

Delivered to Danger: Illegal Remain in Mexico Policy Imperils Asylum Seekers' Lives and Denies Due Process

In July 2019, the Trump Administration vastly expanded its “Remain in Mexico” policy – farcically named the “Migrant Protection Protocols.” Since January 2019, it has used this policy to expel over 28,000 asylum seekers and other migrants to Mexico. An estimated additional 18,000 asylum seekers are stranded in Mexico due to “metering”—the illegal policy of turning back asylum applicants at ports of entry. Forcing asylum seekers to remain in Mexico puts them in grave danger, makes a mockery of due process protections in U.S. immigration courts, and creates disorder at the border.

Better termed the Migrant *Persecution* Protocols (MPP), this policy is among the most harmful in a series of illegal moves by the administration (including turn-backs, a third-country transit asylum ban, and an asylum-seeker transfer agreement with Guatemala) to ban, block, and deter refugees from seeking protection. MPP violates legal prohibitions in U.S. law and international obligations on returning refugees to persecution, and blatantly flouts the asylum laws Congress adopted for refugees seeking protection at the border.

This report is based on interviews with dozens of asylum seekers stranded in Mexico, communications with attorneys, local advocates, and Mexican government officials, observations of immigration court hearings for more than 170 returned asylum seekers, and media accounts. U.S. government officials failed to respond to meeting requests from Human Rights First. After initial research at the U.S.-Mexico border in January and early February 2019, when MPP was first implemented, Human Rights First’s legal teams returned in June and July 2019 to observe MPP hearings in the San Diego and El Paso Immigration Courts and interview asylum seekers returned to the Mexican cities of Tijuana and Mexicali in Baja California and Ciudad Juárez, Chihuahua.

Human Rights First’s principal findings:

- ☑ **There are more than one hundred and ten publicly reported cases of rape, kidnapping, sexual exploitation, assault, and other violent crimes against asylum seekers returned to Mexico under MPP** – likely only the tip of the iceberg, as the vast majority of returned asylum seekers haven’t been interviewed by researchers or journalists. The dangers appear to be increasing; for example, reported kidnappings in Ciudad Juárez, the city adjacent to El Paso, rose by one hundred percent in the first six months of 2019. In late July, a Cuban asylum seeker waiting on a metering list was stabbed to death there. These human rights abuses are the predictable result of returning refugees to dangerous areas, where they are targeted because of their race, gender, nationality, and status as migrants.
- ☑ **The MPP fear screening process is a sham that returns asylum seekers to grave danger.** The Department of Homeland Security (DHS) is refusing to apply the screening standard adopted by Congress, instead creating a much higher standard. Moreover, it is not referring many asylum seekers to these flawed interviews and pressuring asylum officers to enter negative decisions in a process that lacks key safeguards required by international law. As a result, DHS sends asylum seekers to Mexico who had been kidnapped, raped, or pursued by persecutors there. DHS returned two Cuban asylum seekers without a screening interview even they though were kidnapped and raped in Ciudad Juárez while stranded there because of DHS’s illegal practice of “metering.”

- DHS uses MPP to separate families and has returned unaccompanied children, children with cancer, cerebral palsy, a heart condition, and other serious medical problems,** as well as adults with serious medical and mental capacity issues. DHS returned a 27-year-old asylum seeker from Nicaragua with severe injuries she sustained during beatings by members of a paramilitary force, even though the woman required a wheelchair and medical attention while in custody.
- MPP tramples on the due process rights of returned asylum seekers** and effectively makes it impossible for the vast majority to be represented by counsel in their immigration court removal proceedings. Nearly 99 percent of all returned asylum seekers were unrepresented through June, according to the latest available data from the immigration courts. In the immigration court hearings observed by Human Rights First in June and July, only six percent of individuals had managed to find an attorney. DHS is now returning individuals to even more remote and dangerous areas with even less available legal representation, and Mexico is busing returned individuals into the interior even farther away from U.S. immigration attorneys.
- The vast majority of asylum seekers returned to Mexico are left without a safe—or any—place to stay and very limited means to support themselves.** Despite Trump Administration claims that returned asylum seekers would receive humanitarian assistance, the Mexican government does not provide housing or other support and has only recently begun making work authorization available.
- By early August, DHS returned at least 28,569 people to Mexico with an average of over 450 men, women, and children now expelled each day.** The daily return rate rose by over 230 percent following a ruling by the U.S. Court of Appeals for the Ninth Circuit in early June allowing MPP to continue pending resolution of the lawsuit challenging the policy. In addition to those from Guatemala, Honduras, and El Salvador, MPP now applies to other asylum seekers. Twenty-two percent of those returned to Ciudad Juárez were from other countries, including Cuba, Nicaragua, and Venezuela.

Despite the glaring flaws of MPP, and the violence against asylum seekers, in July the Trump Administration expanded returns to Nuevo Laredo and Matamoros in Tamaulipas. The [State Department](#) directed American citizens not to travel to that region of the Mexican border with a Level Four threat assessment—the same for Afghanistan, Iraq, and Syria—and warned that “[v]iolent crime, such as murder, armed robbery, carjacking, kidnapping, extortion, and sexual assault, is common. Gang activity, including gun battles and blockades, is widespread.” DHS [reportedly](#) also plans to implement returns at other ports of entry in Arizona and Texas, where mass hearings could be held in tent courts with judges presiding by video, raising significant additional concerns for the safety and due process rights of returned asylum seekers. With the appeals court hearing in the [lawsuit](#) challenging MPP set for October, the Trump Administration can continue to deliver asylum seekers to danger.

Human Rights First urges the Trump Administration to:

- Cease 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 on asylum processing at ports of entry, and all attempts to send asylum seekers to countries, including Mexico and Guatemala, that do not meet the legal requirements for safe-third country agreements under U.S. law.
- Direct U.S. Customs and Border Protection (CBP) to restore timely and orderly asylum processing at ports of entry and ensure humane conditions for those held temporarily under CBP custody,** meeting all legal standards, including the Flores Settlement Agreement and DHS internal detention policies.



Rapes, Kidnappings, and Assaults of Asylum Seekers in Mexico

The Trump Administration is delivering asylum seekers and migrants to rape, kidnapping, and violent assault in Mexico, where they are targeted based on characteristics that mark them as foreign—their accent, skin color, and appearance—as well as their gender and sexual orientation. Some asylum seekers returned under MPP have been kidnapped outside of migration offices in Mexico, virtually in sight of U.S. officials. CBP is also returning asylum seekers who were previously targeted and harmed in Mexico in spite of the clear risk of further harm.

Even with the [State Department](#) warning American travelers to “reconsider travel” to Chihuahua state due to “widespread” “[v]iolent crime and gang activity,” the administration has returned more than ten thousand asylum seekers there. The homicide rate in Ciudad Juárez grew [fivefold](#) in the past three years to an astronomical 107 killings per 100,000 population. In early August, a couple were [shot](#) to death at the foot of the international bridge linking El Paso and Ciudad Juárez where asylum seekers are released after DHS return them to Mexico. The city also registered a [one hundred percent increase](#) in reported kidnappings in the first six months of 2019 compared to the same period last year. Kidnappings and violence against asylum seekers there are common. A Human Rights Watch report based on interviews with asylum seekers returned to Ciudad Juárez in May [documented](#) multiple sexual assaults, kidnappings, and violent attacks.

Asylum seekers returned to Baja California also face grave dangers. The state had the [largest number](#) of reported murders in Mexico in 2018, and in March 2019, Mexico’s Citizens’ Council for Public Safety and Criminal Justice named Tijuana the [most violent city](#) in the world based on its skyrocketing homicide rate. In Mexicali, a group of some forty men [attacked](#) residents of a migrant hostel with metal bars and pipes on June 17, the day prior to Human Rights First’s visit there, severely injuring several individuals including a Central American asylum seeker.

