

A Sordid Scheme: The Trump Administration's Illegal Return of Asylum Seekers to Mexico

On January 29, 2019, the Trump Administration began implementing its perversely dubbed “[Migration Protection Protocols](#).” In reality, this policy is about denying—not providing—protection to refugees, and is not a “protocol,” but an attempt to circumvent the Protocol Relating to the Status of Refugees and the laws passed by Congress. The latest in a series of efforts to ban, block, and deter refugees from seeking asylum in the United States, this “Remain in Mexico” scheme violates U.S. and international law, returns asylum seekers to danger in Mexico, creates disorder at the border, and makes a mockery of American due process and legal counsel laws.

This report is based on Human Rights First’s field observations, legal analysis, meetings with U.S. and Mexican government officials and NGOs, interviews and communications with attorneys, legal organizations, and asylum seekers, as well as review of documents provided by the U.S. and Mexican governments to asylum seekers stranded in Mexico. Human Rights First’s legal teams conducted [research](#) at the U.S.-Mexico border in November and December 2018, and again in January and early February 2019. Our teams were in Tijuana both before and as the Trump Administration began returning asylum seekers to Mexico. Researchers also visited the United States-Mexico border in late February and early March 2019, visiting ports of entry at Laredo, Eagle Pass and Del Rio, Texas and the Mexican cities of Nuevo Laredo, Piedras Negras and Ciudad Acuña.

Human Rights First’s principal findings include:

- ☑ The Remain in Mexico plan violates asylum provisions in the Immigration and Nationality Act (INA) as well as U.S. treaty obligations to protect refugees.
- ☑ At least 150 asylum seekers had been returned to Mexico through February 2019. The people returned so far had sought asylum from El Salvador, Guatemala, and Honduras, and include an LGBTQ asylum seeker, an individual with a serious medical condition, and families with at least 13 children (three under the age of five).
- ☑ Implementing Remain in Mexico has not increased “efficiency” but created disorder and will likely encourage attempts to cross the border between ports of entry as have other disruptive and illegal efforts to block or reduce asylum requests at ports of entry.
- ☑ Remain in Mexico makes a mockery of legal representation and due process rights of asylum seekers, undermines their ability to prepare or even file an application for asylum, and ignores the protection screening safeguards created by Congress, instead inventing a farcical “procedure” to screen asylum seekers for fear of return to Mexico.
- ☑ The United States has returned asylum seekers to acute dangers in Mexico and to potential deportation to the countries where they fear persecution. According to the administration, Remain in Mexico will expand to return more asylum seekers, including families, to Mexico—including to some of the most dangerous Mexican states on the U.S.-Mexico border, where murders and kidnappings of asylum seekers have occurred.

- ☑ Mexico has participated in the implementation of this policy. While Mexico insists it has no “agreement” with the United States, Mexican immigration officers are helping American officers block ports of entry and return asylum seekers to Mexico.

Human Rights First continues to urge the Trump Administration to:

- ☑ **Cease all efforts that violate U.S. asylum and immigration law and U.S. Refugee Protocol obligations** including the return of asylum seekers and the orchestrated restrictions on asylum processing at ports of entry.
- ☑ Direct U.S. Customs and Border Protection (CBP) to deploy more officers to U.S. ports of entry to restore timely and orderly asylum processing.

Illegal Returns to Tijuana Begin

On January 29, 2019, CPB began implementing the Remain in Mexico scheme in coordination with officials from the Mexican *Instituto Nacional de Migración* (National Migration Institute - INM). As Mexican immigration officers continued to control access of asylum seekers to the San Ysidro port of entry, they also began to oversee their return to Tijuana.

Through the end of February, asylum seekers returned to Tijuana under Remain in Mexico had all sought to request protection at the San Ysidro port of entry. Their names had been inscribed and called from a waiting “list” that developed as a result of CBP’s illegal practice of restricting the number of asylum seekers accepted each day at ports across the southern border. While asylum seekers take turns taking down names and information from fellow asylum seekers and calling “numbers” from this highly flawed “list,” INM officers essentially manage the “list” at the behest of CBP, which tells them how many asylum seekers CBP will process each day. Mexican migration officials have enforced and facilitated the U.S. policy of “metering” by preventing asylum seekers from approaching the port of entry unless they have been called from the “list.”

During the period Human Rights First observed the port, Mexican officials allowed an average of 41 asylum seekers each day from the “list” to approach the U.S. port of entry—a decline from late November and early December 2018 when researchers saw around 60 asylum seekers processed per day. This is far below CBP’s acknowledged capacity to process 90 to 100 people per day there. On average, these people had waited 5-6 weeks in Tijuana to seek asylum. After their names were called and they lined up to approach the port of entry, officers of *Grupo Beta*, the INM body responsible for migrant care, verified the identity documents of asylum seekers before transporting them to the U.S. port of entry for CBP processing.

Between January 29 and the end of February, CBP returned around 150 Salvadoran, Guatemalan and Honduran asylum seekers to Mexico. CBP escorted the first, a man from Honduras, out of the west pedestrian entrance of the San Ysidro port of entry to the border line, where INM officers brought him back to the Chaparral plaza on the Mexican side of the port of entry. After reporters swarmed him, INM officials hurtled him into a waiting vehicle and apparently deposited him at a Tijuana migrant shelter. INM has continued to escort returnees to Chaparral and transport some of them to shelters. On February 13, CBP expanded these returns to families with children. Thirteen children, including three children under the age of five, were returned to Mexico on February 13 and 14.

On February 14, the ACLU and the Southern Poverty Law Center filed suit against DHS in *Innovation Law Lab v. Nielsen* on behalf of eleven asylum seekers returned to Mexico and several legal services organizations that serve asylum seekers to challenge the legality of the Remain in Mexico scheme. A federal district court in San Francisco will hear the plaintiff’s request for a preliminary injunction.

The accounts of asylum seekers returned to Tijuana, U.S. government documents provided to asylum seekers, and the Department of Homeland Security's (DHS) own written descriptions of its policies reveal that the entire process is a farce. CBP officers have conducted interviews in the middle of the night and asylum seekers reported that they were not asked if they fear return to Mexico. This scheme interferes with basic due process and legal counsel protections both in immigration court proceedings and because it prevents asylum seekers from being represented by counsel during fear screening interviews—interviews that have life and death consequences.

