

TO THE HONORABLE MEMBERS OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, ORGANIZATION OF AMERICAN STATES

EMERGENCY REQUEST FOR PRECAUTIONARY MEASURES PURSUANT TO ARTICLE 25 OF THE RULES OF PROCEDURE OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS ON BEHALF OF ASYLUM SEEKERS WHO HAVE BEEN OR WOULD BE EXPELLED FROM THE UNITED STATES UNDER THE TITLE 42 POLICY

Submitted by attorneys for Proposed Beneficiaries and requesting organizations pursuant to Article 25 of the Rules of Procedures of the Inter-American Commission on Human Rights:

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I. INTRODUCTION

This request is filed on behalf of 31 individual Proposed Beneficiaries, identified below, and similarly situated persons that the United States has subjected to expulsion under Title 42 of the U.S. Code (“Title 42”) without access to the U.S. asylum system,¹ as well as asylum seekers who would be expelled pursuant to Title 42 and/or are not approaching U.S. ports of entry on the U.S.-Mexico border to request protection for fear of expulsion. Since March 2020, under the guise of public health, the United States has used Title 42 to effectively close U.S. ports of entry to asylum seekers and to forcibly expel migrants and asylum seekers to Mexico, Haiti, and other countries where they face persecution, torture, and other serious harm.

By blocking and expelling these individuals pursuant to Title 42, the United States exposes them to serious and urgent threats of irreparable harm. U.S. officials directly harm asylum seekers during expulsions at the U.S.-Mexico border through the use of physical force, denials of urgent medical assistance, and family separations. The United States further engages in direct *refoulement* to danger by forcibly returning asylum seekers to the home countries that they have fled, where they face persecution and other extreme danger, without any consideration of the risks they face. The expulsions also create extreme danger in Mexico since many asylum seekers are returned there rather than to their home countries. Since late January 2021, there already have been more than 6,000 reports of kidnappings, rapes, and other violent assaults, including at least one reported murder, against individuals expelled to or blocked in Mexico due to the Title 42 policy.² These expulsions mark persons returned to Mexico as migrants trapped in Mexico, rendering them particularly vulnerable to this rampant violence, including kidnapping, sexual assault, extortion, and other forms of abuse at the hands of organized criminal groups and corrupt authorities. The expulsions also create a serious risk of *refoulement* by Mexican authorities to asylum seekers’ countries of persecution.

The actions and policies of the United States have created a serious and urgent situation that risks irreparable harm to the Proposed Beneficiaries and all asylum seekers that have been or would be subjected to Title 42. The Commission should adopt precautionary measures immediately requiring the United States to make changes necessary so that families, children, and adults can seek asylum in safety within the United States to avoid such irreparable harm.

II. LEGAL REPRESENTATION AND GEOGRAPHIC SCOPE OF REQUEST

The legal representatives presenting this request for precautionary measures are Al Otro Lado, Florence Immigrant and Refugee Rights Project, Haitian Bridge Alliance, Human Rights First, and Refugee and Immigrant Center for Education and Legal Services (RAICES). These organizations have direct experience with the implementation of the Title 42 expulsion policy along the U.S. border with Mexico and have obtained authority from each of the Proposed Beneficiaries to represent them in this matter.

¹ 42 U.S.C. § 265; Centers for Disease Control and Prevention, Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists, 86 Fed. Reg. 42828 (Aug. 5, 2021).

² Human Rights First, *Tracker of Reported Attacks During the Biden Administration Against Asylum Seekers and Migrants Who Are Stranded in and/or Expelled to Mexico*, <https://www.humanrightsfirst.org/sites/default/files/AttacksonAsylumSeekersStrandedinMexicoDuringBidenAdministration.8.23.2021.pdf>.

This request for precautionary measures focuses on the implementation of the Title 42 expulsion policy along the border between the United States and Mexico.

III. THE PROPOSED BENEFICIARIES

This request for precautionary measures is filed on behalf of specific individuals who are currently suffering and face imminent risk of irreparable harm as a result of Title 42 expulsions. It also is filed on behalf of other asylum seekers who have been expelled pursuant to Title 42, asylum seekers who would be expelled pursuant to Title 42, and asylum seekers who are not approaching U.S. ports of entry on the U.S.-Mexico border to request protection for fear of expulsion. The United States, as the country expelling each asylum seeker, has the power to end this illegal, dangerous, and inhumane situation.