During its research, Human Rights First researchers documented the cases of 42 individuals returned under MPP to Mexico who were raped, kidnapped, assaulted, and/or pursued by persecutors there. In addition, although likely a gross underestimate of the harm to returned asylum seekers given the limited monitoring of the program

to date, review of published media accounts, NGO reports, court filings, and other publicly available information reveal at least 74 other MPP returnees subject to violent attacks or threats in Mexico.¹

CBP has returned asylum seekers who were previously targeted in Mexico, including those victimized while waiting in Mexico because of DHS's illegal practice of turning away asylum seekers at ports of entry:

- In late April 2019, armed men kidnapped three Cuban asylum seekers—Lilia*,² Yasmin* and Yasmin's common-law husband—while they were waiting for a taxi near Ciudad Juárez. Imprisoned for a week, Lilia and Yasmin were repeatedly raped by multiple men. A Mexican man who appeared to lead the group told them “that he knew [they] were Cubans and that [they] were migrants.” Eventually ransomed, the three spent weeks in hiding until June when they were finally able to request asylum at the El Paso port of entry, where they had placed their names on the asylum wait “list” three weeks prior to the kidnapping. However, CBP returned Lilia and Yasmin to Ciudad Juárez under MPP without a chance to explain their fear of returning there. Once in Mexico, Yasmin reflected, “we feel totally destroyed.” She added, **“I’m afraid of the men who kidnapped and raped us ... we almost never go out. We don’t call taxis, because we’re afraid that they might be involved with criminal groups. We’re still in hiding. Everyone here can tell that we’re Cuban because of the way that we dress, the way that our faces and bodies look, and the way that we talk. I’m afraid that what happened to me before will happen to me again.”**

MPP frequently delivers asylum seekers into the hands of corrupt law enforcement officials and organized criminal groups, who **target them on account of their gender, race and nationality. Returned individuals are frequently kidnapped outside of Mexican migration buildings, indicating a clear nexus to their status as migrants.** A few examples of this violence include:

- A Honduran woman who DHS returned to Ciudad Juárez was reportedly kidnapped in June by a group of men in federal police uniforms and repeatedly sexually assaulted. According to her attorney, Linda Rivas of Las Americas Immigrant Advocacy Center in El Paso, the woman is part of the Afro-Caribbean Garifuna minority and was vulnerable to targeting in Mexico because of her race, gender and nationality.
- When CBP officials returned Gisela*, a 28-year-old-asylum seeker from Honduras, to Ciudad Juárez from the El Paso port of entry, a trafficker kidnapped her as she left a Mexican migration office. She was raped and forced into sexual slavery for three months and escaped only when one of her captors offered to assist her to leave in exchange for sex. Now hiding at a Juárez church shelter, she is not safe. The parish priest told her that an unknown man recently came to the church looking for her.
- Immediately after Kimberlyne and her 5-year-old daughter, asylum seekers from El Salvador, were returned to Mexico by DHS following an initial hearing in the El Paso immigration court, they and another woman returned under MPP were kidnapped outside of an *Instituto Nacional de Migración* (National Migration Institute—INM) office in Ciudad Juárez. Kimberlyne's family was forced to pay a ransom to secure their release. When Kimberlyne attempted to make a police report, officers refused telling her that “nothing had happened” and that it “was just a scare.” Terrified of being kidnapped again, Kimberlyne and her daughter found temporary accommodation with a local woman, “but she says I’ll have to leave soon,” Kimberlyne reported.

¹ A list of these incidents is on file with Human Rights First.

² Human Rights First has used pseudonyms (indicated with an asterisk) to protect the identity of asylum seekers, many of whom face ongoing dangers or prefer to keep their identity anonymous for fear of reprisals.

- Irma*, a Salvadoran asylum seeker, was kidnapped in late June with her three children, ages 3, 10, and 14, after being returned to Ciudad Juárez by CBP. Irma and two other women who had just been returned to Mexico under MPP flagged down a passing minibus to ask for help because they had nowhere to stay. The three women and three children were instead kidnapped and held hostage for days with little to eat. Irma's 14-year-old son said one of the men shouted "that he was tired of so many migrants. He said [to us], 'why did you stay in this country?'" In early July, Irma's family in the United States was forced to make a \$2800 ransom payment after the kidnappers sent threatening messages to Irma's sister.
- In early June, R.G.A.M. and his 17-year-old daughter, asylum seekers from Guatemala, were kidnapped in Ciudad Juárez "immediately upon leaving the custody of immigration officials on the Mexican side of the border." They were held for a month while the kidnappers demanded ransom from family members and forced them to work. After escaping the kidnappers, R.G.A.M. and his daughter again requested asylum after turning themselves in to CBP officers after re-crossing the border. DHS sent them to the Berks County family detention center, according to documents filed by their attorneys.
- After DHS returned Sarai* and her 18 year-old-daughter, Maya*, asylum seekers from Honduras, to Mexico under MPP they were coerced to work by the owner of a migrant hotel in Ciudad Juárez where they had been staying. When the owner tried to rape Maya, Sarai and her daughter fled the hotel but were penniless. They spent three nights sleeping on the streets without eating before they were able to beg for enough money to reach an NGO on the Mexican side of the El Paso port of entry in early July to ask for help.
- In her first hours after DHS returned her to Ciudad Juárez under MPP, Blanca*, an LGBTQ asylum seeker from Guatemala, was walking with other asylum seekers when a group of men followed and robbed them. She sought safety at the main migrant shelter in the city, but it was at capacity, so she ended up in a rented room with other asylum seekers at a hotel catering to migrants. Later, Blanca and other asylum seekers were again attacked, and some were beaten by a group of men. "After what happened, I hardly ever go out," she said. "I'm really scared of the situation here."

Screening Sham

In an attempt to evade the safeguards Congress created for expedited removals, MPP ignores the credible fear process and creates a new sham screening for fear of return to Mexico. The design and implementation of these screenings make clear that they are not intended to protect asylum seekers and migrants at risk in Mexico but to expedite their return there despite these risks. The amicus brief submitted in the suit challenging MPP by the union for the asylum officers from the U.S. Citizenship and Immigration Services (USCIS), who conduct these screenings, wrote that "MPP fails to provide even the basic procedural protections available to asylum applicants subject to [expedited removal]." The MPP screening process is rigged against asylum seekers at every stage:

- Asylum seekers placed in MPP are frequently not asked if they fear return to Mexico (CBP officers are not required to ask under MPP) and, even if they affirmatively express a fear, CBP officers often fail to refer them for interview. DHS officials have reportedly "instructed [CBP officers] not to ask" asylum seekers whether they fear return to Mexico, a violation of international law standards.
- During subsequent MPP hearings, sometimes held months after asylum seekers are returned to Mexico, immigration judges can instruct DHS attorneys to refer returned individuals who express fear of return for screening. Yet judges fail to uniformly ask about fear of return, effectively denying a screening to those unaware of the need to affirmatively state a fear. **Only 25 percent of immigration judges affirmatively**

inquired about fear of return to Mexico during hearings Human Rights First observed in June and July in the San Diego and El Paso immigration courts.

- DHS has imposed an impermissibly high burden on asylum seekers to establish that they fear return to Mexico. Asylum seekers must prove that it is “more likely than not” that they would face persecution or torture in Mexico. This standard is equivalent to that required to receive withholding of removal protection in immigration court, i.e. a standard higher than for asylum and far higher than the standard to establish a reasonable or credible fear of persecution, the criteria Congress set out to halt an asylum seeker’s expedited removal and allow an asylum case to proceed in regular immigration court proceedings. MPP also plainly violates the international standard for returning asylum seekers through accelerated procedures. The UN Refugee Agency (UNHCR) has said that only asylum seekers with “clearly abusive” or “manifestly unfounded” claims may be subject to fast track removals. An asylum officer speaking to Vox reportedly stated that the standard for fear of Mexico screenings is “all but impossible to meet.”
- DHS denies asylum seekers basic due process protections—for instance, refusing to allow access to attorneys during screening interviews, refusing to accept or review evidence, failing to give asylum seekers time to rest and consult with a person of their choosing prior to the interview to prepare, and denying an opportunity to appeal negative decisions to an immigration judge. An attorney in San Diego stated that one client reported being kept in handcuffs during the fear screening—a practice that severely interferes with the ability of traumatized asylum seekers to disclose information about their fear of return.
- Attorneys for represented asylum seekers have repeatedly been excluded from fear interviews. An attorney from the Immigrant Defenders Law Center reported that her organization requested fear interviews for three clients but were permitted to monitor only one interview, which an immigration judge had ordered DHS to allow. Attorney Linda Rivas who accompanied four clients to the El Paso port of entry in early July to request fear interviews was not permitted to participate in any of the screenings.
- DHS officials are reportedly overruling decisions of asylum officers and DHS is returning asylum seekers to danger in Mexico even when these officers determine asylum seekers face a great risk of harm if returned and thereby meet the high screening standard. USCIS declined to provide information regarding the number of screenings conducted by asylum officers and the passage rate, citing ongoing litigation challenging MPP; however, data from the Syracuse University Transactional Records Access Clearinghouse (TRAC) shows that as of June only one percent of individuals in MPP (146 out of 13,990) were removed (including those who passed a fear screening).
- UNHCR made clear in an amicus brief that fear screening procedures, like those employed by DHS in MPP, “lack key safeguards required by international law” as “applicants are not asked whether they fear harm in the receiving country and must express that affirmatively; 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.”

Under DHS’s sham screening process, CBP officers have returned individuals to Mexico who had already been subjected to rape, kidnapping, assault and other violence in Mexico as well as asylum seekers who had been pursued to Mexico by their persecutors. Asylum seekers screened by USCIS and returned by CBP despite their fears of harm in Mexico have subsequently been the victims of kidnapping, rape, assault and other violence.