Indeed, despite DHS's "Migrant Protection Protocol Guiding Principles" and assurances from the INM Commissioner that vulnerable individuals, including those with medical problems, would not be returned, Human Rights First found that, among others:

- A lesbian woman from Honduras was returned to Tijuana despite widely reported dangers for LGBTQ asylum seekers in Mexico.
- A Honduran man suffering from epilepsy was returned to Mexico without his medication, which CBP had confiscated—making clear that the agency was aware of his condition.
- Single women with children including, a Salvadoran woman with three children who fled El Salvador after a deadly gang that operates with impunity throughout the country tried to recruit her 11-year-old son, and a Guatemalan woman and her three children who left Guatemala after her domestic partner, who had become involved with a transnational criminal gang, nearly killed her.

As discussed in detail in the legal appendix, returning asylum seekers to Mexico violates the specific requirements Congress created under the INA to protect individuals seeking refugee protection at U.S. borders. Further, this scheme contravenes U.S. obligations under the Refugee Convention, the Protocol Relating to the Status of Refugees, and the Convention against Torture. These treaties prohibit the return of individuals to persecution or torture, including return to a country that would subsequently expel the person to such harm. In Mexico, asylum seekers face both potentially deadly harm and the risk of deportation to the countries they fled in search of refuge in the United States. A leaked draft memorandum prepared by DHS and commented on by a Department of Justice (DOJ) official prior to the program's rollout concedes that the plan "would implicate refugee treaties and international law."

Despite Remain in Mexico's evident and potentially fatal flaws, the Trump Administration has reportedly expanded this scheme as of early March 2019 to the San Diego border patrol sector, meaning that it would be applied to asylum seekers who crossed the border between ports of entry. The Administration also has plans to implement the scheme in additional areas of the border reportedly next expanding to asylum seekers who request protection at the El Paso, Texas port of entry or after crossing the border in that area.

Return of Asylum Seekers to Dangers and Risk of Deportation

The Trump Administration knows there is no safe way to return asylum seekers to Mexico. The leaked DHS/DOJ memorandum reveals that the Trump Administration recognizes that it cannot legally enter into a "safe third country" agreement with Mexico. Under the INA such agreements allow the United States to return asylum seekers to a country they crossed on the way to the United States if that country guarantees protection from persecution and provides a "full and fair" asylum procedure. The memo states that a safe third country agreement is "years" away, as Mexico must still "improve its capacity to accept and adjudicate asylum claims and improve its human rights situation." Yet, the Trump Administration has pushed ahead with its plan to return asylum seekers to Mexico, knowing full well that it places refugees in mortal danger and at serious risk of deportation by Mexican migration authorities.

Who Is DHS Returning?

The DHS memoranda and policy documents give CBP officers wide latitude to return noncitizens (at ports of entry or after crossing the border) who lack “proper documentation,” including asylum seeking adults and family units, unless certain limited exceptions apply. The exceptions are outlined in an unsigned document, rather than an official memorandum, entitled “MPP [Migrant Protection Protocols] Guiding Principles.” Under these vague “principles,” the categories of asylum seekers not “amendable” to Remain in Mexico, include Mexican nationals, unaccompanied children, those with “known physical/mental health issues,” “criminals/history of violence,” previously deported individuals, and others as identified at the discretion of the U.S. or Mexican government and CBP port of entry directors. While the head of INM reportedly stated that Mexico would not accept children under 18 or adults over 60, the “principles” document does not exempt these categories. Indeed, DHS began to return families with children to Mexico on February 13.

The asylum seekers returned to Tijuana face grave dangers. Although Tijuana was previously regarded as a somewhat safer area on the U.S.-Mexico border, the city is now one of the deadliest in the world—with over 2,500 murders in 2018. The state of Baja California, where Tijuana lies, had the largest number of reported murders in Mexico in 2018. This follows “a record increase in homicides in 2017” as well as an increase in reported rapes in all five of the state’s municipalities—Tijuana, Mexicali, Ensenada, Rosarito, and Tecate. The U.S. State Department acknowledges that “[c]riminal activity and violence, including homicide, remain a primary concern throughout the state.” 2019 has seen no abatement in violence, with 196 murders in the first 29 days of the year.

Asylum seekers have been the direct targets of violence in Tijuana. In late December 2018 two teenagers from Honduras were kidnapped and murdered in Tijuana. The case underscores the particular vulnerability of unaccompanied children forced to wait in Mexico to seek asylum—a friend who escaped the attack was scheduled to be escorted by Members of Congress to a port of entry to request asylum with other refugee youth, but was subsequently placed in protective custody after their murders. Earlier in May 2018, a shelter for transgender asylum seekers in Tijuana was attacked and set on fire.

Human Rights First researchers interviewed asylum seekers in Tijuana in November and December 2018 who faced violence in the city, including:

- A transgender Mexican woman was robbed of her documents and possessions and nearly sexually assaulted in Tijuana while waiting to seek asylum.
- A Cameroonian asylum seeker was stabbed in the hand and robbed in Tijuana. He did not report the incident to the police because he feared he could be arrested and deported.

In late January and early February 2019, asylum seekers in Tijuana reported additional dangers there:

- A Mexican asylum seeker fled with her husband from the state of Michoacán to Tijuana after being threatened by an armed criminal group. Since late December when her husband disappeared, she had not left the shelter where she has been staying, fearing that she and her two children—one and three years old—could also be kidnapped or killed.

- An indigenous Guatemalan asylum seeker with two black eyes and a broken arm told a Human Rights First researcher that he had been threatened and attacked by groups of Guatemalan and Mexican criminals while he waited to request asylum at the San Ysidro port of entry.
- A man from Honduras waiting to seek asylum in the United States after the murder of his brother reported that he had been repeatedly stopped and harassed by the police in Tijuana and that a Salvadoran asylum seeker with him had been robbed by the police there.
- A staff member from a shelter in Tijuana reported that in the week prior, three migrants had been robbed outside the shelter—two at gunpoint and one at knifepoint.
- The Trump Administration has already returned individuals to Tijuana who suffered threats and violence in Mexico, including a youth pastor from Honduras who fled death threats after he publicly denounced gang activities on television was attacked by men in Tijuana who threw rocks at him, while other local armed themselves with sticks and other weapons.