The individual Proposed Beneficiaries are asylum-seeking families and individual adults who have been expelled after crossing the border and/or presenting themselves at the U.S. border to request protection, or who are afraid to do so for fear of being summarily expelled to their countries of persecution. Proposed Beneficiaries fled their home countries because of persecution on account of religion, race, political opinion, and sexual orientation, as well as violent targeted attacks by gangs and other organized criminal groups. They fear returning to their home countries, which include El Salvador, Ghana, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nigeria, and Yemen.

A. D.G.M.L., her son J.M.D.M., and her sister T.W.M.L.

D.G.M.L. is a 21-year-old mother from Mexico.³ She fled her hometown of Guanajuato, Mexico, with her two-year-old son, J.M.D.M., and 18-year-old sister, T.W.M.L., after cartel members threatened to kidnap her son and kill her family. The cartel shot at D.G.M.L.'s home and beat and shot her husband. He is now in hiding and in need of surgery. The cartel asserts that D.G.M.L.'s uncle stole from them. When D.G.M.L. filed a report with the police, the police said the attack was the family's own fault.

D.G.M.L. presented herself at the DeConcini port of entry, near Nogales, but was told that she could not seek asylum. D.G.M.L. pleaded with U.S. officials, but they ignored her. D.G.M.L. is vaccinated and had received a negative test for COVID-19 before presenting herself at the border. She is fearful that the cartel will find and kill her husband and that the cartel will find and harm her and her family members in Nogales.

B. D.M., his wife L.O., and their child M.Y.M.O.

D.M. is 32-year-old man from Haiti.⁴ He fled Haiti with his wife, L.O., and their two-year-old child, M.Y.M.O., and sought asylum in the United States in January 2021 due to political and gender-based persecution. Before fleeing D.M. had taken to social media to criticize his parliamentary representative for corruption and criminality. After he did so, gang members affiliated with the representative assaulted D.M. at his home, shot him in the leg, and raped L.O.

After a six-month recovery, D.M. and his family left Haiti, fearing that if the member of parliament and the gang members dispatched by him discovered that D.M. was still alive, they

³ Declaration of D.G.M.L., Annex 1 at 2.

⁴ Declaration of D.M., Annex 1 at 4.

would kill him. When they entered the United States, D.M. explained to U.S. immigration officials that he and his family were seeking asylum. The family was detained for several days. On February 1, 2021, officers told the family they were moving them to a more comfortable location; however, when they disembarked from the plane, they discovered that they were in Haiti.

Upon arriving in Haiti, D.M. and his family moved to a new city in the hope that they would not be recognized or located by their persecutors. They do not leave their house on account of their fear of retribution. Because they are in hiding, D.M. cannot search for employment, and the family is in dire financial circumstances, often going days without eating. These harms, including the risk of further attempts to murder D.M. and his family, result directly from the Title 42 expulsion policy.

C. I.B.

I.B. is a 35-year-old man from Ghana.⁵ He fled his home after an armed criminal group entered his home and murdered his uncle; I.B. had previously reported the criminal group to the police.

I.B. fled to South America, ultimately journeying to Mexico. In Mexico, I.B. was kidnapped and held for three days. Mexican police have stopped and searched I.B. on two occasions and have stolen his wallet. I.B. has had difficulty finding a job in Mexico on account of his race and nationality, and he has been the victim of racist comments.

I.B. attempted to seek asylum in the United States in 2020, but he was detained for a month before being expelled to a different Mexican city than the one from which he had previously crossed the border.

D. K.R.C., her partner, A.I.O.R., and their children L.E.R.C., Y.E.R.C., and B.Z.O.R.

K.R.C. is a 34-year-old woman from Mexico and is in hiding with her partner and her three children, ages 12, 8, and 4.⁶ K.R.C.'s brothers became involved with an organized criminal group in the state of Guerrero, Mexico, where K.R.C. lived. When K.R.C.'s brothers tried to leave the group, they were both murdered, along with one brother's partner. Because K.R.C. helped in the investigation into the murders, she was targeted by the criminal group.

The family fled to Tijuana to avoid the criminal group that had killed their family members and targeted K.R.C. She feels unable to go to the police for help since they often work with the gangs. The Title 42 expulsion policy prevents the family from seeking asylum in the United States. They currently live in a shelter and fear that the organized criminal group that killed K.R.C.'s brothers will find them there.

E. L.A.R.M., her son O.S.R.R., and her son C.A.R.R.

L.A.R.M. is a 30-year-old widow from Mexico.⁷ She fled from her hometown in Morelos with her six-year-old son, O.S.R.R., her three-year-old son, C.A.R.R., and her brother and his

⁵ Declaration of I.B., Annex 1 at 7.

⁶ Declaration of K.R.C., Annex 1 at 9.