CBP’s sham screening processes are unsurprisingly resulting in routine failures by immigration officers to refer individuals who face clear threats in Mexico for screening:

- CBP officers ignored the attempts of Lilia and Yasmin, Cuban asylum seekers, to express their fear of return to Mexico where they had been kidnapped and raped after placing their names on CBP’s asylum metering wait “list” at the El Paso port of entry. “We thought that when we entered the United States, we’d finally be safe,” Yasmin told Human Rights First. When the pair were placed in MPP, Yasmin tried to explain her fear of Mexico, but a CBP officer said that whatever had happened in Mexico “did not matter.” Yasmin recalled that CBP officers “said we had no rights.” One officer said, “It’s better to give Cubans \$20 and send them back to Cuba.” Lilia and Yasmin were returned to Ciudad Juárez without a fear screening, while Yasmin’s partner was detained and processed through the expedited removal process.
- The Honduran asylum seeker who was reportedly kidnapped and sexually assaulted after DHS returned her to Ciudad Juárez under MPP was not referred for a fear screening before return even though she affirmatively expressed a fear of return. According to her attorney, the woman informed CBP officers when they placed her in MPP that, as a black woman from the Afro-Caribbean Garifuna minority, she was afraid to be sent to Mexico. She explained to the officers that she “had a target on her back” because of her race, but they ignored her fears and failed to refer her case for screening.
- Fredi*, a 20-year-old Salvadoran asylum seeker, and his five-year-old daughter were returned to Mexico after CBP officers refused to refer them for a fear screening and did not allow Fredi to explain that gang members had followed him from El Salvador and were threatening him in Mexico. Fredi tried to describe his fear of remaining in Mexico, but a CBP officer ignored him and instead accused Fredi and his daughter of being a “fake family” even though Fredi’s name appears on his daughter’s birth certificate. Fredi was only able to request a fear screening, which he passed, during his first immigration court hearing in mid-July after months of living in fear in Ciudad Juárez.
- CBP reportedly returned Franklin* to Ciudad Juárez despite his fear that assassins had followed him there after he testified against cartel bosses in his Central American home country. Returned by CBP to Mexico under MPP, Franklin narrowly escaped an attempt on his life when two men spotted him on a bus shouting, “Get him! Kill him!” The bus driver sped away, saving his life. Franklin was only able to obtain a fear screening interview when a Catholic bishop accompanied him and a small number of other asylum seekers to request protection at the El Paso port of entry in July. Franklin passed that interview and was released to pursue his asylum claim.

While a miniscule percentage of asylum seekers pass DHS’s farcical fear of Mexico screenings, most have been returned after MPP screening interviews even when they have been previously targeted for kidnapping and assault or face other threats of harm:

- Sarai and her daughter Maya did not pass their MPP fear screening and were returned to Ciudad Juárez, even though the man who subjected them to labor exploitation and attempted to sexually assault Maya remains in the city and is holding their identity and other important documents. Maya was forced to go ahead with her interview while her mother was hospitalized after they sought protection at the port of entry. Further, USCIS did not permit Sarai and Maya’s lawyer to participate in the interview.
- Irma and her three children, who were kidnapped and held for ransom for days, were returned again to Ciudad Juárez by DHS after an MPP fear screening. Irma, who appeared to be in shock when Human Rights First met her a few days after she escaped from the kidnappers, was interviewed and returned to Mexico by CBP with her children within 48 hours of entering the El Paso port of entry to request the MPP screening interview—she was not given an opportunity to rest and recuperate or to have her lawyer present during the screening.

- Karla*, a Honduran asylum-seeker, was returned to Mexicali despite presenting evidence that she and her three-year-old son were receiving threats in Mexico. According to Karla, CBP officers refused to accept a printout of the threatening messages, and she was unable to present this crucial evidence to the asylum officer who interviewed her by telephone. Karla does not know what to do to protect herself and her son: “No parent wants something to happen to their child.”
- Javier*, a 48-year-old Salvadoran asylum seeker, failed his fear screening and was returned to Mexico by CBP under MPP even though he had twice been assaulted in Mexico and had a copy of a police report he had made about the incident. Javier also feared remaining in Ciudad Juárez because the day prior to Human Rights First’s visit to the church-run shelter where he was staying, a man was shot dead outside on the street in broad daylight.

According to one media [report](#), CBP claims that it does not return LGBTQ asylum seekers to Mexico under MPP because Mexican migration officials will not receive them. A 2017 [report](#) by Amnesty International found that LGBTQ migrants face particular violence and discrimination based on their sexual orientation and gender identity in Mexico. Because CBP officers are not required to screen for sexual orientation or gender identity (nor ask any questions about fear of return to Mexico), it is unclear how CBP would avoid the return of LGBTQ individuals to Mexico. Human Rights First encountered numerous LGBTQ persons returned under MPP:

- CBP officers failed to refer Eugenia*, a lesbian asylum seeker from Honduras who was subjected to severe persecution in her home country and has visible scars as a result, for a fear screening before returning her to Mexico. An officer told her on return to Ciudad Juárez that she was “on her own.”
- CBP separated Joana*, an 18-year-old lesbian asylum seeker from Honduras, from her father while in CBP custody and returned her to Mexico without a fear screening. Joana’s father was expelled to Ciudad Juárez. When Joana was returned days later, her father had left the city as he was sick from his time in CBP custody and unable to find shelter. Joana too found herself with nowhere to stay in Ciudad Juárez and without her father to help protect her.

Separated Families at Risk

CBP uses MPP to separate families by returning some family members to Mexico leaving them at risk of harm there. Despite the purported end of DHS’s family separation policy following a June 2018 executive order, hundreds more children have been separated from their parents. Adult family members are also separated from minor siblings, nieces, nephews, grandchildren, and other children they care for even when they have legal guardianship. DHS, for example, returned a Guatemalan asylum seeker to Mexico under MPP and separated him from his younger brother over whom he had been granted legal custody after their father’s murder. Under MPP, adult family members have been returned to Mexico while their children are placed in the shelters run by the Office of Refugee Resettlement (ORR) or processed with other adult family members. Human Rights First encountered multiple family separations under MPP, including:

- During an El Paso immigration court MPP hearing observed by Human Rights First on July 8, **19-year-old Fatima said that she had been separated from her five-year-old daughter: “Your Honor, I was separated from my daughter. I need to be with her. I’ve never been [apart] from her.”** A victim of rape at 13, Fatima lacked identity documents at the time to register as her daughter’s mother. Fatima’s attorney, Taylor Levy, reported that CBP forced Fatima to accompany her daughter to an airport where she was taken from her mother and flown to an ORR facility for unaccompanied children. Fatima is awaiting the results of a DNA test to prove her relationship with her daughter.

- CBP sent Kimberlyne and her daughter to Mexico separating them from Kimberlyne’s husband and 7-year-old son when the girl fell ill in CBP custody. After days in makeshift CBP detention facilities under the Paso del Norte Bridge and a desert tent camp with limited food and heavily chlorinated water that burned their lips, Kimberlyne’s daughter collapsed. The child was sent to a local hospital with her mother. **“When I returned to the camp with my daughter, my husband and son were gone. They’d been released. No one had told me that was happening,”** Kimberlyne said. CBP returned Kimberlyne and her daughter to Mexico where a taxi driver kidnapped them outside of a Mexican migration office in Ciudad Juárez.
- CBP in El Paso also separated Blanca from her longtime partner and partner’s son, when they sought asylum after facing violence in Guatemala because of their sexual orientation. **Blanca said, “[w]hen we told [Border Patrol] we were a couple, the officers in the green uniforms told us that if we weren’t married, we couldn’t stay together.”** She was expelled to Mexico after 20 days in CBP holding cells. “No one ever asked if I was afraid of being in Mexico,” she said. “They just gave me papers to sign. That’s it.” In Juárez, Blanca and other asylum seekers were repeatedly robbed and assaulted.
- CBP separated Rohelia*, a 24-year-old asylum seeker and her 15-year-old brother after they crossed the border in mid-April near the El Paso port of entry. Held for two weeks in a CBP tent camp, Rohelia reported that officers falsely told her she would be reunited with her brother but instead pressured her to sign documents acknowledging her return to Mexico under MPP. Rohelia was expelled to Ciudad Juárez around 3 o’clock in the morning in late April by CBP without anywhere to go. Her brother was sent to an ORR facility, and she has not seen him in more than three months.

Vulnerable Individuals Returned in Violation of DHS Policy

DHS returns unaccompanied and sick children as well as vulnerable adults to Mexico under MPP in violation of internal policy. Under that policy, vulnerable individuals including unaccompanied children and those with “known physical/mental health issues,” are not to be returned to Mexico. Yet CBP has repeatedly returned individuals with serious medical conditions that were known or would have been obvious to CBP officers. Human Rights First interviewed and received reports from lawyers and advocates of many vulnerable individuals returned to Mexico, including:

- a 16-year-old girl from Honduras who CBP returned to Tijuana with her one-year-old infant daughter despite knowing the girl’s age and that she was not accompanied by a parent; Jewish Family Services spoke with the returned girl and confirmed that her U.S. immigration documents contain her correct birthdate;
- a 27-year-old asylum seeker in Tijuana with severe back injuries sustained during beatings by members of a Nicaraguan paramilitary force; she required a wheelchair while detained in CBP custody and suffered a series of panic attacks, which required treatment by a CBP doctor;
- Ariel, a 19-year-old Honduran asylum seeker, suffered an epileptic seizure while being returned to Tijuana because he did not have access to his medication while in CBP custody, despite a doctor’s letter explaining his condition and provided to CBP by Ariel’s Human Rights First attorney;
- an asylum seeker who was seven-months pregnant returned to the extreme heat in Mexicali;
- an eight-year-old Guatemalan boy in Ciudad Juárez with a prosthetic eye who requires continuing medical care and monitoring to ensure that the cancer that took his eye does not reoccur;

- a six-year-old girl from Honduras in Tijuana with “advanced Cerebral Palsy and significant developmental delays,” according to an independent medical assessment viewed by Human Rights First;
- a man with the cognitive capacity of a four-year-old who was repeatedly dumped in Ciudad Juárez despite multiple requests from his lawyer to CBP to review the appropriateness of his placement in MPP and verbal assurances from a CBP official that he would be removed from MPP;
- an asylum-seeking woman CBP returned to Ciudad Juarez who is deaf and non-verbal;
- an eight-year-old Honduran girl with a heart condition suffering fainting spells and vomiting in the extreme heat in Mexicali; and,
- a 16-year-old autistic boy with limited ability to speak and who is sensitive to touch returned to Tijuana.

