
Human Rights First’s Submission to the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Special Rapporteur on the Situation of Human Rights Defenders for a Report on Human Rights Defenders Working on Issues Related to Migration, Refugees and Asylum

Ensuring Safety and Support for Human Rights Defenders of Asylum Seekers, Refugees, and Other Migrants Targeted by Illegal Pushback Policies, Extremist Attacks, and Harassment by Government Officials

This submission has been produced on the basis of Human Rights First’s years of experience in representing, researching, and advocating for refugees seeking humanitarian protection and in our continuing efforts to secure support for human rights defenders, counter violent extremism, and seek accountability for human rights abuses. This submission focuses on illegal U.S. pushback policies that endanger human rights defenders in Mexico working with refugees and migrants as well as asylum-seeking human rights defenders subjected to illegal pushbacks; targeted violence and threats by extremists in the United States against human rights defenders of refugees; and harassment of immigrants-rights defenders at the U.S.-Mexico border by U.S. officials.

Human Rights First recommends that the Special Rapporteur press governments, including the United States, to: end illegal pushback policies, which endanger asylum seekers and the human rights defenders attempting to assist them; hold accountable violent extremists for attacks on human rights defenders due to their work with refugee communities; and ensure better support and global coordination to safeguard the lives of human rights defenders.

Illegal U.S. Pushbacks of Asylum Seekers Endanger Human Rights Defenders in Mexico

Policies that illegally block and turn away asylum seekers at international borders¹ endanger the lives of human rights defenders who assist and provide legal representation to stranded asylum seekers and expose asylum seekers blocked from requesting refugee protection, including asylum-seeking human rights defenders, to additional harms, as Human Rights First and other non-governmental organizations have warned the U.S. government.²

Recent illegal U.S. pushback policies at the U.S.-Mexico border include:

- “metering”³—the U.S. government’s policy of intentionally reducing the number of asylum seekers processed at ports of entry, which leaves asylum seekers stranded in Mexico and often forcing them to wait for months in danger to request asylum;
- the Migrant Protection Protocols, commonly known as Remain in Mexico (RMX),⁴ which forces asylum seekers and migrants to await U.S. immigration court proceedings in dangerous border regions of Mexico, endangering their lives and creating nearly insurmountable obstacles to the fair adjudication of their cases;⁵ and
- the Title 42 policy,⁶ which has been used to block asylum at U.S. ports of entry and to expel migrants and asylum seekers who cross the border to Mexico and to their countries of persecution without access to the U.S. asylum system or refugee protection screenings.⁷

The U.N. High Commissioner for Refugees (UNHCR) has repeatedly urged the United States to “swiftly lift the Title 42 public health-related asylum restrictions that remain in effect and to restore access to asylum for people whose lives depend on it”⁸ and has warned that “[t]he summary, mass expulsions of individuals currently under way under the Title 42 authority, without screening for protection needs, is inconsistent with international norms and may constitute refoulement.”⁹ Other U.N. agencies¹⁰ and the Inter-American Commission for Human Rights¹¹ have also condemned Title 42 border restrictions. UNHCR also expressed concern over the United States’

reimplementation of RMX, stating that “the announced adjustments to the policy are not sufficient to address [UNHCR’s] fundamental concerns” about the safety and due process rights of asylum seekers subjected to the policy.¹²

Cartels and other criminal groups that exercise significant control over sizeable parts of the border region, as well as corrupt Mexican officials, target asylum seekers and other migrants returned to Mexico under these pushback policies, resulting, since 2019, in thousands of reported attacks against asylum seekers and migrants blocked in or returned to Mexico, including killings, kidnappings, rapes, and torture.¹³

These cartels also target human rights defenders in Mexico who provide legal and other assistance to asylum seekers and migrants stranded due to illegal U.S. pushback policies. For instance, in August 2019, a cartel that controls much of Nuevo Laredo kidnapped Pastor Aarón Méndez Ruiz and Alfredo Castillo de Luna, who both remain missing, after the pair reportedly blocked the cartel’s attempt to kidnap Cuban asylum seekers waiting to seek asylum in the United States — due to the metering policy in place at the time—at a shelter where the men worked.¹⁴ Following the abduction, threats attributed to the Northeast Cartel circulated on social media warning religious leaders that the cartel was “sending priests to hell,” who defended migrants.¹⁵ In May 2022, a Catholic priest running a migrant shelter was abducted and murdered in Tecate in the border state of Baja California, where many asylum seekers blocked in or expelled to Mexico under the Title 42 policy are stranded.¹⁶ Attacks on shelters hosting migrants in Mexico have been common, including a 2019 attack on a church-based shelter in Ciudad Juárez where asylum seekers returned to Mexico under the RMX policy were staying: armed men forced their way inside the shelter and fired their weapons indiscriminately.¹⁷ In June 2022, the U.S. Department of State warned that organized crime groups single out Catholic priests and other religious leaders in Mexico “and subject them to killings, extortion attempts, death threats, kidnappings, and intimidation, reportedly due to . . . their work helping migrants.”¹⁸