Despite claims by Secretary of Homeland Security Nielsen that Mexico will protect the “humanitarian rights” of returned asylum seekers, individuals returned under Remain in Mexico have not been guaranteed housing or other support by the Mexican government:

- In a January 2019 meeting before the implementation of Remain in Mexico, the INM Commissioner told Human Rights First that his agency had no system in place to house, care for, or otherwise ensure the safety non-Mexican asylum seekers returned from the United States and had no plans to study how to implement such support.
- A joint letter by a network of 31 migrant shelters along the U.S.-Mexico border makes clear that their facilities lack capacity to safely house the potentially large numbers of returned asylum seekers for the months they are likely to remain in Mexico.
- A *Grupo Beta* official overseeing the closure of the local government-run Barretal shelter, which resulted in the eviction of nearly 100 asylum seekers, told a Human Rights First researcher that he was not aware of any additional plans to provide housing to large numbers of migrants, whether they be caravan arrivals or those who are returned to Mexico.
- Tijuana has just three shelters for women and children and few spaces for families with adult women, men and older teenage boys. As of mid-February, the Tijuana shelter *Instituto Madre Asunta*, which has capacity for about 45 individuals was already housing 150 people. With new migrants and asylum seekers arriving each day, the shelters can typically provide housing for only a few days or weeks, not the many months asylum seekers returned under Remain in Mexico are likely to face. A Salvadoran woman returned with her three children to Tijuana reportedly told a U.S. immigration officer that she “had nowhere to go, and he just shrugged and looked at [her] like [she] was crazy.”
- Shelter space is also limited for adult men. An asylum-seeking man returned to Tijuana tried to return to the shelter where he had been staying but was turned away for lack of space. He found temporary accommodation for a few nights but has no place to sleep while he awaits his proceedings in the United States.

Asylum seekers forced to remain in Mexico are also at risk of *refoulement*, or illegal return to countries that threaten their lives or freedom, because Mexican migration authorities routinely fail to provide humanitarian protection to asylum seekers as required under domestic and international law. The U.S. 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, of a survey of 500 asylum seekers traveling through Mexico, 24 percent had indicated fear of persecution to Mexican officials but were ignored and arbitrarily deported back to their countries of persecution.

Human Rights First researchers have documented the arbitrary detention and deportation of asylum seekers in Mexico, including:

- **Three gay men from El Salvador, Honduras, and Guatemala who were detained in Tijuana in late November 2018.** Police officers illegally transferred them to the custody of Mexican migration authorities, despite their lawyer’s efforts to bail them out. During a visit, the attorney confirmed that at least two of the men wished to request asylum in Mexico to prevent their deportation to persecution. However, the Mexican National Human Rights Commission informed the lawyer that the men were sent to Mexico City and deported.
- **A Honduran asylum seeker staying at Casa del Migrante, one of the largest migrant shelters in Tijuana, who was arrested on a minor infraction in early October.** After his arrest, police transferred him to Mexican migration authorities for deportation. Despite the attorney’s request to the local representative of the Mexican migration agency to halt the asylum seeker’s deportation, the man was swiftly deported before the attorney for Casa del Migrante could visit him in the detention facility.
- **Some asylum seekers returned to Mexico under Remain in Mexico were previously subjected to detention and deportation by Mexico in contravention of its obligation to provide asylum seekers an opportunity to seek protection.** Mexican authorities had previously deported one of the asylum seekers without providing him an opportunity to apply for asylum or inquiring whether he feared return to his home country. Mexican authorities had also previously detained another of the returned asylum seekers his wife, separated them and deported her even though she informed INM that she was pregnant and feared returning to Honduras.
- **Multiple asylum seekers reported that they were deported from Piedras Negras in February 2019 after Mexican migration officials offered to transport them to other cities within Mexico.** A Salvadoran man told Human Rights First that he and around 30 other men were told they would be taken to Reynosa where they could apply for asylum at the McAllen port of entry. Instead their bus was boarded by armed Mexican federal police and driven south away from Reynosa, and the man was ultimately deported to El Salvador without being provided information by Mexican authorities on his right to seek asylum in Mexico nor an opportunity to do so. Another man from Honduras who had intended to seek asylum in the United States was transported from Piedras Negras with his girlfriend and cousin to Saltillo and then to Mexico City where INM officers had promised them assistance. Instead, they were held in a migrant detention center where gang members attacked other detainees in full view of the guards. Afraid to remain in the detention center to pursue asylum, the man was deported to Honduras.
- **In late February 2019, police in Piedras Negras arrested three Honduran asylum seekers on the “list” to seek asylum at Eagle Pass, Texas, after a neighbor complained about the men loitering near her home.** Several days after their arrests, the men had still not been released. The director of the migrant shelter where the men had been staying told Human Rights First that they were likely transferred to INM custody and deported.

Confusion and Encouraging Crossings Between Ports of Entry

DHS claims that Remain in Mexico “will provide a safer and more orderly process that will discourage individuals from attempting illegal entry,” but the rollout of the scheme demonstrates precisely the opposite.

In reality, it puts returned asylum seekers at risk and disrupts the processing of asylum seekers:

- On January 29, Secretary Nielsen visited the San Ysidro port of entry in an evident effort to generate maximum media attention to the return of asylum seekers as processing began. That afternoon Human Rights First researchers observed a swarm of reporters surround the first individual returned, attempting to interview him. Although he quickly left the area after providing his nationality and first name, Mexican government officials released his full name. Media outlets later published photographs that included his face and as well as his name, raising concerns that his persecutors would be easily able to identify and locate him in Mexico.
- After Secretary Nielsen’s visit Human Rights First observed a steep decline in processing of asylum seekers, with 20 or fewer asylum seekers processed each day for the next three days. The day of her visit, with international media present and perhaps in an attempt to generate a pool of potential returnees, CBP processed 80 asylum seekers—more than the agency had processed in a day in nearly a year, according to legal observers.
- Because of these wide swings in processing and commotion at the plaza, several asylum seekers missed their names being called from the asylum seeker wait “list.” One was a pregnant asylum seeker from Mexico. She reported to Human Rights First that she was uncertain if the shelter where she was staying would continue to house her and her children while they wait to be called again.