Refouling Returned Refugees from Mexico

DHS’s return of asylum seekers to Mexico under MPP violates U.S. *non-refoulement* obligations not only by exposing them to serious danger in Mexico but also because returned individuals are at high risk of onward *refoulement*, or illegal return, to their home countries where they face persecution or torture. As UNHCR has stressed in its amicus brief in the MPP litigation, “the principle of non-refoulement protects refugees from being transferred to a State in which they might not face persecution, but from where that State would send the individual on to persecution in a third country, referred to here as ‘chain refoulement.’” Under international law, before returning an asylum seeker a state “must assess ... whether there is a risk that the receiving State will *refoule* the individual to yet another State.” Yet DHS returns asylum seekers to Mexico under MPP despite evidence that Mexican migration authorities routinely fail to provide humanitarian protection to asylum seekers as required under domestic and international law.

- The State Department’s 2017 human rights report on Mexico noted that an independent Mexican advisory body found “incidents in which immigration agents had been known to threaten and abuse migrants to force them to accept voluntary deportation and discourage them from seeking asylum.”
- A 2018 report by Amnesty International found that 24 percent of the 500 asylum seekers surveyed had indicated fear of persecution to Mexican officials but were ignored and arbitrarily deported back to their countries of persecution.
- A report by Human Rights First also found that “Mexican migration officers deport Central Americans who have expressed fear of return despite the country’s *non-refoulement* and human rights obligations.”

Under pressure from the U.S. government, INM officials have ramped up deportations, with more than 71,000 individuals removed from Mexico between January and June 2019—a 33 percent increase from the same period in 2018. Following the agreement to expand MPP in June, Mexico deployed nearly 21,000 national guard troops—almost one-third of the total ranks—to Mexico’s borders. Mexico’s Human Rights Commission expressed alarm over the potential for human rights abuses. The Mexican government also slashed the 2019 budget for COMAR—the Mexican asylum agency—by more than 27 percent despite a 200 percent increase in asylum applications filed in Mexico this year.

Asylum seekers returned to Mexico under MPP are at significant risk for refoulement to their home countries where they fear persecution:

- An asylum seeker returned to Mexico under MPP was *refouled* to Guatemala by INM, despite expressing a fear of return and showing police her U.S. court papers, according to Amnesty International.

- An indigenous, Mam-speaking asylum seeker reported in San Diego immigration court in June, according to volunteer court monitors, that police in Mexicali had arrested and deported him to Guatemala from Mexicali, but that he had returned to attend his hearing and request asylum in the United States.
- Alec*, an Evangelical pastor from Honduras who Human Rights First is representing in his claim for asylum, was stopped by police in Tijuana who threatened to deport him because of his status as a migrant. A judge at the San Diego immigration court later granted Alec asylum in early August – the first reported grant of asylum to an asylum seeker subject to MPP. However, DHS placed Alec in CBP custody following the hearing and appeared poised to return him to Mexico pending appeal.
- INM agents detained 12 Cuban asylum seekers returned to Mexico under MPP during an illegal raid on a church registered on the local government’s list of shelters housing asylum seekers in Ciudad Juárez on June 28. Intervention by Enrique Valenzuela of the *Consejo Estatal de Población* (State Population Counsel or COESPO) of Chihuahua, which registers returned asylum seekers and asylum seekers on the CBP “metering” list, halted their deportations.
- Mexican police stopped a Honduran asylum seeker in Ciudad Juárez, tore up the Mexican migration documents he received when he was returned through MPP (*forma migratoria múltiple* – a paper tear-card used for temporary visitors), and illegally handed him over to INM for deportation to Honduras, according to other Honduran asylum seekers familiar with his case. Human Rights First confirmed that he was deported to Honduras.

Many asylum seekers reported to Human Rights First that Mexican law enforcement officials extorted and threatened to deport them. For example:

- While on a bus in Mexico uniformed officers boarded and threatened to deport Maria* and her daughters to El Salvador. Maria recalled: “They said that if I didn’t give [my money] to them they would deport me back to El Salvador. One of them asked my 15-year-old daughter if she had money. She said she didn’t have anything, and he said, ‘ok, let me touch you instead.’ She told him ‘no.’ Thank god, he listened.”
- A group of four Cuban asylum seekers in Mexicali reported that Mexican federal police forced them from a bus near Mazatlán threatening to beat them and turn them in to immigration for deportation if they refused to hand over whatever money they were carrying. A woman in the group said that officers groped her as they searched for valuables to steal.

Trampling Due Process

For refugees at the southern border the legal barriers to receiving asylum in the United States are now nearly insurmountable with MPP, asylum turn-backs, asylum bans, and the Guatemala agreement working in concert to undermine due process and effectively block asylum.

MPP severely interferes with due process rights of returned individuals in immigration court—restricting access to counsel, legal information, and the ability to attend and participate in hearings. Further, the third-country transit asylum ban, if it proceeds, would bar refugees at the southern border from receiving asylum if they transited through a third country en route to the United States unless they qualify for one of the few limited exceptions. While the ban does not apply to asylum seekers returned to Mexico before July 16, according to a Department of Justice spokesperson, those subject to the ban will be permitted to apply only for withholding of removal and CAT protection. Effectively cut off from attorneys in the United States by MPP, few refugees are likely to meet the excessively high requirements to receive these highly deficient forms of protection from deportation. As a result,

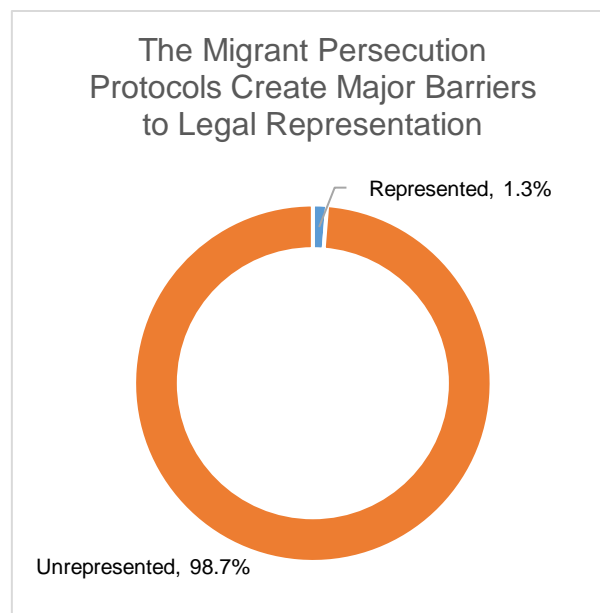
asylum seekers in MPP, even those with well-founded fears of persecution, are likely to be denied asylum and other forms of protection and be deported to countries where they fear persecution.

Human Rights First spoke with attorneys and legal services organizations in California, New Mexico, and Texas, observed the hearings of over 170 returned individuals before five judges in the El Paso (June 11–July 18) and San Diego (June 17–20) immigration courts, reviewed court monitoring information collected by the HOPE Border Institute in El Paso and volunteers associated with *Al Otro Lado* in San Diego, and analyzed data released by the Executive Office for Immigration Review—the agency that houses the immigration courts. This research reveals:

- MPP seriously undermines the right guaranteed under Section 292 of the Immigration and Nationality Act to be represented by a lawyer. **Just 1.3 percent of MPP returnees had lawyers, as of the end of June, according to immigration court data released by TRAC.**
- These low representation rates are the predictable consequence of a policy that effectively prevents asylum seekers from searching for an attorney in the United States and the acute safety, logistical, and funding impediments that prevent many U.S.-based legal services organizations and individual immigration attorneys from representing asylum clients returned to Mexico.
- Restrictions by the immigration courts on legal orientation sessions and assistance from pro bono attorneys as well as the use of video-teleconferencing (VTC), group hearings, and video translation undermine the ability of asylum seekers to understand and participate in their own removal proceedings.
- Stranding asylum seekers in Mexico creates fundamental barriers to attend court hearings and prepare their cases, as asylum seekers are cut off from attorneys in the United States who could explain immigration court procedures, as well as to help to prepare their asylum applications, collect evidence, and represent them in court. As a result, very few returned asylum seekers are likely to win their cases, despite many having valid asylum claims. Some may be ordered removed *in absentia* because CBP provides inaccurate notices for hearings that are often set many months away stranding asylum seekers in Mexico with no means to support themselves.