⁷ Declaration of L.A.R.M., Annex 1 at 10.

family (consisting of her brother, his wife, and their three children). L.A.R.M.'s husband was murdered for refusing to pay extortion fees to an armed criminal group. She and her family continued to receive threats after his murder. The family relocated to Mexico City, but the threats against them continued there. She attempted to report the threats to the police, but the police turned her away because she could not provide names or addresses of the criminals; she suspects the police were involved with the crimes.

L.A.R.M. has attempted to request asylum five different times at two different ports of entry. CBP officials have told her that she cannot request asylum because of COVID-19. L.A.R.M. has provided proof of a negative COVID-19 test on at least one of her attempts to request asylum. During another attempt to request asylum, she was scared away from the border by a van full of armed men. During another attempt, CBP officials threatened to call Mexican police and Mexican immigration officials to remove her.

Living conditions in Nogales, Mexico are difficult. L.A.R.M. has been able to rent a small apartment, which she shares with her brother's family and two other families. They leave the apartment only to buy food because of the dangerous conditions in the area. She has seen children picked up off the street "in broad daylight" by men in vans.⁸

F. M.S.N.O.A.

M.S.N.O.A. is a 30-year-old Yemeni citizen born in Somalia.⁹ Because of his Somali heritage, he and his sister faced discrimination in Yemen. His parents died when he was young, making him a prime target for recruitment by various armed groups in Yemen. Afraid of being forced to fight in the war or face severe consequences if he refused, M.S.N.O.A. fled Yemen, travelling through Turkey and Ecuador and eventually arriving in Mexico.

He has been robbed, has faced discrimination because of his race and nationality, and is afraid for his safety in Tijuana, where he is now stranded. He hopes to apply for asylum in the United States, but he is afraid to cross the border and seek asylum because he does not want to be sent back to Yemen.

G. N.I.C.B., her husband J.J.B.B., and their children K.I.B.C. and A.E.B.C.

N.I.C.B. is a 34-year-old mother from El Salvador.¹⁰ N.I.C.B. fled gang violence in El Salvador with her husband, J.J.B.B., and two children, K.I.B.C., who is 12 years old, and A.E.B.C., who is 8 years old. Gang members threatened to kill her and her family, and they beat her and her husband.

In March 2021, the family tried to enter the United States from Reynosa, Mexico, to seek asylum. When they encountered U.S. officials at the border, the officials called N.I.C.B., her husband, and her children "a bunch of criminals." The officials expelled the family into Mexico in the middle of the night. They were kidnapped almost immediately after and kept in a locked storage room with insufficient food for 20 days. The kidnappers sexually harassed N.I.C.B. constantly.

When the family finally escaped confinement, they fell victim to an immigration scam. When the scammer began threatening to kill them, they moved to a different city in Mexico.

⁸ Declaration of L.A.R.M., Annex 1 at 12, para. 11.

⁹ Declaration of M.S.N.O.A., Annex 1 at 13.

¹⁰ Declaration of N.I.C.B., Annex 1 at 14.

However, the gang that threatened to kill them in El Salvador also operates in the Mexican city where they are now stranded, leaving them in constant danger. Whenever they leave the apartment where they are staying, people on the street recognize them as migrants and yell at them.

N.I.C.B. has developed health problems as a result of the trauma she has experienced, a direct consequence of the refusal of the United States to allow her to apply for asylum with her family.

H. N.M.M.M., her son C.A.M.M., and her daughter D.L.M.M.

N.M.M.M. is a 35-year-old mother from Guatemala.¹¹ She fled Guatemala with her 11-year-old son, C.A.M.M. and four-year-old daughter, D.L.M.M., due to threats made against her family by organized criminal gangs.

N.M.M.M. has been the victim of crime in Mexico as well. Three men broke into the home where she was staying and assaulted her. Her son was the victim of an attempted kidnapping.

N.M.M.M. first asked for asylum in June 2021, but was turned away. She participated in an organized protest calling for access to asylum, and U.S. officials treated her like “trash” and ignored her and the other families’ pleas.¹² N.M.M.M. most recently asked for asylum on September 26, 2021, but was told by a U.S. border official that, because of COVID-19, she could not enter the country. N.M.M.M. showed the border official proof of her negative COVID-19 test, but he paid no attention to it.

I. O.P.F. and his partner J.A.

O.P.F. is a 35-year-old man from Haiti.¹³ O.P.F. fled Haiti, followed later by his partner, J.A., to avoid gang members who robbed, extorted, and threatened to kill them. O.P.F. and J.A. tried to settle in Chile, where they thought they would be safer, but they experienced discrimination on the basis of their race and nationality. O.P.F.’s father is a U.S. citizen living in Florida. The couple decided to attempt to seek asylum in the United States.