Further, processing of asylum claims at San Ysidro remains well below U.S. capacity. During the first week of Remain in Mexico, CBP allowed approximately 41 asylum seekers per day to approach the port of entry at San Ysidro—well below CBP’s acknowledged capacity to process 90 to 100 asylum seekers per day there. Indeed, administration assertions that Remain in Mexico is a response to capacity constraints in processing asylum seekers at ports of entry are simply not credible. As Human Rights First previously documented, the number of asylum seekers accepted at ports of entry has fallen sharply, often to levels well-below capacity, and administration officials have failed to deploy staff and resources to process asylum claims. For instance, Customs and Border Protection (CBP) in the San Diego region processed more asylum seekers in fiscal year (FY) 2014 under President Obama than in FY 2018 under the Trump Administration and handled twice as many cases in FY 2015 than in the last fiscal year.¹ Based on these figures, CBP processed 68 asylum seekers on average per day, every day in FY 2015. Yet Human Rights First researchers observed CBP process an average of 41 asylum seekers per day at San Ysidro—40% fewer than in 2015. Analyses of CBP’s data by Human Rights First, the Cato Institute, WOLA and others make clear that processing slowdowns at ports of entry reflect a deliberate choice by the administration to reduce the number of asylum seekers who can request protection at the southern border.

Restrictions on seeking asylum at ports of entry encourage asylum seekers to cross the border between ports of entry. In 2018, a CBP official confirmed to the Office of Inspector General for DHS that the “backlogs” created by these policies “likely resulted in additional illegal border crossings.” Indeed, some asylum seekers planning to

¹ See, Exhibit 2, Docket No. 192-4, *Al Otro Lado v. Nielsen*, 3:17-cv-02366-BAS-KSC (S.D. Cal. Nov. 29, 2018) (showing that the San Diego CBP Field Office processed approximately 15,000 fear claims in FY 2014 and 24,923 in FY 2015); Customs and Border Protection, “Office of Field Operations Claims of Credible Fear Inadmissibles By Field Office,” available at <https://www.cbp.gov/newsroom/stats/sw-border-migration/claims-fear/inadmissibles-field-office> (stating that the San Diego CBP Field Office processed 12,432 fear claims in FY 2018).

seek protection at the port of entry reported to Human Rights First in early February that they were considering crossing the border because they feared danger in Tijuana if they were returned to Mexico by the United States and they did not have the resources to survive the potentially months-long wait in Mexico.

- On February 2, Human Right First spoke with a Honduran asylum-seeking couple and their two young children in Tijuana. Concerned by insecurity in the migrant shelter where they had been staying, they found lodging far from the port of entry. They worried they could not safely wait in Tijuana if returned to Mexico and wondered whether they “should just cross outside of the gate.”

Due Process Mockery

Asylum seekers involuntarily returned to Mexico face significant barriers in exercising their right to be represented by a lawyer as well as in preparing and presenting their asylum claims. These obstructions to asylum seekers’ due process rights are likely to diminish their chances of being granted asylum. Indeed, asylum seekers with lawyers are four times more likely to be granted asylum than those without legal counsel.

Section 292 of INA guarantees individuals in immigration removal proceedings “the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as [t]he[y] shall choose.” Yet, Remain in Mexico imposes numerous barriers for returned asylum seekers to find or effectively work with legal counsel. Returned asylum seekers cannot enter the United States to search for or meet with an attorney, yet CBP has provided asylum seekers returned at San Ysidro with lists of legal service providers (in English) located in California and the state of their intended destination. An “Initial Processing Information” sheet provided by CBP to returned asylum seekers advises that they exercise the privilege of being represented by an attorney:

- “by telephone, email, video conference, or any other remote communication method”
- “in person at a location in Mexico” or
- “[o]n the day of your immigration hearing, you may arrange to meet with your counsel in-person, in the United States, at your assigned court facility, prior to that hearing.”

These cynical suggestions do not provide asylum seekers who are allowed back into the United States only on the day of their immigration court hearings meaningful access to attorneys authorized to practice law in U.S. immigration court:

- ☑ **Remote communication is costly, insecure, difficult and insufficient:** Indigent asylum seekers marooned in Mexico will have great difficulty even contacting attorneys in the United States. Remote communication presents multiple concerns including confidentiality, costs, and barriers in forming the kind of trusting attorney-client relationship necessary to uncover crucial information that traumatized individuals may be reluctant to share over the phone or by email. Nor will a remote attorney be able to review original documents and other evidence with the client, have the client’s affidavit signed before a U.S.-authorized notary, or prepare the client in person to give testimony in court.
- ☑ **Barriers to U.S. attorneys operating in Mexico:** Meeting in person with counsel in Mexico raises questions surrounding the legal authorization of U.S. lawyers to practice in Mexico. In February 2019, local authorities in Piedras Negras, Mexico threatened to arrest and charge a U.S. attorney for the unlicensed practice of law in Mexico when she attempted to escort asylum seeking clients to the port of entry at Eagle Pass, Texas. In addition, few non-profit legal services organizations with U.S.-qualified lawyers operate along the Mexican side of the U.S.-Mexico border. For instance, the San Diego based

organizations on the list of legal service providers given to returned asylum seekers do not have locations in or and do not currently practice in Mexico.

- ☑ **Absurd to expect asylum seekers to prepare their cases at immigration court:** Conferring with an attorney for a few minutes or even hours prior to a hearing is not sufficient to receive adequate legal representation. An attorney cannot reasonably interview a client, examine and identify errors in immigration documents, or complete and review the [12-page asylum application](#), let alone draft and finalize a client's affidavit or prepare a client to offer testify and be cross-examined. Asylum cases in immigration court often take [hundreds](#) of hours to prepare. Further, many immigration courts, including the San Diego immigration court, do not provide space for individuals to meet with their attorneys in a private and confidential manner. Because returnees will be transported to the immigration court from the port of entry under the custody of DHS, they may be [shackled](#). Suggesting that shackled asylum seekers meet with an attorney in the corridor outside the courtroom in the moments before an immigration hearing to prepare their cases makes a mockery of the INA's guarantee of access to counsel.
- ☑ U.S. citizen attorneys who have crossed into Tijuana to provide assistance to asylum seekers face the risk of high levels of violence. In addition, [attorneys](#) from *Al Otro Lado*, a migrants-rights organization with a location in Tijuana, were refused entry to Mexico in late January 2019 as Remain in Mexico was implemented and deported to the United States raising serious concerns they were targeted for assisting and advocating on behalf of asylum seekers. Recent reports recount targeting, including extensive search and questioning by CBP, of U.S. citizens [volunteering](#) with humanitarian groups as well as [journalists](#) interviewing migrants and asylum seekers. Leaked CBP [documents](#) indicate that U.S. and Mexican authorities have been gathering intelligence dossiers on journalists, an *Al Otro Lado* attorney, and migrant-rights advocates and flagging their passports for additional screening when they attempt to cross the U.S.–Mexico border.