Cartels and other criminal organizations have also threatened attorneys attempting to represent asylum seekers stranded in Mexico due to illegal U.S. pushback policies. For instance, cartels have threatened attorneys working with asylum seekers subjected to RMX.¹⁹ Such threats have forced some attorneys to suspend efforts to represent asylum seekers stranded at shelters in Mexico.²⁰ Cartels have also reportedly followed and harassed attorneys²¹ and attempted to enter the offices of at least one attorney.²² Some attorneys who have taken on cases of clients forced to remain in danger in Mexico, including under the RMX policy, report being diagnosed with Post-Traumatic Stress Disorder after witnessing violence faced by asylum seekers due to RMX.²³

These illegal pushback policies prevent refugees, including asylum-seeking human rights defenders, from requesting protection in the United States and expose them to additional grave harms. Some of the asylum-seeking human rights defenders who have been blocked from requesting asylum in safety inside the United States and stranded in danger in Mexico due to U.S. pushback policies include:

- a Nicaraguan human rights activist who had escaped a kidnapping attempt in Mexico but was returned there under RMX in 2019;²⁴
- an education rights activist from Honduras who was kidnapped twice along with her daughter in late 2019 and early 2020 after being returned to Mexico under RMX;²⁵
- a Cuban human rights activist subjected to RMX and returned in 2020 to Mexico, where she had previously been kidnapped;²⁶
- a Cuban human rights activist and his wife who were beaten in Ciudad Juárez after being returned there under RMX;²⁷
- an indigenous human rights defender of the Pech people from Honduras blocked since August 2021 due to Title 42 from seeking asylum in the United States;²⁸ and
- an injured Nicaraguan human rights defender who has not been able to obtain necessary surgery in Mexico after being expelled there under Title 42 in September 2021.²⁹

Violent White Extremists in the United States Target Refugee and Migrant Human Rights Defenders and Others Perceived to Be Associated with Them

In the United States, violent extremists—often motivated by racist, xenophobic, anti-Semitic, and anti-Muslim animus—have attacked and threatened human rights defenders of refugees and migrants as well as others perceived to be associated with them. Some of these extremists have claimed refugees and migrants are “invaders”³⁰—a harmful and dangerous characterization that some national and local politicians have also employed in calls for military force to block and expel asylum seekers and other migrants at the southern U.S. border.³¹

Rhetoric demonizing refugees and those who defend them has resulted in deadly violence in the United States. In 2018, the extremist who murdered 11 people at a Pittsburgh synagogue³² appears to have targeted the congregation, in part, because of his belief in a conspiracy theory that the Hebrew Immigrant Aid Society (HIAS), a refugee resettlement and immigration legal services organization that he referenced in a social media post just prior to the attack, “likes to bring invaders in that kill our people.” The killer had also reposted content on social media accusing Jews of aiding “evil” Muslims to enter the United States.³³ In another example of targeted threats, in August 2021, a Department of Homeland Security bulletin warned that “suspected racially or ethnically motivated violent extremist-white supremacists” had threatened an arson attack on a Florida-based nonprofit organization involved in resettling Afghan refugees.³⁴

Extremists have also targeted humanitarian aid and legal services organizations assisting asylum seekers and other migrants at the U.S.-Mexico border and within the United States. A migrant shelter in Laredo reported to Human Rights First in May 2022 that due to threats by anti-immigrant extremists since 2017, the shelter installed metal bars on its windows and doors and has hired 24-hour-a-day armed security guards to protect the facility—making security the shelter’s second largest monthly expenditure. In early 2018, a volunteer with a humanitarian group at the U.S.-Mexico border received multiple violent threats, including from at least one individual who had identified her home, after photos of her work with migrants in U.S. immigration detention facilities were shared on a community Facebook page. These threats demanded, in part, to know “how can you be helping illegals.”³⁵