On the journey to the border, a group of armed men robbed O.P.F. and J.A., murdered one of the men in their group, and raped many of the women in their group. When the couple arrived in Mexico, Mexican immigration officials detained them for several days and told them they were not welcome in Mexico. As they traveled toward the U.S. border, Mexican police officers robbed and extorted them, a type of assault that Black asylum seekers are particularly likely to encounter because of the rampant discrimination against Black refugees in Mexico. When they reached Matamoros, they learned that the United States was expelling asylum seekers. They are afraid that if they present themselves at the border, U.S. officials will expel them to Haiti without the opportunity to express their fear of return and apply for asylum. They are also afraid to go outside in Matamoros because of the racism they experience there. O.P.F. worries that they may be forced to live on the street soon.

J.A. has had two miscarriages, experiences chronic stomach pain, and suffers kidney problems. A doctor in Matamoros has told her that she needs a serious operation for her kidneys,

¹¹ Declaration of N.M.M.M., Annex 1 at 16.

¹² Declaration of N.M.M.M., Annex 1 at 16, para. 7.

¹³ Declaration of O.P.F., Annex 1 at 18.

but no one in Matamoros can perform the procedure, and the couple do not have the means to travel and pay for the procedure elsewhere.

O.P.F. and J.A. are in constant danger in Mexico because they are unable to seek asylum in the United States.

J. S.O. and his wife G.I.E.

S.O. is a 39-year-old man from Nigeria.¹⁴ He fled Nigeria after several family members, including his father, were killed on account of their Christian faith. S.O.'s uncle refused to allow S.O. to inherit his deceased father's land. S.O. was attacked by armed men, who he believes were sent by his uncle to kill him.

S.O. fled to Ecuador and journeyed through Colombia and Central America to Mexico. En route, he suffered severe illness and was threatened by guerrillas. In Mexico, S.O. has faced discrimination. He has been unable to find work, which he believes is based on his race and nationality. He was denied the ability to accompany his wife to the hospital when she delivered their baby; he believes this denial was on account of their race. The baby died during the delivery, and S.O. believes the death was due to poor care the baby and his wife received on account of discrimination. S.O. also has been stalked in Mexico, but he was unable to obtain police protection due to discrimination.

S.O.'s wife is pregnant again, and he is fearful that more harm will befall them if they continue to be forced to remain in Mexico.

K. S.S.A. and her partner J.I.A.V.

S.S.A. is a 38-year-old woman from Honduras.¹⁵ She and her partner, J.I.A.V., faced years of discrimination in Honduras because they are lesbian. After two police officers sexually assaulted them, S.S.A. and J.I.A.V. fled to Tapachula, Mexico. In Tapachula, they had to sleep in a park and were raped by police officers. J.I.A.V. found a job, but her employer's son attacked her, calling her offensive names because of her sexual orientation and severely injuring her spine, pelvis, and hand.

J.I.A.V. needed surgery to treat her pelvis and her spine, but the couple had money sufficient only for J.I.A.V.'s pelvis surgery. To date, she has not had the necessary surgery for her spine. While J.I.A.V. was still in the hospital, a social worker tried to hurt her and force her to perform oral sex on him. The couple tried to report the incident to the police, but the police refused to provide a copy of the report. After this incident, the couple began receiving threatening messages.

S.S.A. and J.I.A.V. were afraid to stay in Tapachula, so they traveled to Ciudad Acuña and requested humanitarian parole in the United States.¹⁶ Their application was denied. They tried to enter the United States to seek asylum in September 2021. Even after they expressed their fears to U.S. immigration officials, they were expelled to Honduras. The couple

¹⁴ Declaration of S.O., Annex 1 at 21.

¹⁵ Declaration of S.S.A., Annex 1 at 24.

¹⁶ While the United States government has a process to review requests for humanitarian parole pursuant to Section 212(d)(5)(A) of the Immigration and Nationality Act, these requests are not part of or required for admission to the regular U.S. asylum process, are generally accessible only to individuals represented by an attorney, and are ignored or denied in the vast majority of cases without explanation.

immediately fled Honduras to escape the grave danger they face there. They are once again stranded in Tapachula and are afraid of what may happen to them there.