Screening Farce

The screening process created by DHS to determine whether an asylum seeker is returned to Mexico is a farce designed to evade the credible fear process created by Congress to protect asylum seekers. Remain in Mexico's procedures elevate "efficiency" in returning asylum seekers to Mexico over ensuring that they receive an even minimally adequate assessment of whether they face persecution or torture there—a higher and different standard than the credible fear screening Congress established.

CBP officers are required to refer asylum seekers potentially subject to Remain in Mexico for a screening by a United States Citizenship and Immigration Services (USCIS) asylum officer of their fear of return to Mexico, but procedures under the new plan provide this interview only if the person [affirmatively](#) express a fear. This practice diverges from the [requirement](#) that CBP officers read arriving asylum seekers a summary of their rights and specifically question them about their fear of return before deporting them through the expedited removal procedures. The DHS memoranda do not require CBP officers to ask asylum seekers if they fear return to Mexico and, in practice, they have often not informed asylum seekers of the need to affirmatively express a fear of return to Mexico to trigger the full assessment nor screened asylum seekers for such fear.

- Human Rights First asylum legal experts reviewed the sworn statements in English (Form I-877, Record of Sworn Statement in Administrative Proceedings) recorded by CBP officers that include questions asked to and responses of several asylum seekers requesting protection at the San Ysidro port of entry in January 2019. They reported that **CBP failed to ask about danger they could face if returned to Mexico**. In these documents the CBP officers did not record having explained the Mexico fear screening

or having asked any questions about feared harm in Mexico. Rather, CBP officers' questions focused on whether the asylum seekers had hired smugglers or knew the names and contact information of the individuals who organize migrant caravans.

- Asylum seekers were reportedly asked to sign these written sworn statements without interpretation into a language they speak. One asylum seeker from Honduras fled death threats by gang members who later murdered the man's brother. He was asked to signed documents by CBP without interpretation, and later learned that these documents contain inaccurate information that he did not tell the officer, including that he was offered asylum in Mexico – a misstatement that ICE could subsequently attempt to use to argue against his asylum eligibility.
- An attorney with *Al Otro Lado* who has consulted with several returned asylum seekers reported that CBP officials are “not routinely asking people” whether they have a fear of returning to Mexico.
- Multiple returned asylum seekers reported to Human Rights First and other observers that they were awoken while in CBP custody and **interviewed in the middle of the night**. One asylum seeker reported having been questioned at around 1am and another was interviewed at 3am. Documents reviewed by Human Rights First confirm that a third individual received an information sheet regarding Remain in Mexico at 1 o'clock in the morning.
- An asylum seeker returned to Tijuana who has a first-grade education and suffers from a learning impairment due to a childhood traumatic brain injury alleged that he attempted to explain his fear of returning to Mexico but that the CBP officer who briefly interviewed him repeatedly shouted “no” at him, instructed him to sign documents in English he could not understand and failed to refer him for a fear screening with an asylum officer.
- An asylum seeker from Honduras reported that he was not asked about any danger he faced in Mexico but when he tried to affirmatively raise his fear, the CBP officer told him: “Honduras wasn't safe, Mexico wasn't safe, and the U.S. isn't safe either . . . He told me I'd have to figure out how to survive in Tijuana.”

The USCIS screening imposes an extraordinarily high standard to establish a likelihood of harm in Mexico and eliminates due process protections for fear screenings. The January 25 Nielsen memorandum states that asylum seekers can be returned to Mexico unless they would “more likely than not be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion . . . or would more likely than not be tortured”—the “same standard used for withholding of removal and CAT [Convention against Torture] protection determinations” normally applied after a full hearing in immigration court to make a final decision.

- ☑ **Extraordinarily High Legal Requirement:** Under the INA, asylum seekers placed in expedited removal must be referred for a fear screening. Asylum seekers must show a credible fear of persecution in the country they fled—meaning a *significant possibility* that they can establish ultimate eligibility for asylum after a full immigration court hearing. They are not required to actually prove their asylum cases at this stage—as Congress created a screening standard purposefully lower than the asylum standard. But under Remain in Mexico, asylum seekers must establish *full legal eligibility* for withholding of removal or CAT protection during this initial screening interview to avoid being returned to Mexico. Not only is the standard to qualify higher than for asylum itself, but asylum seekers must establish they qualify without an attorney or a chance to present in an evidentiary hearing in immigration court. **Under Remain in Mexico, asylum seekers must prove that they have an even greater fear in Mexico than in their home country in order to come into the United States to pursue their asylum claims.**

- ❑ **Lack of immigration judge review:** U.S. immigration law allows asylum seekers to request review by an immigration judge of a negative credible fear determination. Yet under Remain in Mexico, asylum seekers are not entitled to immigration judge review of the asylum officer determination regarding their fear of harm in Mexico. The lack of a review mechanism contravenes Congress’s intent for immigration judges to conduct an “independent review that will serve as an important though expedited check on the initial decisions of asylum officers.”
- ❑ **Denial of representation:** U.S. immigration law guarantees asylum seekers the right to consult with an individual, including a lawyer, of their choosing prior to a credible fear interview and to have that person attend the interview. Yet the USCIS policy memo states that “DHS is currently unable to provide access to counsel during the assessments given the limited capacity and resources at ports-of-entry and Border Patrol stations as well as the need for the orderly and efficient processing of individuals.” Restricting access to counsel for asylum seekers detained in DHS custody undermines the ability of asylum seekers to prepare for interviews and present evidence that demonstrates the danger(s) they face in Mexico. Further, these restrictions may violate the Orantes injunction, which guarantees certain rights, including access to counsel, for Salvadoran asylum seekers in DHS custody.
- ❑ **Denial of Rest:** Asylum officers have also reportedly been instructed to deny “rest periods”—the 48-hour respite asylum seekers are offered before a fear interview. These rest periods are crucial to ensuring due process because they allow asylum seekers who may be hungry and sleep-deprived after arduous and difficult journeys to recuperate before undergoing a screening interview about the persecution they fear.
- ❑ **Lack of Transparency:** Asylum seekers who do not pass credible fear screenings are entitled to a written notice and explanation of the asylum officer’s determination; however, asylum seekers referred for screenings by USCIS under Remain in Mexico reported that they did not receive an oral or written explanation of the asylum officer’s decision – leaving substantial questions about the basis for those determinations. Among those returned after USCIS screening was a Honduran asylum seeker who had been robbed at gunpoint in Tijuana just days before being allowed to approach the San Ysidro port of entry by men who said they knew he was Honduran and threatened to kill him if they saw him again in Tijuana. The man had also previously been kidnapped and held for ransom by a Mexican cartel before he managed to escape. Without any explanation from USCIS it is unclear why this man was returned to Mexico despite his fear of persecution there on account of nationality – an exemption ground laid out in the January 25 Nielsen memorandum.