U.S. Government Harassment of Human Right Defenders Working with Asylum Seekers and Other Migrants

From 2017 to 2019, U.S. and Mexican officials targeted human rights defenders working to support and represent migrants and asylum seekers near the U.S.-Mexico border in an attempt to interfere with and deter the provision of such assistance.³⁶ CBP reportedly surveilled human rights defenders and attorneys assisting migrant populations, as well as journalists, targeted them for baseless and prolonged detention and interrogations at border crossings, illegally searched and seized personal electronic devices used in their work, and conducted warrantless searches of documents covered by attorney-client privilege.³⁷ For example, in May 2019, CBP officers in Arizona arrested a human rights advocate accompanying an asylum seeker to a port of entry to request asylum and accused her of smuggling.³⁸ At the same time, Mexican officials took photos of human rights activists’ passports crossing the border, reportedly “for the Americans,” who used the photographs to target them and denied some of targeted human rights defenders entry to Mexico.³⁹

Recommendations

The Special Rapporteur should recommend that states, including the United States, take measures to protect the safety and promote the critical work of human rights defenders advocating and assisting refugee and migrant populations or who are themselves forcibly displaced from their homes—in fulfillment of states’ international commitments, including under the U.N. Declaration on Human Rights Defenders.⁴⁰ Further, in November 2021, the United States reaffirmed its commitment⁴¹ to enable “human rights defenders to promote and defend human rights without hindrance . . . or fear of retribution”⁴² In fulfillment of these commitments, the United States and other states should:

- **End illegal asylum pushback policies.** The U.S. government should take all available steps to end the Title 42 policy, RMX, and other U.S. pushback policies and practices that illegally block or return refugees from seeking asylum to danger and endanger human rights defenders who support and represent them.
- **Direct immigration officials not to target human rights defenders attempting to uphold the right of refugees to seek asylum for harassment, arrest, or prosecution.** DHS should ensure agency employees understand the critical role of and legal rights and protections human rights defenders are entitled to under domestic and international law.
- **Hold perpetrators of anti-refugee, anti-immigrant violence accountable.** Persons or entities who facilitate or engage in extremist attacks on human rights defenders and those perceived to be associated with them must be held criminally accountable through government efforts to pursue justice that match the level of the growing threat.
- **Ensure transparency and a rights-centered approach to prevention of bias-motivated attacks.** A public health-based and rights-centered approach to extremism and violence prevention must be expanded, including enhancing existing federal grants and programming that advance evidence-based strategies and empower communities to address extremism. Data should be regularly publicized regarding domestic extremism and hate crimes investigations, arrests, charges, prosecutions, etc. Congress should mandate transparency regarding resource distribution to specific types of domestic extremism investigations and ensure compliance with oversight requests.
- **Fund increased security infrastructure for supporting human rights defenders.** In line with U.S. commitments to human rights defenders, most recently re-articulated in 2021,⁴³ the U.S. State Department and other agencies should identify and support increased security infrastructure for persons and entities who face violent threats due to their work defending the rights of asylum seekers and refugees.
- **Consider targeted sanctions for attacks on human rights defenders.** Especially in situations where domestic authorities are failing to hold perpetrators to account, the U.S. and other governments should consider imposing targeted sanctions (e.g., entry bans and asset freezes) against individuals who are reasonably believed to be responsible for or complicit in violent attacks and other serious human rights abuses against people and organizations defending the rights of refugees and migrants. They should also consider imposing similar sanctions against human rights abusers and corrupt actors whose actions force refugees to flee their countries. Countries that have not adopted targeted sanctions legislation focused on serious human rights abuses and corruption should consider doing so.
- **Strengthen collaboration with national, regional, and international human rights bodies.** To better support and protect the work of human rights defenders, the U.S. State Department should proactively engage and strengthen ties with specialized human rights bodies including the Mechanism to Protect Human Rights Defenders and Journalists in Mexico, the Inter-American Commission on Human Rights, and the UN Special Rapporteur on Human Rights Defenders.

¹ United Nations Special Rapporteur on the Human Rights of Migrants, *Report on means to address the human rights impact of pushbacks of migrants on land and at sea*. United Nations Human Rights Office of the High Commissioner, 12 May 2021. <https://www.ohchr.org/en/special-procedures/sr-migrants/report-means-address-human-rights-impact-pushbacks-migrants-land-and-sea>.