L. T.B.C. and her partner S.A.F.

T.B.C. is a 22-year-old woman from Jamaica.¹⁷ She is Black and lesbian. She fled Jamaica with her partner, S.A.F., who is a 23-year-old Black woman from Jamaica. In Jamaica, T.B.C. and S.A.F. both experienced threats and violence on account of their sexual orientation. For example, S.A.F. had to leave home after being attacked by a relative. The couple struggled to find housing due to homophobic discrimination and were consistently targeted and threatened when they were in public. Fearing for their lives, they left Jamaica, hoping to seek asylum in the United States. However, they have been stranded in Tijuana, Mexico, since arriving there in late August 2021. They are afraid to present themselves at the U.S. border because of the reports about asylum seekers being sent back to their home countries by the United States. At the moment, both women are living in a state of limbo in Mexico. They fear to leave the shelter where they are staying because of harassment motivated by the couple's race, nationality, and sexual orientation, and they are deterred from going to the Mexican police due to reports of officers assaulting LGBTQ migrants and deporting asylum seekers.

T.B.C. and S.A.F. face a risk of irreparable harm in Mexico and in Jamaica were they to be expelled there. The direct cause of their precarious situation is the United States' policy of Title 42 expulsions.

IV. BACKGROUND: UNITED STATES' LEGAL FRAMEWORK AND IMPLEMENTATION OF TITLE 42 EXPULSIONS

In March 2020, the U.S. government announced that it would begin using a novel interpretation of a U.S. public health law, section 265 of the Public Health Service Act (codified at 42 U.S.C. § 265), to expel asylum seekers from the United States. In an expedited rule published on March 24, 2020, the Centers for Disease Control and Prevention (CDC) claimed authority to "suspend the introduction of persons from designated countries or places, if required, in the interest of public health."¹⁸ Two days later, the Director of the CDC issued an order implementing the a rule directing U.S. officials at the northern and southern borders of the United States to expel asylum seekers to the country from which they arrived in the United States, or to their home country.¹⁹ These expulsions are carried out without access to the U.S. asylum system or the fear screenings that are conducted as part of the statutory expedited removal process.

Immediately after issuance of the rule, U.S. Customs and Border Protection (CBP), an agency within the U.S. Department of Homeland Security (DHS), began to carry out expulsions under Title 42. In a memo containing the operational details of the program, CBP officers are directed to apply the Title 42 expulsion policy against people whom they believe to be entering

¹⁷ Declaration of T.B.C., Annex 1 at 26.

¹⁸ Department of Health and Human Services, Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons into United States from Designated Foreign Countries or Places for Public Health Purposes, 85 Fed. Reg. 16559 (Mar. 24, 2020); *see also* 42 U.S.C. § 265.

¹⁹ Centers for Disease Control and Prevention, Notice of Order Under Sections 362 and 365 of the Public Health Service Act Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists, 85 Fed. Reg. 17060 (Mar. 26, 2020).

the country without documentation.²⁰ At the same time, U.S. citizens and certain noncitizens were, and continue to be, permitted to enter the United States at U.S. ports of entry on the southern U.S. border.²¹ This prohibition on people without documentation—a focus without public health rationale—betrays the policy’s true intent: ***to prevent people from exercising their right to seek asylum in the United States***. The memorandum details only limited exceptions to the expulsion policy: asylum seekers can escape expulsion only by making an “affirmative, spontaneous, and reasonably believable” claim of torture in the country they would be expelled to and receiving a positive determination after screening by an asylum officer.²²

The previous U.S. administration reaffirmed the Title 42 policy in October 2020 with an order that was “substantially the same” as the original order.²³ When the current administration took office, ***it did not rescind the policy***. Rather, it doubled down by issuing a new CDC order in August 2021 that explicitly endorsed and continued the policy.²⁴ That order was extended again in October 2021 for an additional 60 days.²⁵

Despite court challenges, the Title 42 expulsion policy remains in effect today. Asylum seekers expelled under the COVID-19 pretext have filed a series of lawsuits against the U.S. government, challenging its violation of domestic and international obligations to respect the right to asylum and *non-refoulement*. A class of unaccompanied child refugees first sued the Trump administration in *P.J.E.S. v. Wolf*, leading a federal court to enjoin DHS from expelling children who sought asylum without their parents. The court opined that U.S. law likely did not authorize expulsions and that COVID-19 was an insufficient basis to violate long-standing refugee and humanitarian protections.²⁶ While a court of appeals later stayed this injunction, the incoming Biden administration created an exception to the Title 42 policy to allow unaccompanied children to apply for asylum,²⁷ which was formalized in July 2021.