An Address to Nowhere

The DHS memoranda and guiding principles do not explain how asylum seekers will receive hearing notifications from the immigration court. These notices are crucial to inform individuals in removal proceedings of changes in hearing dates, which occur frequently including tens of thousands of hearings that must be rescheduled due to the partial government shutdown in December 2018 and January 2019. Immigration judges may order asylum seekers who fail to appear at a hearing removed in their absence.

In order to receive hearing notices, individuals in immigration court must provide their address, but asylum seekers returned are unlikely to have a place to live in Mexico, let alone a readily available mailing address to supply. For example, one of the returned asylum seekers Human Rights First spoke with had been staying in the temporary shelter established in December 2018 at the former Barretal nightclub that closed suddenly on January 30, 2019. Further, notices to appear served on returned asylum seekers failed to record addresses in Mexico where mail can be received. On three notices to appear reviewed by Human Rights First, CBP officers recorded asylum seekers' addresses as merely "*domicilio conocido*" (literally "known address") in Tijuana.

Asylum seekers who attempt to update their addresses, as required by the immigration regulations, will not be able to deliver that form in person at the immigration court because they are not able to enter the United States. Instead, to send mail internationally they must rely on *Correos de Mexico*, the unreliable government postal system in decay due to a lack of federal resources and suffering from sluggish international delivery times of up to a month. While theoretically an alternative, the use of a private international courier services such as DHL or FedEx is likely prohibitively expensive for most indigent asylum seekers.

Mexico Complicit in Asylum Return Scheme

While the Mexican government has repeatedly characterized the Remain in Mexico plan as a "unilateral" action by the United States, Mexico is facilitating and assisting in the effort to block asylum seekers from approaching U.S. ports of entry. Mexico has already accepted the return of dozens of Central American asylum seekers in Tijuana. The January 25 Nielsen memo describing the exchange of messages between the two governments claims that Mexico will "allow" asylum seekers returned a "stay for humanitarian reasons," permit them to enter and exit Mexico for court hearings in the United States, and give returned asylum seekers an "opportunity to apply for a work permit."

Although Mexican regulations provide that so-called "humanitarian visas" are good for one year, renewable periods, the INM Commissioner, one of the officials with discretion to issue and renew such visas, reportedly indicated that humanitarian visas for returned asylum seekers would be valid for only four months and expressed his understanding the immigration proceedings in the United States would conclude within 90 days. However, visas issued by INM to several individuals and reviewed by Human Rights First were general visitor visas—the box for the humanitarian visa was not checked—with a 76-day validity period and did not provide authorization to take paid work. Recent changes in policy reflect the uncertainty and discretionary nature of the humanitarian visa program. In January 2019, Mexican President Andres Manuel Lopez Obrador implemented changes to the humanitarian visa process to facilitate access to the visa for Central Americans in need of humanitarian protection, but the program was cancelled less than two weeks later.

As discussed above, Mexico has repeatedly deported Central American asylum seekers to potential persecution without accepting or considering their requests for protection. Deportation by Mexico of individuals in need of

protection has resulted in grave consequences. For instance, in December 2018, a young Honduran man was murdered in Tegucigalpa, Honduras after being deported from Tijuana the previous week by INM. Even if Mexico were to follow through on its supposed offer of humanitarian visas to asylum seekers, asylum seekers in Mexico remain at risk of deportation to persecution, as Amnesty International found in its 2018 report documenting Mexico's *refoulement* of asylum seekers.

Plans to Expand Remain in Mexico Despite Dangers

Although returns to date have occurred only at the San Ysidro port of entry, a CBP memo implementing Remain in Mexico makes clear that DHS believes it has authority to return asylum seekers along the entire border both from ports of entry and those who cross between the ports of entry. Despite the violence and other grave harms asylum seekers could face if returned to other parts of the U.S.-Mexico border, DHS officials have already extended the program to return individuals who cross the border in the San Diego sector and plan to expand the scheme "in the near future" spreading next to El Paso. As Human Rights First has documented in reports and analyses, asylum seekers south of the U.S.-Mexican border face acute risks of kidnapping, disappearance, sexual assault, trafficking, and violent crimes.

The U.S. State Department 2017 human rights report on Mexico lists "violence against migrants by government officers and organized criminal groups" as one of the "most significant human rights issues." It notes that the dangers for Central American refugees in the country has grown as "Central American gang presence spread farther into the country and threatened migrants who had fled the same gangs in their home countries." Migrants are also targets for kidnapers, making up a disproportionately large percentage of reported disappearances – approximately 1 in 6—despite representing a tiny fraction of Mexico's total population.

Refugees in Mexico are targeted due to their inherent vulnerabilities as refugees but also on account of their race, nationality, gender, sexual orientation, gender identity, and other reasons. Certain groups—"including the LGBTQ community, people with indigenous heritage, and foreigners in general"—face consistent persecution in Mexico and are often forced to seek protection outside of the country. Gay men and transgender women, for example, flee discrimination, beatings, attacks, and a lack of protection by police in Mexico. A January 2019 survey conducted by the American Immigration Council, AILA, and the Catholic Legal Immigration Network, Inc. among 500 detained asylum seeking women and children in Texas found that 46% of respondents reported that they or their child experienced at least one type of harm while crossing through Mexico, and 38.1% of respondents stated that Mexican police mistreated them. Amnesty International reports that criminal investigations of massacres and crimes against migrants remain "shrouded by impunity."

Violence across Mexico has been climbing: 2018 was the deadliest year in the country's recorded history, averaging 91 homicides per day and surpassing the previous record in 2017 by 15 percent. The northern border states, where refugees forced to return to Mexico are likely to stay, all experienced jumps in homicide rates in 2018 making them among the most dangerous in the country. President Trump tweeted in January 2019 that the murder rate in Mexico had risen substantially making the country "[w]orse even than Afghanistan."