A minuscule number of asylum seekers returned to Mexico under MPP have managed to find lawyers while stranded there, resulting in abysmal and unprecedentedly low representation rates:

- Data from the immigration courts released by TRAC reveals that attorneys entered official notices of representation for only 181 of the 14,171 MPP cases (1.3 percent) filed with the immigration courts through June. **In nearly 99 percent of cases, individuals returned under MPP did not have a lawyer registered with the court. Only 55 of the 6,835 individuals returned at the El Paso port of entry had an attorney – a representation rate of just 0.8 percent. For those returned at the Calexico port the rate was 1.3 percent (39 of 2,951) and 2 percent for the San Ysidro port (87 of 4,385).** Because DHS is now returning individuals to even more remote and dangerous areas with even less available legal assistance, representation rates are likely to fall even further.



- By the time of their hearings, a very small percentage of returned asylum seekers have managed to find lawyers. During Human Rights First's observations of MPP hearings in the San Diego and El Paso immigration courts in June and July, **less than six percent of asylum seekers (10 out of 171) had managed to find attorneys**. Despite these alarmingly low representation rates, judges repeatedly stated that because some asylum seekers had been able to find counsel, they expected unrepresented individuals to return with an attorney at the next hearing.
- At one church-based shelter in Ciudad Juárez, the shelter director reported that none of the more than 60 individuals returned to Mexico under MPP had legal representation at the time of their stay there.
- These representation rates are far below those for asylum seekers in removal proceedings generally. According to data from the TRAC Asylum Decisions [tool](#), 92 percent of non-detained and 54 percent of detained asylum seekers whose cases concluded in FY 2018 had legal representation at some point during the proceedings. Asylum seekers with lawyers are four times more likely to be granted asylum than those without counsel.

These extremely low representation rates are the predictable (perhaps intended) result of DHS delivering asylum seekers to Mexico during their immigration court proceedings in the United States:

- While DHS gives asylum seekers lists of legal service providers for the San Diego and El Paso courts, these organizations do not have offices in Mexico where their attorneys could meet with returned asylum seekers in a safe and confidential setting to evaluate their cases and offer representation. Travel to Mexico also presents significant safety concerns that prevent many organizations from asking staff to go to dangerous border towns to represent clients. Crossing the border can also require a significant amount of time at ports of entry with long processing delays. Some U.S. immigration attorneys expressed concern about meeting with clients in Mexico, as the administration failed to secure any guarantees from Mexico about whether U.S.-licensed lawyers would require work visas to visit clients in person or might face sanctions for the unlicensed practice of law in Mexico. Funding restrictions from federal and state grants allow some organizations to represent clients only within the United States or a particular state or locality.
- Many asylum seekers Human Rights First interviewed with strong protection claims reported that they had contacted every organization on these lists, as well as private attorneys, and had been turned away either because the lawyers could not take on cases in Mexico or did not have sufficient staff.
 - In Mexicali, Milagro*, a returned Guatemalan asylum seeker said that after appearing pro se in immigration court several times: "I don't have money for a lawyer. One calls the free lawyers, but they don't answer. I decided to defend myself. I gave up my right to an attorney." Milagro has a legally valid asylum claim based on severe domestic violence. In Guatemala, she called the police to report her abusive partner but was rebuffed. "He wasn't arrested. He kept hurting me. He started threatening he was going to kill me." Milagro cannot fill out her asylum application or submit written declarations from witnesses, as these documents must be prepared in English. But she is determined to proceed because she fears being returned to persecution in Guatemala: "I have to look for help to fill out these [forms]."
- Currently, there are no legal services organizations in Mexicali to represent the asylum seekers DHS returns there. The migrant-rights organization *Al Otro Lado* offers two-day self-help clinics to assist unrepresented individuals to understand whether they may qualify for asylum and to fill out their asylum applications in English, if they choose to proceed. But asylum seekers must travel over two hours to Tijuana and stay overnight—a major logistical, security, and financial barrier—just to obtain some help in filing a pro se asylum application, but not an attorney to provide actual legal representation.

- Mexican immigration officials are busing some returned individuals into the interior of Mexico, effectively cutting them off from any opportunity to meet with U.S.-based lawyers operating in the border region. In July, INM sent five hundred asylum seekers returned by DHS to Nuevo Laredo to the city of Monterrey, 140 miles from the border. Although promised housing and other assistance, the asylum seekers were dumped at the city bus station where they learned that migrant shelters in the city were full. In early August, asylum seekers returned by DHS to Nuevo Laredo were bused 1,400 miles away to Tapachula on the Mexico-Guatemala border.
- Security concerns in Mexico are so great that some shelters restrict access to cellular phones in their facilities to reduce the risk migrants will be targeted for kidnapping. These restrictions unfortunately also hamper the ability of returned asylum seekers to contact and communicate with lawyers as these shelters allow residents only a few, minutes-long calls per week—effectively forcing asylum seekers to choose between secure housing and an opportunity to find a lawyer and apply for asylum.
- Stranding asylum seekers in Mexico also prevents many from meeting with medical professionals who could often provide crucial corroborating evidence in asylum claims through forensic medical and psychological evaluations. In San Diego, DHS has refused to allow returned asylum seekers to enter the United States to receive such evaluations, according to attorneys from Jewish Family Services.

EOIR exacerbates these representation barriers by limiting access to legal information and assistance from volunteer lawyers when returned asylum seekers attend U.S. immigration court hearings:

- Immigration courts conducting MPP hearings have blocked legal services groups from providing crucial legal information and from screening returned asylum seekers while they are in the United States attending their immigration court hearings—denying unrepresented asylum seekers their only opportunity to meet in the United States with attorneys who might be able to represent them. The San Diego court has not allowed any provision of legal information to returned asylum seekers prior to court even though asylum seekers are brought to the court approximately one hour before their scheduled hearings. While the El Paso immigration court initially permitted legal orientations and meetings with potential clients, in late June the court administrator informed legal groups that only attorneys who have filed a notice of representation may speak with asylum seekers in MPP proceedings. By preventing non-profit legal services groups from speaking to unrepresented individuals to assess whether to take on their cases, the immigration court has effectively blocked asylum seekers in MPP from meeting with attorneys.
- The resulting lack of legal information and representation contributes to confusion and delays during hearings. On the day the El Paso immigration court first blocked asylum seekers from receiving legal orientations, Human Rights First observed an immigration judge extend court proceedings well past court closure when the judge realized at the end of an hours-long group hearing that two women could not understand the Spanish interpreter. The women had agreed to proceed without counsel when questioned in Spanish but with the proper Ixil-language interpreter the women explained that they needed more time to find an attorney. Meetings with volunteer attorneys prior to court could have identified the need for an indigenous language interpreter, prevented the delay, and ensured that these asylum seekers were provided time to find an attorney.
- Despite assurances from CBP that returned asylum seekers “may arrange to meet with [their] counsel in-person, in the United States, at [their] assigned court facility, prior to th[eir] hearing,” the San Diego immigration court does not provide space for confidential client meetings. Human Rights First observed attorneys speaking with clients in the waiting room in earshot of other returned asylum seekers, Immigration and Customs Enforcement (ICE) officers, private security guards, and members of the public.

- In El Paso, Human Rights First observed **an immigration judge continue a case despite concerns about the competency of an older Guatemalan man who did not appear to comprehend the nature and object of the removal proceedings, including whether he was appearing in a U.S. or Mexican court.** Despite suggestion from an attorney appearing as “friend of the court,” the judge refused to conduct a competency hearing and told the friend of court she was overstepping her role. In the friend of court role attorneys do not represent individual respondents but “assist the court and increase respondents’ comprehension of proceedings” by gathering and conveying information, helping the individual to navigate court room procedures and fill out forms among other functions. In July EOIR prohibited attorneys acting as “friend of court” during MPP hearings.
- With no legal representation or friend of court present in San Diego, Human Rights First witnessed a judge **repeatedly prevent an unrepresented Guatemalan asylum seeker from asking questions or providing information to the court during his hearing and even instructed the telephonic Mam-language interpreter not to interpret his statements.**

The use of VTC, group hearings, and video translation violate the due process rights of returned asylum seekers to understand and participate in the removal proceedings against them.

