

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

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

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

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

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

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

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

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

Key findings:

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

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

Human Rights First urges the Trump Administration to:

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

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

Human Rights First recommends that Congress:

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

Asylum Seekers, Children Expelled and Turned Away at Southern Border

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No Public Health Rationale to Close Border to Asylum Seekers

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

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

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

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

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

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

Mexico Complicit in U.S. Schemes to Block Asylum

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

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

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

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

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

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

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

COVID-19 Makes Desperate Circumstances Even Worse

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

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

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

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

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

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

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

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

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

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

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

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

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

Legal Appendix:

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

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

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

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

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

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

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

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

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

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

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

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

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

© 2020 Human Rights First All Rights Reserved.

This report is available online at humanrightsfirst.org

ACKNOWLEDGEMENTS

This report was written by Kennji Kizuka, Eleanor Acer, and Rebecca Gendelman. Research was conducted by Gendelman and Kizuka. David Mizner and Jennifer Quigley contributed edits to the report. Ashley Panzera designed the map. We are grateful for the support of the Mary A. McCarthy Yale Public Interest Fellowship. Human Rights First thanks the donors and foundations who provide invaluable support for the organization's research on access to asylum and representation of asylum seekers. We are thankful to all the practitioners, organizations and experts that provided information to inform this report. Particularly, we thank the numerous asylum seekers who bravely shared their stories in hopes of bettering the system for all those who seek protection and refuge in the United States.