Research by Human Rights First, reports by the U.S. and Mexican governments as well as media accounts demonstrate the dangers migrants face in the Mexican states bordering the United States where CBP appears to be planning to return asylum seekers through ports of entry:

TAMAULIPAS

U.S. ports of entry: Laredo, McAllen & Brownsville, TX

Tamaulipas, the Mexican state that shares a long border with Texas, is “notoriously violent” and “one of the most lawless states in the country,” riven by cartel violence. Tamaulipas was the state with the largest registered number of missing or disappeared people in Mexico according to the U.S. State Department 2017 human rights report. The U.S. State Department ranks Tamaulipas as a category four level—“Do Not Travel”—the same threat assessment that applies to travel to Afghanistan, Iraq, and Syria. In Tamaulipas:

Violent crime, such as murder, armed robbery, carjacking, kidnapping, extortion, and sexual assault, is common. Gang activity, including gun battles and blockades, is widespread. Armed criminal groups target public and private passenger buses as well as private automobiles traveling through Tamaulipas, often taking passengers hostage and demanding ransom payments. Federal and state security forces have limited capability to respond to violence in many parts of the state.

U.S. government employees are restricted from intra-state highways in Tamaulipas and under evening curfew in the cities of Matamoros (across from the Brownsville port of entry) and Nuevo Laredo (across from the Laredo port). The U.S. State Department’s bureau of diplomatic security ranks “corruption of police and rule of law officials” as “the most serious concern” in its report on security in Nuevo Laredo. According to the bureau, “the municipal police force in Nuevo Laredo was disbanded among allegations of large-scale corruption” in July 2011 and as of January 2019 still had not been reconstituted. Mexican marines deployed to Nuevo Laredo to address cartel violence in the city have themselves been accused of disappearances and murder.

Human Rights First researchers spoke with multiple asylum seekers in Nuevo Laredo in late February 2019 who had been victims of violence, kidnapping, extortion, and other crimes while waiting to seek asylum at the Laredo port of entry:

- A director of a migrant shelter hosting hundreds of asylum seekers reported that kidnappings and extortion are extremely common in Nuevo Laredo and that many of those staying in the shelter had been previously kidnapped by cartel members who target migrants in local hotels, bus stations, and on the streets.
- A gay couple from Honduras were kidnapped upon arriving at the Nuevo Laredo bus terminal in early February 2019. The kidnappers threw them in separate cars taking one man to a carwash where he was threatened but ultimately released because he claimed to have no relatives willing to pay for his release. His partner was driven to a house where more than a dozen other migrants were also being held. The kidnappers struck him in the head, stole what money he had, took his photograph and recorded his biographical details – essentially registering him for further targeting.
- An asylum seeker reported that she fled Honduras after death threats by gang members who were attempting to extort her there. She feared that the gang had found her in Mexico after an unknown Honduran man randomly attacked her in the street, cutting her ear, injuring her head and knocking her unconscious when she fell to the ground.
- The husband of a Guatemalan asylum seeker left the migrant shelter where they were staying with three other men to look for day work while waiting for their names to be called from the asylum “list” at the Laredo, Texas port of entry. A group of heavily armed members of the Zetas cartel stopped and threatened the group, taking photographs of them. Two days later, one of the men was kidnapped.

In the city of Reynosa (across from the McAllen port of entry), disappearances, kidnapping, ransom, and murder of migrants by criminal groups have become so frequent that at least one migrant shelter forbids any migrants from leaving the premises. In December 2018, a Mexican television network reported that three Yemeni asylum seekers were kidnapped by men in vehicles marked “police” in Reynosa while en route to seek asylum in the United States. Taken to a house and stripped to their underwear, the men were held with other kidnapping victims from El Salvador, Guatemala, and Honduras. The kidnappers beat them, threatened to cut off their fingers and toes and extorted thousands of dollars from family members in Yemen. The group escaped only when another criminal gang attacked the house and released the three in exchange for additional extortion payments. The recent rescue of 22 Central American migrants held in a house in Reynosa suggests that the number of kidnappings remains high.

SONORA

U.S. ports of entry: San Luis, Nogales & Agua Prieta, AZ

For the state of Sonora, the U.S. State Department recommends that U.S. citizens “reconsider travel due to crime”—the same level of caution urged for travel to El Salvador and Honduras. According to the warning, “Sonora is a key location used by the international drug trade and human trafficking networks.” On the Mexican side of the border in the city of Nogales (across from the U.S. port of the same name), U.S. government employees are not permitted to use taxi services. Further, long-distance intrastate travel is limited to the daytime, and U.S. government employees may not venture outside of the city limits in the border-region towns of San Luis Colorado (across from the San Luis port), Cananea and Agua Prieta (across from the Agua Prieta port of entry). In its 2018 report on security in Nogales, the U.S. State Department’s diplomatic security bureau notes that “[a]nyone who projects the perception of wealth and is unfamiliar with the area can easily become a target of opportunity by being in the “wrong place at the wrong time.” The bureau recommends against the use of public transportation including taxis, given the “depth of narco-trafficking influence over the taxis.”

CHIHUAHUA

U.S. ports of entry: El Paso, TX

The U.S. State Department warns travelers to “reconsider travel due to” “widespread” “[v]iolent crime and gang activity” in the Chihuahua. In fact, U.S. government employees are limited to travel to a handful of cities and largely prohibited from traveling at night or away from major highway routes. On January 17, 2019, the State Department’s diplomatic security bureau warned of a series of attacks on police officers in Ciudad Juarez (across from the U.S. ports in El Paso) and Chihuahua City carried out by organized criminal groups, “which [we]re expected to continue” and warned its personnel “to avoid police stations and other law enforcement facilities in both cities to the extent possible until further notice. Earlier in October 2018, the diplomatic security bureau had warned that criminal groups in Ciudad Juarez were “actively trying to obtain armored vehicles” and had “made a brazen attempt to carjack a police armored vehicle.” In August 2018, the security bureau extended restrictions on travel to downtown Ciudad Juarez “[b]ecause the higher rates of homicides during daylight hours that prompted [a July 2018] restriction [had] not decreased.” As of February 2019, those restrictions had not been lifted.