- For the first time, in late June, MPP hearings at the San Diego Immigration Court were conducted remotely through VTC with judges at the immigration court in the Otay Mesa detention center. The use of VTC raises substantial due process concerns. A 2017 report commissioned by EOIR itself found that VTC may be so disruptive that “due process issues may arise.” Judges found it difficult to interpret body language and nonverbal communication, which some judges consider in making credibility determinations. Further, a Government Accountability Office report from 2017 cited concerns from court officials and experts that VTC creates numerous hearing challenges because of technical difficulties, confusion by unrepresented individuals, and translation problems.
- In July, construction began of tent court facilities in Laredo where judges will hear cases by VTC from courtrooms across the country. Potential restrictions on access to tent court facilities for legal services organizations, as well as legal monitors and members of the media, raise additional serious concerns about the due process rights of returned asylum seekers.
- **Group hearings, in which rights are explained and pleadings taken en masse, interfere with the rights of asylum seekers to understand the process and their obligations during removal proceedings.** Because some asylum seekers may feel pressure not to disrupt group hearings with questions or are reluctant to indicate that they are unable to understand the judge or interpreter, as with the Ixil-speaking women noted above, they risk misunderstanding or waiving crucial rights. An asylum seeker in Mexicali, for example, explained that she did not attend her second hearing because she believed the judge had ordered her to appear with an attorney at the next hearing. Not having understood her right to represent herself, she feared she would be immediately deported if she returned without a lawyer.
- EOIR’s plans to use recorded video instructions in Spanish during initial immigration hearings, announced in July, to explain courtroom proceedings as well as asylum seekers’ basic rights and obligations would severely compromise the ability of individuals in MPP hearings to understand the even more complicated immigration court process for those returned to Mexico.

MPP creates major barriers for asylum seekers to attend immigration court hearings that can result in judges issuing *in absentia* removal orders:

- R.G.A.M., an asylum seeker from Guatemala, and his 17-year-old daughter missed their initial immigration court hearing in early July because they had been kidnapped and were being held for ransom in Ciudad Juárez at the time. A judge at El Paso immigration court ordered them removed *in absentia*.
- Another asylum seeker was ordered **removed** *in absentia* after Mexican immigration officials in Ciudad Juárez refused to allow him to approach the El Paso port of entry in order to attend his hearing.
- **Two women failed to appear in the El Paso immigration court for a hearing because they were too afraid to leave the shelter where they were staying in Ciudad Juárez.** DHS requested that the immigration judge enter *in absentia* removal orders against the women and their children. An attorney with Las Americas Immigrant Advocacy Center acting as friend of court argued that the court should excuse their absence given the extraordinary circumstances the women faced.
- **Many returned asylum seekers, who are severely restricted in their ability to legally work in Mexico, lack the means to get to court.** For instance, those returned to Mexicali must travel hours to Tijuana the day before their hearings to appear early in the morning at the port of entry for transport to court. Myra*, a 28-year-old Honduran woman with a five-year-old son went days without food because she had spent what money she had to pay for space at a shelter. Money wired to Myra from a family member to pay for transportation to court was stolen by the man she asked to receive the funds. Myra could not receive the transfer since CBP confiscated her identity documents. The organization Border Kindness helped Myra to travel to Tijuana for her hearing, but many asylum seekers in Mexicali who Human Rights First met were unaware of this one-of-a-kind assistance. Asylum seekers returned by DHS to Nuevo Laredo and shipped to the interior of Mexico by INM are also at risk of missing court if they lack the means to return to the border for their hearings.
- Despite promises from Trump Administration officials that initial hearings would be scheduled within 45-days, according to EOIR scheduling data reviewed by Human Rights First, the El Paso immigration court began scheduling initial hearings as far out as January 2020 for asylum seekers returned to Mexico in May 2019. Shelter staff in El Paso also reported that **some asylum seekers returned in May and June under MPP received initial hearing dates between March and July 2020—leaving desperate asylum seekers with a nearly year-long wait in dangerous and difficult conditions.** Without the ability to support themselves and their families in Mexico, some asylum seekers may risk return to persecution in their home country in order to feed and house themselves and their families.
- **Scheduling and document errors by EOIR and DHS may lead to confusion in hearing dates.** In San Diego immigration court judges expressed concern that individuals may have missed court because EOIR provided conflicting information about hearings dates. Several cases had been rescheduled with the new hearing dates updated in the immigration court telephone hotline. But as the court could not mail hearing notices to asylum seekers in Mexico because DHS does not record their addresses or who are homeless there, the court returned the hearings to their original dates. One immigration judge refused to issue *in absentia* removal orders requested by DHS in these circumstances. A San Diego judge also declined to issue an *in absentia* order in a case where DHS had issued two Notices to Appear (NTA—the charging document initiating removal proceedings) with different hearings dates. Because DHS records submitted to the court indicated that the man had been instructed to appear on the original date, the immigration judge declined to enter a removal order despite DHS’s request to do so.

Disorder at the Border

The rollout of MPP has not “provide[d] a safer and more orderly process that will discourage individuals from attempting illegal entry,” as the administration claimed, but instead does precisely the opposite.

MPP wastes government resources as: CBP officers repeatedly process returned individuals each time they approach the ports of entry to attend immigration court hearings, ICE officers accompany and private security officers guard returned asylum seekers as they wait for their hearings in immigration court, asylum officers conduct MPP fear screenings instead of deciding affirmative asylum applications and credible/reasonable fear interviews, and immigration courts at the border are overwhelmed with MPP cases pushing previously scheduled cases deep into the backlog.

As discussed above, returned asylum are abandoned in Mexico without meaningful support from the U.S. or Mexican government—leaving many homeless, hungry, and facing mortal dangers in border towns. Yet at the same time the administration began deploying MPP, CBP drastically slowed asylum processing at ports of entry leaving asylum seekers waiting in danger, increasingly for months. In late July, a Cuban asylum seeker who waited for two and a half months on the metering “list” at the El Paso port of entry was stabbed to death in Ciudad Juárez. Desperate returned and waiting asylum seekers have risked and lost their lives attempting to cross the border between ports of entry in search of safety in the United States. In late July, a Guatemalan woman returned to Ciudad Juárez under MPP drowned while attempting to cross back into the United States, and a Salvadoran asylum seeker returned to Ciudad Juárez died in Border Patrol custody shortly after crossing the border in a remote region of New Mexico.

With CBP implementing MPP at the San Ysidro, Calexico, and El Paso ports of entry in June, the agency appears to have even further restricted the number of refugees processed under its practice of “metering” asylum seekers. As a result, waitlists and wait times have grown rapidly:

- **CBP did not accept any asylum seekers from the metering list at the San Ysidro port of entry for nine days during the first two weeks of July, processing fewer than 70 asylum during that period.** From mid-June to mid-July, CBP processed only 11 asylum seekers on average per day according to legal observers monitoring the port of entry for *Al Otro Lado* – a marked decline from 41 processed per day in January 2019 and around 60 in November 2018. Because of these restrictions, the list has grown to over 10,000 in Tijuana by early August. Wait times have also increased. Asylum seekers accepted at the San Ysidro port in late June had been waiting more than three months – an increase from the five to six-week wait in January. CBP has the capacity to process 90 to 100 people per day at the San Ysidro port and, during FY 2015, processed 68 asylum seekers on average per day in the San Diego region. Indeed, after the Administration implemented the third-country transit asylum ban on July 16, processing at the San Ysidro port of entry rose to 40 people per day.
- **For ten consecutive days in late July after the announcement of the third-country transit asylum ban, the El Paso port of entry did not process any asylum claims and accepted only 15 asylum seekers on July 31**, according to Enrique Valenzuela from COESPO—the Mexican agency that registers asylum seekers waiting to approach the El Paso port of entry. In June, the port processed fewer than 35 asylum seekers per day on average. Before MPP was implemented, CBP processed up to 65 asylum seekers per day in February. The wait time has grown from three to five days in February to an expected three-month wait currently. The list of waiting asylum seekers maintained by COESP also expanded from 550 in February to over 5,514 by July 18.
- The wait period and list at the Calexico port of entry have also grown. When Human Rights First visited Mexicali in November 2018, fewer than two hundred asylum seekers were on the port metering list with a

25 to 30 day wait. As of May 2019, after MPP implementation began, the waitlist included some eight hundred asylum seekers with a two-month wait.

To escape danger and desperation in Mexico, some asylum seekers are being pushed to cross the border between ports of entry. For example:

- R.G.A.M. and his 17-year-old daughter re-crossed the border after escaping from the criminals who kidnapped them immediately after their return to Ciudad Juárez in June and held them for over a month.
- Camilo*, an asylum seeker from Honduras who fears persecution due to his participation in opposition politics crossed the border twice after being returned to Mexico because he was afraid to remain there. On the third crossing, CBP referred Camilo for prosecution for misdemeanor illegal entry (8 U.S.C. § 1325). Immigration documents reviewed by Human Rights First indicate that Camilo was initially removed from MPP and referred to expedited removal proceedings. However, after an initial appearance in federal district court, the criminal charges were dropped.

