

Inhumane Again: Remain in Mexico Rollout Confirms Endemic Flaws of Unfixable Policy

As the Biden administration began its rollout of Remain in Mexico (RMX) 2.0 in early December 2021, Human Rights First researchers observed the initial returns to Ciudad Juárez from El Paso, Texas and conducted interviews with migrants and asylum seekers subjected to the policy. The Remain in Mexico policy is riddled with fundamental flaws that were reflected in the policy's reimplementation. The people subjected to the restarted policy were turned away to a highly dangerous region where asylum seekers and migrants have suffered well-documented, targeted attacks and grave human rights abuses. Before being returned to Ciudad Juárez under RMX 2.0, migrants and asylum seekers suffered inhumane treatment in Customs and Border Protection (CBP) custody, where they were prohibited from contacting their families and denied meaningful access to legal counsel.

Human Rights First closely monitored the rollout and implementation of the Trump administration's RMX 1.0 and tracked over [1,500](#) kidnappings and other violent attacks against migrants and asylum seekers from 2019 to 2020. Since the Biden administration took office, the organization has also tracked over [7,600](#) violent attacks and kidnapping against asylum seekers and migrants stranded in Mexico under the similarly inhumane [Title 42](#) policy – the other Trump administration policy used by the Biden administration that violates U.S. asylum law and treaty obligations and turns people seeking asylum back to danger.

Overview

- CBP returned 161 migrants and asylum seekers from Colombia, Cuba, Ecuador, Nicaragua, and Venezuela to Ciudad Juárez under RMX from December 8, 2021 to December 16, 2021.
- Nicaraguan nationals comprised the largest group of returnees each day during the first nine days of RMX 2.0, followed by Venezuelan nationals. During the first nine days the program was implemented, the administration returned 101 Nicaraguans, 35 Venezuelans, 7 Colombians, 12 Cubans, and 6 Ecuadorans, according to data provided to Human Rights First by the Mexican Instituto Nacional de Migración (National Migration Institute or INM). The Biden administration continues to use the (also) [illegal and inhumane](#) Title 42 policy against many other asylum seekers and has [indicated](#) it will use RMX to process people who are “not covered” or “excepted from the CDC order” used to justify expulsions under the policy.
- Human Rights First researchers observed RMX returnees being transferred from the custody of U.S. immigration officers to the custody of Mexican migration officers each day from December 8 to December 11, 2021, spoke to U.S. and Mexican officers as well as staff of humanitarian agencies and shelters, and was able to conduct interviews with 16 people returned to Ciudad Juárez under the policy during this time period.
- All of those returned under RMX during the first week were adult men traveling alone or with other adult relatives, but a Mexican government official told Human Rights First that the Mexican government expects children and families will also soon be returned. Human Rights First observed Mexican government personnel setting up child-sized tables and chairs in the tent area constructed on the Mexican side of the border to receive people returned under RMX. This approach mirrors

that of the previous administration which also initially returned single adults before returning families with children.

Inhumane Treatment in Department of Homeland Security (DHS) Custody

- Most of the asylum seekers and migrants Human Rights First interviewed reported that they had been held in terrible conditions in CBP custody for four to five days, some for longer, prior to being returned to Mexico under RMX. Returnees reported that cells were overcrowded with hundreds of detainees who shared a few bathrooms. Several reported that they were made to sleep on the floor with a thin foil blanket and that lights were kept on at all hours. Most reported that detainees were unmasked and CBP officers refused to give masks to several who requested them. Some had been held in cold conditions in what is commonly referred to as the “*hielera*” (icebox) because of the frigid air temperature.
- Several reported that they became sick in CBP custody and were denied the medical attention they requested. One reported that CBP officers ignored another detainee who lay unconscious on the floor for hours.
- At least three people interviewed were also first subjected to lateral expulsion flights from McAllen, Texas to El Paso in order to be returned to Ciudad Juárez under RMX. CBP woke them in the middle of the night, shackled their hands, feet, and waists, and forced to wait more than four hours at an airport before they flew them, still shackled, to El Paso. CBP detained these individuals for at least 12 days in the two locations.
- Asylum seekers and migrants interviewed by Human Rights First reported that they were denied the opportunity to make any phone calls while detained and as a result could not inform their families of their whereabouts. Several returnees said that while detained, CBP officers had reassured them that CBP had called their families to inform them of their whereabouts. However, when they were returned to Mexico and were finally able to access and use their phones, they discovered their families had not been contacted by CBP.
- CBP seized all of the asylum seekers’ and migrants’ personal possessions, including clothing, shoes, coats, and medication, and never returned them, only giving them back their documents and phones before they were returned to Mexico.
- CBP required all individuals to take off their clothing and shoes and wear the same CBP-issued sweats and undergarments for the duration of their detention and until returned to Mexico, with no shower after the initial day in custody. CBP seized personal hygiene products like toothbrushes as well and did not provide toothbrushes during the subsequent days of custody. Human Rights First observed the first returnees wearing CBP-issued flip flops in the 40°F weather. On the second day, returnees wore CBP-issued closed toe sneakers.

