Haitian asylum seeker in Tijuana in front of Mexican police, who did not intervene**, according to a Haitian asylum seeker who witnessed the incident. She told Human Rights First: “We felt like we couldn’t say anything because we don’t have any power here and we were afraid for our own lives. **Haitians are targeted here ... the police don’t care.** We have to protect ourselves and look out for one another.”
- **In February 2021, a pregnant asylum seeker was brutally beaten by a Mexican official in retaliation for having filed a complaint against him for an immigration scam and suffered a miscarriage as a result of the attack.**
- **Four Mexican police officers threatened to deport an Afro-Cuban asylum-seeking couple in Nuevo Laredo in February 2021, extorting them for 2,000 pesos (\$100 U.S. dollars).** After reporting the incident to the authorities, the couple began receiving death threats and were forced to go into hiding.
- **In February 2021, Mexican police officers robbed a Honduran asylum-seeking family with three children in Ciudad Juárez while they waited to request protection in the United States.**
- **In February 2021, a man in a Mexican police uniform demanded to review a Cuban asylum seeker’s immigration documents and threatened to deport him if he failed to pay 500 pesos (\$25 U.S. dollars).** The man handed over all the money he had, but the officer hit him with the back of a rifle, crushing his foot. The man’s friend, another Cuban asylum seeker, told Human Rights First, “**this is how things happen here. Even the authorities attack and extort us.**”

- In January 2021, a Haitian asylum seeker in Tijuana who confronted a hotel owner about money stolen from his room was threatened at gunpoint by the owner's son, a Mexican police officer.
- In late December 2020, Mexican police officers extorted a Haitian asylum seeker who had been assaulted by a mob in Tijuana. **"Instead of coming to save him, they took everything he had in his pocket,"** another asylum seeker who spoke with the victim told Human Rights First.

Expulsions Violate U.S. Laws and Treaty Commitments

The Biden administration's continued expulsions of asylum seekers violate U.S. refugee and anti-trafficking laws and treaties. Legal experts, including a former DHS official, have [explained](#) that the policy violates U.S. legal requirements that asylum seekers be accorded access to the asylum system and protection screenings, referring to the expulsion policy as **"medical gerrymandering ... crafted to override critical legal rights and safeguards."** Nor does Title 42 of the U.S. Code, the provision the government relies on as the basis of this policy, authorize the expulsions carried out by the Trump and Biden administrations. In November 2020, a federal court enjoined DHS from expelling unaccompanied minors, holding that U.S. public health laws likely did not authorize these expulsions. A federal court of appeals [stayed](#) the injunction in January 2021 pending appeal.

The United States cannot use the pandemic as a pretext to shirk international obligations to refugees. The expulsion policy violates U.S. treaty obligations, including the 1951 Refugee Convention, 1967 Refugee Protocol, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, by returning refugees to countries where they are likely to face persecution or torture. The U.N. Refugee Agency (UNHCR) has [repeatedly confirmed](#) during the pandemic that expulsions of refugees and asylum seekers at borders without an individualized assessment of protection needs violate non-refoulement obligations under international law. UNHCR explained in its [legal guidance](#) on the COVID-19 response that states may not prevent people from seeking asylum or deny entry to people at risk of refoulement. In November 2020, UNHCR further [warned](#) that "measures restricting access to asylum must not be allowed to become entrenched under the guise of public health." In a January 2021 [statement](#) focused on expulsions and pushbacks of asylum seekers from Europe, the UNHCR Assistant High Commissioner for Protection explained that **"[t]he right to seek asylum is a fundamental human right. The COVID-19 pandemic provides no exception."** International legal scholars have further [explained](#) that "COVID-19 does not grant States carte blanche to trample on well-established principles of international refugee law."

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