The chaotic processing of returned asylum seekers by CBP is evident in numerous faulty NTA's, the document DHS issues listing the charges against a noncitizen and initiating removal proceedings, issued by the agency and in extreme delays in processing returned asylum seekers:

- Human Rights First reviewed numerous NTAs in which CBP failed to indicate the category of inadmissibility or removability and included factual allegations that conflicted with the listed charge of inadmissibility. Immigration judges in San Diego terminated proceedings for individuals in MPP hearings who did not appear in court with defective NTAs. Data from [TRAC](#) shows that immigration judges hearing MPP cases had terminated 729 and closed an additional 144—making up 75 percent of the final decisions issued in MPP cases by the end of June.
- **DHS often includes erroneous addresses on NTA's of returned asylum seekers in Mexico.** NTAs of asylum seekers returned to Ciudad Juárez frequently included the address of the Casa del Migrante shelter even though those individuals had not stayed at that shelter and had not provided that address. Human Rights First reviewed multiple NTAs reflecting returned individuals' addresses as "*domicilio conocido*" (known address) in Tijuana, Baja California. In one particularly glaring example an NTA issued to a Honduran asylum seeker by CBP in San Diego reflected her address as *domicilio conocido* in Tijuana even though she crossed the border near Hidalgo, Texas and had been transported by DHS to the San Diego region for MPP processing and return there.
- Numerous returned asylum seekers reported being held in CBP custody for weeks before being returned to Mexico. A Salvadoran woman who crossed the border near El Paso in mid-April was held in CBP custody for 45 days before being returned to Ciudad Juárez in late May. Fatima was separated from her daughter and held for 53 days in CBP custody before being returned to Ciudad Juárez. Blanca was separated from her partner and partner's son and held for 20 days before being returned to Mexico. The criminal defense attorney representing Camilo reported that his client signed paperwork acknowledging that he would be returned under MPP on the first day after he was transferred back to CBP custody from the U.S. Marshals Service but was held without explanation at the El Centro Border Patrol Station for nearly two weeks before being returned to Mexico.

Inhumane and Abusive Treatment by CBP During MPP Processing

Asylum seekers and migrants are subject to horrendous conditions in CBP custody and cruel treatment by CBP officers while being processed for return to Mexico under MPP. Accounts of mistreatment are consistent with

urgent reports by the DHS Office of the Inspector General (OIG) in May and July 2019 detailing dangerous conditions in CBP facilities that present an “immediate risk to the health and safety” of detainees and DHS staff.

Inspectors described the extreme overcrowding, prolonged detention and atrocious conditions in CBP detention facilities as “more grievous than any our inspectors have previously encountered.” OIG found:

- Dangerous overcrowding at five out of six facilities visited. Nine hundred people were detained at El Paso Del Norte, a facility with a maximum capacity of 125. People packed into the holding cells were “standing on toilets” to make breathing space.
- A lack of access to showers, clean clothing, and other hygienic services forced individuals to wear soiled clothing for days or weeks.
- In facilities in the Rio Grande Valley, children were not receiving any hot meals, a violation of CBP’s Transport, Escort, Detention, and Search (TEDS) Standards; adults were only given bologna sandwiches.
- While regulations dictate that individuals should not be held longer than 72 hours, officers told OIG that some detainees were held in “standing-room only conditions” for days or weeks: 66 percent of those in El Paso Del Norte were held for longer than 72 hours, and four percent were held more than two weeks.

Further, in July media reports revealed that a private Facebook group of over 9,500 current and former Border Patrol agents had shared jokes about the deaths of migrants in CBP custody among other vulgar and racist posts.

Human Rights First heard multiple, extremely concerning reports from individuals returned to Mexico under MPP about poor conditions in CBP facilities and abusive practices by CBP officers and Border Patrol agents, including:

- Maria*, an asylum seeker from El Salvador who was detained with her six-year-old daughter near El Paso, recounted that CBP officers forced them to sit in a row on a bench with other families, including pregnant women, with their legs straddling the back of the person in front of them for long periods of time without moving or sleeping. Maria recounted that when her “daughter had to go pee. She tried to go to the bathroom, but the [CBP] agents wouldn’t let her. They made her sit back down. She withstood it—she didn’t wet herself—but she cried and cried.” Maria suffers from hyperthyroidism and ran out of medication while detained in a CBP tent facility, where she and her daughter were forced to sleep on the floor: “I told the officials that my medication was running out that day, but they said it didn’t matter.” Maria felt CBP officers “were punishing us. They treated the children even worse. They yelled at them and called them names.”
- After two nights in a *hielera* (freezing CBP holding cell) in El Paso, Alma*, her husband, and their 12-year-old daughter and 10-year-old son were transferred to an outdoor structure where this family from El Salvador was forced to sleep directly on concrete without any mattresses for three nights. Alma said, “We slept one next to the other. We could hardly sleep because [the CBP officers] kept waking us and bringing in more people.” She also reported hearing an officer order a small child to drop a used spoon the child had picked up, shouting: “You’re here [in the United States] now, not in the filth of your country.”
- A Salvadoran asylum-seeking family held in mid-April in the CBP camp under the Paso del Norte bridge in El Paso reported being given extremely little to eat and that their property was discarded: “In two days, they gave each of us just one burrito to eat. They took away our IDs and threw my son’s fever medicine in the trash.” Fourteen-year-old Edgardo* reported that CBP officers berated him when tried to put his hands in his sleeves because of the cold: “An official yelled at me and told me not to do that. He said I wasn’t in my fucking country anymore.”

- After waiting weeks in Ciudad Juárez on the metering list at the El Paso port of entry to seek asylum, Karen* and her family did not find the protection they had expected. An officer told Karen's father that it was "boring" to hear about "threats" in Guatemala. Another officer repeatedly ignored Karen's requests for diapers for her two-year-old baby, needlessly leaving the child in soiled diapers for hours even though clean diapers were readily available.
- Fernando*, stated that he, his 11-year-old son and other families including children as young as two were made to line up in the extreme heat and sun for what he estimated to be one to one and half hours. His son suffered a burst blood vessel in his eye, which Fernando attributed to heat stroke. CBP agents also pressured Fernando to sign documents related to his return to Mexico under MPP: "I wouldn't sign the documents because I couldn't read them. I said, 'I can't read or understand them.' They practically grabbed my hand. They took me three times to sign. I couldn't take it anymore."
- Extreme overcrowding in CBP holding cells and camps was commonly reported. A Guatemalan woman said that after seeking asylum at the El Paso port of entry she was held for nine days in a cell with more than one hundred people, in her estimate. Conditions were so cramped that some women were forced to sleep sitting on toilets in the open bathroom area of the cell.

Extremely Limited Humanitarian Support in Mexico

Despite claims by the Trump Administration that Mexico would protect the "humanitarian rights" of returned asylum seekers, those in MPP are offered extremely limited housing and other support and little access to work authorization in Mexico:

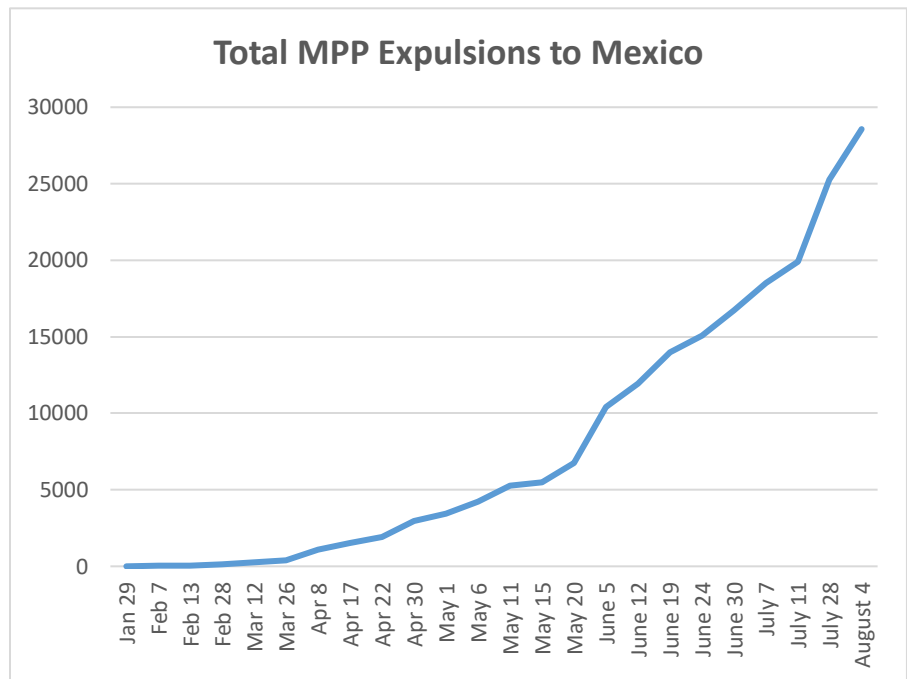
- With some 18,000 asylum seekers on waiting lists at ports of entry and more than 28,000 returned to Mexico under MPP, returned asylum seekers often end up sleeping on the streets as shelters are full.
- After being expelled from the United States in April under MPP, Karina* and her four-year-old slept in a bus station in Mexicali. They could not find a shelter and had nothing to eat. Human Rights First met Karina at a makeshift shelter there where returned asylum seekers were sleeping on mattresses in the balcony of an abandoned performance hall. At another shelter Human Rights First visited in Mexicali in June, well over two hundred adults and children who were paying to sleep in several large, sweltering storerooms converted into a shelter.
- In Tijuana, the Casa del Migrante shelter reported that their facility was housing families for the first time given the overwhelming need for shelter space and was operating well over-capacity. The Madre Asunta shelter for women and children was also beyond its housing capacity.
- Enrique Valenzuela of COESPO estimated that the 16 registered shelters in Ciudad Juárez have capacity for only 1,280 individuals with at least 10,000 individuals returned there as of July and some 5,500 registered on the asylum wait list. Due to overcrowding, returned asylum seeking families were sleeping between the pews of the sanctuary at the Buen Pastor shelter in Ciudad Juárez. Human Rights First also met with an asylum-seeking family of four sleeping at the end of a corridor at another makeshift church-based shelter in Ciudad Juárez.
- In July, INM officials bused five hundred asylum seekers from Nuevo Laredo where they had been returned by DHS to the city of Monterrey "where they were left to fend for themselves with no support when it came to housing or work, or schooling for children."