² Human Rights First, *Legal Service Providers Joint Letter on MPP*. October 2021. <https://www.humanrightsfirst.org/resource/legal-service-providers-joint-letter-mpp>; see Human Rights First, *Remain in Mexico Restart Threatens Safety of Attorneys and Humanitarian Workers*. November 2021. <https://www.humanrightsfirst.org/sites/default/files/MPPDangersLawyersFactsheet.pdf>.

³ By 2018, the U.S. Department of Homeland Security had expanded the metering policy along the entire U.S.-Mexico border. In September 2021, a U.S. federal judge enjoined the metering policy, finding it violates asylum seekers' due process rights under the fifth amendment of the U.S. constitution. See Human Rights First, *Refugee Blockade: The Trump Administration's Obstruction of Asylum Claims at the Border*. 11 December 2018. <https://www.humanrightsfirst.org/resource/refugee-blockade-trump-administration-s-obstruction-asylum-claimsborder-december-2018>; *Al Otro Lado v. Mayorkas*, No. 17-cv-02366 (S.D. CA, Sept. 2, 2021). <https://ccrjustice.org/sites/default/files/attach/2021/09/742%20Order%20granting%20in%20part%20Plaintiffs%20Motion%20for%20Summary%20Judgment%202021.08.02.pdf>.

⁴ Kirstjen M. Nielsen, *Policy Guidance for Implementation of the Migrant Protection Protocols*. Department of Homeland Security. 25 January 2019. https://www.dhs.gov/sites/default/files/publications/19_0129_OPA_migrant-protection-protocols-policy-guidance.pdf.

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⁶ See, e.g., U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Order Suspending the Right to Introduce Certain Persons from Countries where a Quarantinable Communicable Disease Exists*. 2 August 2021. <https://www.cdc.gov/coronavirus/2019-ncov/downloads/CDC-Order-Suspending-Right-to-Introduce-Final-8-2-21.pdf>. First issued in 2020 under the Trump administration, the Biden administration recently terminated the Title 42 order, but it remains in place under court order pending appeal in the case. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Public Health Determination and Order Regarding the Right to Introduce Certain Persons from Countries where a Quarantinable Communicable Disease Exists*, Centers for Disease Control and Prevention, 1 April 2022. <https://www.cdc.gov/coronavirus/2019-ncov/cdcresponse/Final-CDC-Order-Prohibiting-Introduction-of-Persons.pdf>; *Louisiana v. Centers for Disease Control and Prevention*, No. 22-CV-00885 (W.D. LA, May 5, 2022) <https://www.courthousenews.com/wp-content/uploads/2022/05/order-granting-injunction-against-ending-use-of-title-42.pdf>.

⁷ See Lucas Guttentag, *Coronavirus Border Expulsions: CDC's Assault on Asylum Seekers and Unaccompanied Minors*. Just Security, 13 April 2020. <https://www.justsecurity.org/69640/coronavirus-border-expulsions-cdcs-assault-on-asylum-seekers-and-unaccompanied-minors/>; Harold Koh, *Re: Ending Title 42 return flights to countries of origin, particularly Haiti*. Memorandum, 2 October 2021. <https://www.politico.com/f/?id=0000017c-4c4a-dddc-a77e-4d9bf3ae0000>; Human Rights First, *Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger*. December 2020. <https://www.humanrightsfirst.org/resource/humanitarian-disgrace-us-continues-illegally-block-expel-refugees-danger>

⁸ U.N. High Commissioner for Refugees, *UNHCR concerned over U.S. expulsion flights under COVID-19 asylum restrictions*. UNHCR, 11 August 2021. <https://www.unhcr.org/en-us/news/press/2021/8/6113dfc14/unhcr-concerned-expulsion-flights-under-covid-19-asylum-restrictions.html>; U.N. High Commissioner for Refugees, *Statement attributable to UN High Commissioner for Refugees Filippo Grandi on the need to end US COVID-19 asylum restrictions*. 20 May 2021. <https://www.unhcr.org/news/press/2021/5/60a687764/statement-attributable-un-high-commissioner-refugees-filippo-grandi-need.html>.

⁹ The U.N. High Commissioner for Refugees, *News Comment by UN High Commissioner for Refugees Filippo Grandi on conditions and expulsions at US border*. 21 September 2021. <https://www.unhcr.org/en-us/news/press/2021/9/614a27324/news-comment-un-high-commissioner-refugees-filippo-grandi-conditions-expulsions.html>.