Asylum seekers in Ciudad Juarez fear for their lives while waiting to be processed in the United States particularly with the arrival of the Jalisco New Generation cartel there. By mid-January 2019, the city had already had 46 homicides since the beginning of the year. Residents fear the potential for another vicious cartel fight: inter-cartel violence reportedly resulted in some 10,000 deaths between 2008 and 2012.

COAHUILA

U.S. ports of entry: Del Rio & Eagle Pass, TX

The [U.S. State Department](#) warns travelers to “reconsider travel due to” “[v]iolent crime and gang activity [which] are common in parts of Coahuila state.” Employees of the U.S. government travelling in the border towns of Piedras Negras (across from the Eagle Pass port) and Ciudad Acuña (across from the Del Rio port) are subject to a nighttime curfew. In June 2018, the mayor of Piedras Negras who had taken a hardline stance against crime was [assassinated](#) while campaigning for a seat in the Chamber of Deputies. Drug cartels in Coahuila [have reportedly](#) long sought to influence Mexican officials through bribes to policemen and politicians. In November 2018, a wave of [kidnappings](#) hit Piedras Negras with four women disappeared in a week. Overall, [homicides](#) rose in the state by 20 percent between 2017 and 2018. LGBTQ rights [activists](#) in the state have complained that murders of LGBTQ persons have gone uninvestigated and registered dozens of complaints of physical violence by police officers in the towns of Monclova, Frontera, Castaños, Piedras Negras, Acuña, San Pedro, Viesca, Torreón and Saltillo.

Migrants are targets of violence and discrimination in Coahuila. Migrant women and children are reportedly at high risk of [forced labor](#) on farms in Coahuila. In 2018, a hotel in Piedras Negras [kicked out](#) a family of Honduran asylum seekers in the middle of the night because the owner refused to accommodate “foreigners.” Asylum seekers in migrant shelters in Piedras Negras have been [threatened](#) by smugglers who threaten to kidnap and kill the migrants and their family members, if they do not pay them. In February 2019, a Honduran migrant managed to [escape](#) from a house where he was being held by kidnapers.

In February 2019, researchers from Human Rights First spoke with asylum seekers who had been attacked in Piedras Negras:

- A 17-year-old unaccompanied boy from Honduras who was staying at a makeshift shelter at a church in Piedras Negras reported that he had been robbed of his phone, money and identity documents at knife-point about four blocks from the shelter.
- A university student who had fled Honduras after death threats by extortionists feared being on the street outside the migrant shelter where he was staying because an officer with *Fuerza Coahuila*, the state police force, had stopped, beaten and threatened him because he was an undocumented migrant in Mexico.

Legal Appendix: Remain in Mexico Violates U.S. Laws and Treaty Obligations

U.S. law makes clear—in both Sections 208 and 235 of the INA—that people can seek asylum at a U.S. port of entry or after crossing in to the United States. The Trump Administration has already taken steps to block or turn away asylum seekers at ports of entry and to ban those who seek protection after crossing between ports of entry. Remain in Mexico is an attempt to circumvent the asylum laws passed by Congress in order to return some asylum seekers to Mexico.

Launched through a January 25, 2019 DHS action [memorandum](#), Secretary Kirstjen Nielsen purported to invoke authority under [Section 235\(b\)\(2\)\(C\)](#) of the INA to return non-Mexican nationals, including asylum seekers,

requesting admission at a U.S.-Mexico land port of entry or who have crossed that border “without proper documentation” to Mexico.² Asylum seekers subject to the scheme are issued a Notice to Appear (NTA) and returned to Mexico. While they are permitted to physically reenter the United States to attend immigration court proceedings, they are not allowed to enter in advance to attempt to secure, meet with and work with U.S. attorneys who can represent them in immigration court.

The use of this provision to return asylum seekers to Mexico directly contradicts the statutory scheme Congress laid out in the INA. First, Section 208 of the INA makes clear that asylum seekers who arrive at official border posts can apply for asylum. Second, Section 235(b)(1) establishes specific “expedited removal” procedures for individuals who lack visas or other entry documents (at ports of entry or stopped after crossing the border), which includes most asylum seekers on the southern border. The provision further provides that asylum seekers be given a credible fear interview and that those who pass the screening be held in U.S. detention or released on parole—under INA 212(b)(5)—during consideration of their applications. **Returning refugees to Mexico directly contradicts Congress’ clear and specific instruction that asylum seekers remain in the United States while their asylum claims are pending.** Indeed, Section 235(b)(2)(C)—the very provision DHS relies on for Remain in Mexico—incorporates an explicit exception at 235(b)(2)(B) for individuals covered by Section 235(b)(1), i.e. the asylum seekers the agency now attempts to return to Mexico.

The safe third country provision of the INA does allow the United States to return some asylum seekers to a contiguous country they passed through, Mexico does not meet the legal criteria. Specifically, to be a safe third country, Mexico would have to (1) guarantee asylum seekers protection from persecution; (2) provide access to “full and fair” procedures to assess asylum requests; and (3) enter into an agreement to be designated a safe third country. None of these conditions has been met.

Congress passed the 1980 Refugee Act to bring domestic law in line with U.S. obligations under the Refugee Convention. Article 33 of the Refugee Convention, which the United States is bound to respect, prohibits states from returning refugees “**in any manner whatsoever**” to territories where they face a threat to their life or freedom. Returning Central American and other refugees to a country—such as Mexico—violates Article 33 as it puts refugees at risk of return to their country of persecution as well as the prohibition on returning individuals to any country where they may face persecution. The United States has also adopted the U.N. Convention against Torture (CAT), which prohibits returning a person to any country where that person would face torture. This obligation has been interpreted to prohibit a country from deporting someone who faces torture to a third country that would subsequently expel the person to a place where he or she faces torture. Returning individuals to Mexico also violates U.S. obligations under CAT as it puts returned asylum seekers at risk of expulsion by Mexico to their countries where they face torture. As outlined below, Mexican officers often return asylum seekers to their countries of persecution despite prohibitions in Mexican law, the Refugee Convention and CAT.

² In a January 31, 2019 email, an official from the Office of Management and Budget (OMB) informed Human Rights First that on January 29, 2019, DHS officially withdrew an interim final review to implement the Migrant Protection Protocol submitted for review to OMB’s Office of Information and Regulatory Affairs, the authority established by statute to review executive branch regulations.