Refugee families sued shortly thereafter in *Huisha-Huisha v. Mayorkas*,²⁸ pressing the U.S. government to allow nuclear families to apply for asylum. While the case paused for negotiations, DHS agreed to create a process that enabled non-governmental organizations

²⁰ COVID-19 Capiro memo at 1, <https://www.documentcloud.org/documents/6824221-COVID-19-CAPIO.html>.

²¹ *Id.*

²² *Id.* at 4. As of April 2021, out of over 630,000 expulsions, only 0.3 percent of individuals expelled under Title 42 managed to trigger a torture screening, and only 143 received a positive determination according to government data reviewed by CBS News. Camilo Montoya-Galvez, “Under Trump-era border rule that Biden has kept, few asylum-seekers can seek U.S. refuge,” *CBS News* (April 14, 2021), <https://www.cbsnews.com/news/refugee-asylum-seekers-immigration-limit-trump-biden/>. As a matter of policy, the Biden administration has also exempted unaccompanied minors from expulsion under Title 42. *See* Centers for Disease Control and Prevention, Public Health Determination Regarding an Exception for Unaccompanied Noncitizen Children from Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists, 86 Fed. Reg. 38717 (July 22, 2021).

²³ Centers for Disease Control and Prevention, Order Suspending the Rights to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists, 85 Fed. Reg. 65807 (Oct. 16, 2020).

²⁴ Centers for Disease Control and Prevention, Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists, 86 Fed. Reg. 42828 (Aug. 5, 2021).

²⁵ Centers for Disease Control and Prevention, “CDC Completes Sixty-Day Assessment of Order under 42 U.S.C. 265” (Oct. 2, 2021), <https://www.cdc.gov/media/releases/2021/s1002-sixty-day-assessment-order.html>.

²⁶ *PJES v. Wolf, et. al.*, No. 1:20-cv02245, Document 80 (D.D.C. Nov. 18, 2020), available at https://www.acludc.org/sites/default/files/field_documents/080_pjes_opinion_granting_class_and_pi.pdf.

²⁷ Centers for Disease Control and Prevention, “Title 42 Order Reassessment and Exception for Unaccompanied Noncitizen Children,” (Jul. 16, 2021), <https://www.cdc.gov/media/releases/2021/s0716-title-42-order.html>

²⁸ *Huisha-Huisha v. Mayorkas*, No. 1:21-cv-00100, Complaint (D.D.C. Jan. 12, 2021), available at https://www.acludc.org/sites/default/files/field_documents/huisha.01.complaint.pdf.

operating along the border to identify a certain number of vulnerable refugee families – such as those families in need of emergency medical care, actively hunted by gangs, or facing heightened risk of persecution while awaiting entry – and help them to apply for ‘exemptions’ to the Title 42 expulsion policy. When negotiations broke down between the asylum seekers and DHS in *Huisha-Huisha* in August 2021, DHS ended these humanitarian exemptions.²⁹ The federal court presiding over the *Huisha-Huisha* challenge issued an injunction blocking the U.S. government from expelling refugee families, but the U.S. government appealed this decision. The court’s order halting the program was stayed by a court of appeals pending further litigation.³⁰ ***The Title 42 expulsion policy remains in effect today***, blocking and expelling asylum-seeking families and single adults attempting to request protection at the U.S.-Mexico border.

The continued implementation of Title 42 irreparably harms asylum seekers who, as a result of the policy, are unable to seek protection in the United States. Since February 2021, the current U.S. administration has used Title 42 more than 700,000 times at the U.S. southern border to expel migrants and asylum seekers.³¹ The majority were expelled to Mexico, and many were then transported to southern Mexico, resulting in their forced return to the home countries from which they had fled.

The U.S. government also carries out expulsions under Title 42 to other countries. Over the course of two weeks in late September and early October 2021, DHS summarily expelled to Haiti nearly 7,000 Haitians³² who had crossed the U.S.-Mexico border near Del Rio, Texas. These expulsions were carried out despite ongoing political strife and worsening humanitarian conditions in Haiti—a dire situation that the U.S. government has repeatedly acknowledged in its findings and reports on the country.³³ In September 2021, DHS also expelled over 6,000 migrants and asylum seekers under Title 42 to Guatemala.³⁴

At the same time the U.S. government uses Title 42 to expel asylum seekers without access to the U.S. asylum system, each month CBP processes millions of travelers who are not asylum seekers³⁵ into the United States at ports of entry on the U.S.-Mexico border.³⁶ This discriminatory treatment, which has no basis as a public health measure, makes clear that Title

²⁹ See René Kladzyk, “Vulnerable migrants will no longer be exempt from rapid expulsion at the border,” *El Paso Matters* (Sep. 7, 2021), <https://elpasomatters.org/2021/09/07/vulnerable-migrants-will-no-longer-be-exempt-from-rapid-expulsion-at-the-border/>.