¹⁰ Comunicado conjunto de las Oficinas en México de ACNUR, UNICEF, ONUDH, ONU Mujeres y OIM, *Agencias de la ONU expresan preocupación frente al deterioro de las condiciones humanitarias de las personas migrantes y solicitantes de asilo en las fronteras norte y sur de México*. ACNUR México, 11 August 2021. <https://www.acnur.org/es-mx/noticias/press/2021/8/61143e084/agencias-de-la-onu-expresan-preocupacion-frente-al-deterioro-de-las-condiciones.html>.

¹¹ Inter-American Commission on Human Rights, *The IACHR Expresses Concern about the Expulsion of People in a human mobility context from the United States and Mexico and calls on States to Ensure the Effective Protection of Their Rights*. 17 September 2021. https://www.oas.org/en/IACHR/isForm?File=/en/iachr/media_center/PReleases/2021/243.asp; Inter-American Commission on Human Rights, Twitter, 12 August 2021. <https://twitter.com/CIDH/status/1425818016982487040> ("IACHR urges the United States to lift the restrictions on access to the territory and protection procedures under Title 42, in line with the principles of due process, non-refoulement and other inter-American principles and standards of protection provided for in its Res.4/19.").

¹² Matthew Reynolds, *UNHCR comment on reinstatement of U.S. policy that endangers asylum seekers*. UNHCR, 2 December 2021. <https://www.unhcr.org/en-us/news/press/2021/12/61a8eef4/unhcr-comment-reinstatement-policy-endangers-asylum-seekers.html>.

¹³ Human Rights First, *The Nightmare Continues: Title 42 Court Order Prolongs Human Rights Abuses, Extends Disorder at U.S. Borders*. June 2022. <https://www.humanrightsfirst.org/resource/nightmare-continues-title-42-court-order-prolongs-human-rights-abuses-extends-disorder-us> (Tracking at least 10,318 reported attacks on asylum seekers and migrants blocked in or expelled to Mexico due to the Title 42 policy between January 2021 and June 2022); Human Rights First, *Publicly reported cases of violent attacks on individuals returned to Mexico under the 'Migrant Protection Protocols', as compiled by Human Rights First*. 19 February 2021 <https://www.humanrightsfirst.org/sites/default/files/PubliclyReportedMPPAttacks2.19.2021.pdf> (counting at least 1,544 publicly reported cases of murder, rape, torture, kidnapping, and other violent assaults against asylum seekers and migrants forced to return to Mexico under RMX by the Trump administration as of February 19, 2021).

¹⁴ Christian Solidarity Worldwide, *No word on fate of pastor and co-worker three months after kidnap*. 4 November 2019. <https://www.csw.org.uk/2019/11/04/press/4486/article.htm>; Comisión Interamericana de Derechos Humanos, *Aaron Casimiro Mendez Ruiz Alfredo Castillo respecto de Mexico*. October 2019. <https://www.oas.org/es/cidh/decisiones/pdf/2019/51-19mc870-19-mx.pdf>.

¹⁵ Christian Solidarity Worldwide, *No word on fate of pastor and co-worker three months after kidnap*.

¹⁶ Wendy Fry, "Killing of Mexican priest in Tecate prompts calls for greater security for migrant advocates." San Diego Tribune, May 2022. <https://www.sandiegouniontribune.com/news/border-baja-california/story/2022-05-23/mexican-priest-tecate>.

¹⁷ Human Rights First, *Human Rights Fiasco: The Trump Administration's Dangerous Asylum Returns Continue*. December 2019. <https://www.humanrightsfirst.org/sites/default/files/HumanRightsFiascoDec19.pdf>.

¹⁸ U.S. Department of State, *2021 Report on International Religious Freedom: Mexico*. June 2022. <https://www.state.gov/reports/2021-report-on-international-religious-freedom/mexico/>.

¹⁹ Adolfo Flores, *Immigration Attorneys Say They Won't Be Complicit in the Biden Administration's Relaunched "Remain in Mexico" Program*. BuzzFeed News, November 2021. <https://www.buzzfeednews.com/article/adolfoflores/immigration-attorneys-mpp-pro-bono-list>.

²⁰ *Immigrant Defenders Law Center v. Wolf* (C. D. Cal. 2020), Declaration of Kenji Kizuka. <https://innovationlawlab.org/media/0048-11-09-2020-Declaration-of-Kenji-Kizuka.pdf>.

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