Returned to Danger Despite Fear

- The asylum seekers and migrants interviewed by Human Rights First all said that they were afraid to return to Mexico and had expressed that fear to CBP. These people were on the verge of being sent to Ciudad Juárez, a region for which the U.S. Department of States has [issued](#) a Level 3 travel advisory warning due to the high risk of kidnappings and violence. In an October 2021 [memorandum](#) terminating RMX, DHS noted that asylum seekers returned to Mexico were “exposed to extreme violence and insecurity at the hands of transnational criminal organizations that prey on vulnerable migrants as they waited in Mexico.” The U.S. Department of State also [warned](#) in 2021

that asylum seekers and migrants are among “groups considered most at-risk for trafficking in Mexico.”

- All of those interviewed by Human Rights First researchers had already suffered violence, kidnappings and/or extortion in Mexico – including extortion at the hands of Mexican police or other government officers – prior to even arriving at the U.S. border. Almost all reported that they had been extorted by Mexican police or other Mexican government officials. Several had been kidnapped and held for ransom, including one who was kidnapped near the border and tortured by electrocution and beatings for three weeks until his family paid a ransom to secure his release. Several reported they escaped attempted kidnappings near the U.S.-Mexico border. Despite their expressed fear of harm in Mexico, and the [well-documented dangers](#) of kidnappings, violence, and torture targeting asylum seekers in Mexico, all were returned to Mexico.
- Several returnees said asylum officers conducting what DHS labels as “*non-refoulement* interviews” were rude and harsh. Two said that when they were asked to justify their fears of return, they tried to tell the officers about kidnappings and attacks against family members and people they had been traveling with in Mexico, but the officers cut them off, telling them the experiences of others are not relevant.
- Several people who had been returned reported that they were pressured to sign documents in English that they did not understand after their interviews.

Deprived of Meaningful Legal Counsel and Representation

- Most of those in RMX interviewed by Human Rights First said they did not believe they had spoken with a lawyer at any point during their time in CBP custody. Several said they were confused by the process and were not sure if they had spoken with a government official or legal office on the phone. One said the asylum officer told him he had the right to speak with a lawyer, but he chose not to because the officer said he would have to reschedule his “*non-refoulement* interview” and thus prolong his detention. Most said they were never informed of their right to speak with a lawyer and did not know they had that right.
- One of the individuals interviewed by Human Rights First said he asked for a lawyer and that a CBP officer told him that he was only allowed to speak with a lawyer selected for him by CBP and that the asylum seeker would have to cover the cost of the lawyer himself. The officer refused to let the asylum seeker call his family to ask them to hire a lawyer for him.
- People returned under RMX were given a printed sheet with information about a “MPP Information Hotline” operated by the “Border Project,” which provides services “limited to helping those individuals who have expressed a fear of being returned to Mexico.” However, people interviewed by Human Rights First were not provided with this sheet until after their “*non-refoulement* interview.”

Inadequate Vulnerability Screenings

- All of those interviewed by Human Rights First were returned with a printed “Alien Initial Health Interview Questionnaire” with 11 specific questions related to their physical and mental health and “no” checked for each question. All reported that CBP did not actually ask them most of the 11 questions on the form.

- Most said CBP only asked them generally if they have any health issues. Some reported they were asked about mental health issues, but most were not. Some said they were not asked about health issues at all, including a man with chronic migraines who said CBP disposed of his medication.
- None were asked questions about their sexual orientation or gender identity, despite DHS guidance exempting from RMX “those at increased risk of harm in Mexico due to their sexual orientation or gender identity.”

Lack of Safe Transportation and Early Hearings Expose People to Additional Danger

- Several of those interviewed by Human Rights First had their first U.S. immigration court hearings scheduled for in early January with their hearing set to start at 8:30 am, with written instructions from CBP to arrive at the U.S. port of entry at 4:30 am. This will require returnees to travel through Ciudad Juárez at night, exacerbating their already high risk of vulnerability to violent attack or crime.
- Most of the people Human Rights First interviewed were not provided any information about safe transportation options to and from the port of entry for their hearings, despite administrative guidance indicating that such transportation would be provided. CBP officers told one asylum seeker to contact the International Organization for Migration to ask about transportation to the port of entry but provided no information about how to do so.