- Despite a DHS memo claiming Mexico would provide returned asylum seekers an “opportunity to apply for a work permit,” none of the asylum seekers in MPP who Human Rights First interviewed had received documentation from the Mexican government on return that would entitle them to work legally in Mexico.
- In the June 7 joint U.S.-Mexico statement, Mexico pledged to “offer jobs, healthcare and education according to its principles.” However, at the time of its visits to Ciudad Juárez, Mexicali and Tijuana, Human Rights First saw little evidence these pledges were being fulfilled. The only reported progress was in late June, when DHIA, a Mexican non-profit organization in Ciudad Juárez, began publicizing that returned asylum seekers are eligible to obtain a CURP (an identity number needed to access employment and social services in Mexico) but must present photo identification – a requirement that may be difficult for many returned asylum seekers because CBP routinely confiscates the identity documents of individuals sent back to Mexico under MPP. However, an asylum-seeking family from Honduras in MPP who received humanitarian visas in southern Mexico reported that they were denied a CURP when they applied in Ciudad Juárez, as officials claimed the documents the family had from INM were false.
- Returning people without ID documents leaves them vulnerable to exploitation. A Honduran asylum seeker in Mexicali reported she was robbed of several hundred pesos sent by her family to pay for transportation for her immigration court hearing. The woman was forced to rely on a local person to pick up the money from a money transfer service because CBP confiscated and held her identity documents.

Rapid Expansion in MPP Expulsions to Danger in Mexico

As the Trump Administration has sought to increase the scope of returns along the U.S.-Mexico border, the pace of expulsions has grown sharply. As of August 4, 2019, CBP had returned 28,569 asylum seekers through MPP to the Mexican cities of Tijuana, Mexicali, Ciudad Juárez, Nuevo Laredo, and Matamoros, including asylum seekers DHS transported from other portions of the border in Arizona and the Texas Rio Grande Valley. These areas of the border and other potential expansion sites for MPP returns are acutely dangerous for asylum seekers.

Returns began to Tijuana in late January 2019 in coordination with officials from INM at the San Ysidro port of entry. Those initially returned had waited to seek asylum on the lists that have developed as a result of CBP’s illegal practice of restricting the number of asylum seekers accepted each day at ports of entry across the southern border.



In early March, CBP expanded MPP to the San Diego border patrol sector, meaning that it applied to asylum seekers who crossed the border between ports of entry. Around March 12, MPP expanded to the Calexico port of entry, and the following week CBP began to implement MPP returns through the El Paso port of entry.

In June, CBP quietly expanded MPP to Arizona and the Rio Grande Valley of Texas. Shelter officials and local advocates in Mexico as well as legal service providers in San Diego report that asylum seekers who entered the United States in these areas were returned through the San Ysidro and Calexico ports of entry. For instance, Human Rights First reviewed the NTA of an asylum seeker placed in MPP and returned to Tijuana, who had crossed the border over 1,200 miles away near Hidalgo, Texas, in June 2019.

MPP returns began to the notoriously dangerous border towns of Nuevo Laredo on July 9 and Matamoros on July 19. As of early August, CBP had returned over 3,000 individuals to Nuevo Laredo and over 1,500 to Matamoros.

In the first six weeks of MPP, CBP expelled 240 asylum seekers to Mexico. Returns accelerated after expansion to Calexico and El Paso with 1,105 individuals returned in total by April 8, when a federal district court halted MPP with a preliminary injunction in the ACLU and the Southern Poverty Law Center’s suit, Innovation Law Lab v. Nielsen, on behalf of returned asylum seekers and legal services providers. Four days later on April 12, the U.S. Court of Appeals for the Ninth Circuit temporarily stayed the injunction allowing returns to resume. As Figure 1 below demonstrates, expulsions increased rapidly following the appeal court’s April decision. On May 8, the Ninth Circuit granted the government’s motion to stay the injunction pending resolution of the government’s appeal, which is scheduled for oral argument on October 1. Returns under MPP further accelerated to more than 260 per day in the following month.

Figure 1: MPP Expulsions to Mexico		
	Total # returned in period	Average # returned per day
Jan 29 – Mar 12	240	6
Mar 13 – Apr 8	865	33
Apr 13 – May 6	3,112	135
May 7 – June 5	6,176	213
June 6 – July 7	8,120	262
July 8 – July 11	1,398	350
July 22 – July 28	3,140	449
July 29 – Aug 4	3,314	473

After Trump Administration threats to impose steep tariffs on Mexican imports unless the Mexican government acted to “reduce or eliminate the number of illegal aliens” entering the United States through the U.S.-Mexico border, the Mexican government agreed on June 7 to allow the United States to implement MPP border wide.

By early August, CBP was expelling over 450 people to Mexico each day on average, as MPP returns expanded to the Rio Grande Valley. The head of Mexico’s asylum agency anticipates that 60,000 asylum seekers could be returned to Mexico by the end of August. According to COESPO, 27 percent of those returned to Ciudad Juárez under MPP as of July 18 were children.

Returns also expanded beyond Central American asylum seekers. Despite reported statements by the head of INM that Mexico would accept only asylum seekers from El Salvador, Guatemala, and Honduras, a review of immigration court data by Reuters found individuals from Peru, Ecuador, and Nicaragua were returned under

MPP. In June, it was reported that MPP would be applied to all Spanish-speaking asylum seekers. Since then numerous asylum seekers from Cuba, Nicaragua, and Venezuela have been returned to Mexico. Figures released by COESPO show that 22 percent of asylum seekers returned to Ciudad Juárez by mid-July were from Cuba, Nicaragua, Venezuela, and other countries outside of the Northern Triangle of Central America.

Mexican officials announced on June 23 that MPP would also expand to San Luis Rio Colorado, across from Yuma, Arizona. DHS also informed Congress that it was considering border towns—including Donna (in McAllen) and Del Rio (bordering Ciudad Acuña) in Texas and Yuma and Nogales in Arizona—as sites to build tents that would house mass VTC hearings in “port courts” for those returned under MPP.

As Human Rights First previously reported, asylum seekers in Mexican border towns face acute risks of kidnapping, disappearance, sexual assault, trafficking, and other violence. The Mexican border states adjacent to the sites DHS is considering for its construction of tent “port courts” present alarmingly high levels of violent crimes:

- **TAMAULIPAS**, the Mexican state home to **Nuevo Laredo** and **Matamoros**, is categorized by the State Department as Level Four—“Do Not Travel”—the same threat assessment for Afghanistan, Iraq, and Syria. The travel warning notes: “Violent crime, such as murder, armed robbery, carjacking, kidnapping, extortion, and sexual assault, is common. Gang activity, including gun battles and blockades, is widespread.” U.S. government employees are restricted from intra-state highways in Tamaulipas and under evening curfew in the cities of Matamoros and Nuevo Laredo. Shelter directors told Human Rights First that kidnappings and extortion are extremely common in Nuevo Laredo, and researchers spoke with asylum seekers who were victims of kidnappings, threats, and assault in the city. In late June 2019, state police found eight Bangladeshi migrants in Nuevo Laredo kidnapped and bound with adhesive tape in a home after hearing their cries. Doctors Without Borders, a nonprofit organization that provides medical and social services to migrants and refugees, reported that 45 percent of the 378 patients the organization treated in Nuevo Laredo last year suffered at least one violent incident.
- **SONORA**, in which **San Luis Rio Colorado** and **Nogales** are located, is a “key location used by the international drug trade and human trafficking networks,” according to the State Department. Sonora is under a Level Three travel advisory—“Reconsider Travel”—the same level of caution urged for El Salvador and Honduras. U.S. government employees are restricted from traveling to several areas of the state, are limited to only daytime hours for long-distance intrastate travel, and are prohibited from using taxi services in Nogales. This year, five men were arrested in Sonora for robbing, kidnapping, and raping a Salvadoran woman intending to cross the U.S.-Mexico border at Nogales.
- **COAHUILA**, home to **Ciudad Acuña**, also carries a Level Three travel advisory from the State Department—“Reconsider travel due to crime.” U.S. government employees are required to observe a nighttime curfew in several cities throughout Coahuila, including Ciudad Acuña. Drug cartels in Coahuila have reportedly long sought to influence Mexican officials through bribes to policemen and politicians. Overall, homicides rose in the state by 20 percent between 2017 and 2018. Migrants are targets of violence and discrimination and migrant women and children are reportedly at high risk of forced labor on farms. In March, six people were charged with the kidnapping and trafficking of 46 migrants from Central America in Ciudad Acuña.

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 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 Houston, Los Angeles, New York, and Washington D.C.

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