³⁰ *Huisha-Huisha v. Mayorkas*, 21-5200, Order (D.C. Cir., Sep. 30, 2021), [https://www.cadc.uscourts.gov/internet/orders.nsf/21AD2B183966A4D3852587600076F178/\\$file/21-5200LDSN2.pdf](https://www.cadc.uscourts.gov/internet/orders.nsf/21AD2B183966A4D3852587600076F178/$file/21-5200LDSN2.pdf).

³¹ See U.S. Customs and Border Protection, “Nationwide Encounters,” <https://www.cbp.gov/newsroom/stats/nationwide-encounters> (last visited Oct. 3, 2021).

³² Camilo Montoya-Galvez (@camiloreports), Twitter (Oct. 3, 2021, 4:04 PM), <https://twitter.com/camiloreports/status/1444755180717846530>.

³³ U.S. Department of Homeland Security, “Designation of Haiti for Temporary Protected Status” (Aug. 3, 2021), <https://www.federalregister.gov/documents/2021/08/03/2021-16481/designation-of-haiti-for-temporary-protected-status>; United States Department of State, 2020 Country Reports on Human Rights Practices: Haiti (Mar. 30, 2021), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/haiti/>.

³⁴ Conferencia de Prensa: Acuerdos en relación con el retorno de personas migrantes (Sep. 13, 2021), https://www.facebook.com/watch/live/?ref=watch_permalink&v=987942588718696.

³⁵ United States Mission to Mexico, “Travel Restrictions – Fact Sheet” (June 21, 2021), <https://mx.usembassy.gov/travel-restrictions-fact-sheet/> (last visited Oct. 4, 2021).

³⁶ See, e.g., Bureau of Transportation Statistics, Border Crossing Data <https://www.bts.gov/browse-statistical-products-and-data/border-crossing-data/border-crossingentry-data> (CBP processed more than 10 million pedestrians and passengers in June 2021 at southern border ports of entry) (last visited Oct. 4, 2021).

42 is intended to target, block and return to danger asylum seekers seeking protection in the United States.

V. THE COMMISSION IS FULLY AUTHORIZED TO HEAR THIS REQUEST AND ISSUE THE PRECAUTIONARY MEASURES SOUGHT HEREIN

A. The Commission's Authority to Issue Precautionary Measures

The United States places asylum seekers in “serious and urgent situations presenting a risk of irreparable harm”³⁷ and contravenes its obligations under the Organization of American States (OAS) Charter and the American Declaration of the Rights and Duties of Man (“American Declaration”) when it expels asylum seekers pursuant to Title 42.³⁸ The Commission has the authority to issue precautionary measures when a member state engages in such violations pursuant to Article 106 of the OAS Charter, Article 41(b) of the American Convention on Human Rights, and Article 18(b) of the Commission’s Statute. Specifically, Article 25 of the Commission’s Rules of Procedure empowers the Commission to request precautionary measures in “serious and urgent situations presenting a risk of irreparable harm.”

The situation of danger created by Title 42 is serious and urgent. The current U.S. administration has carried out hundreds of thousands of Title 42 expulsions since January 2021. As evidenced by the dangerous situations summarized in the Proposed Beneficiaries declarations,³⁹ these expulsions violate the prohibition on *refoulement* and put asylum seekers at risk of persecution in the countries they have fled.⁴⁰ They also expose non-Mexican asylum seekers to additional well-documented and pervasive violence in Mexico. This violence is a foreseeable result of expulsion. The expulsions carried out by CBP officials also are intrinsically violent, as recent pushbacks and expulsions of Haitian families and individuals have demonstrated.⁴¹ The United States also perpetuates family separation—and all of the irreparable harms attendant to family separation—through the implementation of Title 42.⁴²

There is more than a “reasonable probability” that asylum seekers—including those who have already been expelled, those who fear requesting asylum, and those who would be expelled in the future—will continue to suffer these harms as a result of expulsions by the United States carried out pursuant to Title 42.⁴³ Proposed Beneficiaries and similarly situated beneficiaries are unable to wait for the outcomes of policy advocacy with the U.S. government or further litigation

³⁷ Inter-Am. Comm’n H.R., Rules of Procedure, Art. 25.

³⁸ These obligations include protection of the following rights guaranteed by the American Declaration on the Rights and Duties of Man: Articles I (right to life and personal security), V (right to family life), VII (right of children to protection), XXVI (right to due process of law), and XXVII (right to seek asylum).

³⁹ See generally Annex 1.

⁴⁰ The *non-refoulement* obligation, which prohibits the return of migrants to any country where they would be threatened with persecution, torture, or other serious human rights violations, stems from two international agreements ratified by the United States: the 1967 Protocol Relating to the Status of Refugees (which incorporates the *non-refoulement* obligations of the 1951 Convention Relating to the Status of Refugees) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It also can be derived from obligations in the American Declaration and is found in the American Convention on Human Rights.

⁴¹ Eileen Sullivan & Zolan Kanno-Youngs, “Images of Border Patrol’s Treatment of Haitian Migrants Prompt Outrage,” *N.Y. Times* (Sep. 21, 2021), <https://www.nytimes.com/2021/09/21/us/politics/haitians-border-patrol-photos.html>.

⁴² See Declaration of Charlene D’Cruz, Esq., Annex 1 at 28.

⁴³ *Annual Report*, 2011, Inter-Am. Comm’n H.R., OEA/Ser.L/V/II. Doc. 69 (2011), at 73, para. 19.

in U.S. courts. In a request for precautionary measures such as this, there is no obligation for the Proposed Beneficiaries to fully exhaust local remedies before turning to the Commission. Rather, the Commission is empowered to act to prevent the United States' Title 42 policy from wreaking further irreparable harm.

B. Requested Precautionary Measures Are Consistent with Previously Granted Precautionary Measures

The class of Proposed Beneficiaries includes 31 individuals, identified above, and similarly situated persons that the United States has subjected to expulsion under Title 42,⁴⁴ as well as asylum seekers who will be expelled pursuant to Title 42 and/or are not approaching U.S. ports of entry on the U.S.-Mexico border to request protection for fear of expulsion. Precautionary measures previously issued by the Commission suggest that this class is well defined. The Commission previously has issued precautionary measures to protect groups of people even when every member of the group cannot be named, and when the class of Proposed Beneficiaries is large, as in cases involving indigenous groups, internally displaced persons, and immigrant children affected by the United States' "Zero Tolerance" policy.⁴⁵ Further, when dealing with large groups of beneficiaries, the Commission has issued precautionary measures both when the group's rights are violated by state agents⁴⁶ and when the state has failed to protect beneficiaries from non-state third parties.⁴⁷

In this instance, the number of times the U.S. government has expelled asylum seekers pursuant to Title 42—over one million times since the implementation of the program in 2020, according to the United States' own statistics⁴⁸—is indicative of the scale of the harm resulting from Title 42 and the urgency of the situation. Accordingly, the risk of irreparable harm through any one of the violations described below likely affects thousands of people. As noted above, since January 2021, there have already been more than 6,000 reports of kidnappings, rapes, and other violent assaults, including at least one reported murder, against individuals expelled to or blocked in Mexico due to the Title 42 policy.

⁴⁴ 42 U.S.C. § 265; Centers for Disease Control and Prevention, Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists, 86 Fed. Reg. 42828 (Aug. 5, 2021).

⁴⁵ Inter-Am. Comm'n H.R., PM 34/10, Women and girls residing in 22 Camps for internally displaced persons in Port-au-Prince, Haiti; Inter-Am. Comm'n H.R., Resolution 64/18, PM 731/18, Migrant Children Affected by the "Zero Tolerance" Policy Regarding the United States of America; Inter-Am. Comm'n H.R., Resolution 1/21, PM 754/20, Members of the Guajajara and Awá Indigenous Peoples of the Araribóia Indigenous Land, Brazil; Inter-Am. Comm'n H.R., Resolution 35/21, PM 284/18, Tsotsil indigenous families from twelve communities in the municipality of Aldama, Chiapas, Mexico; Inter-Am. Comm'n H.R., Resolution 7/19, PM 181/19, Indigenous Persons of the Pemon Ethnic Group in the San Francisco de Yuruaní or "Kumaracapay" Community and One Other, Venezuela.

⁴⁶ Inter-Am. Comm'n H.R., Resolution 7/19, PM 181/19, Indigenous Persons of the Pemon Ethnic Group in the San Francisco de Yuruaní or "Kumaracapay" Community and One Other, Venezuela.

⁴⁷ Inter-Am. Comm'n H.R., Resolution 47/19, PM 458/19, Guyararoká Community of the Guarani Kaiowá Indigenous People, Brazil.

⁴⁸ U.S. Customs and Border Protection, Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>; U.S. Customs and Border Protection, FY 2020 Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics-fy2020>.

The United States is responsible for directly harming asylum seekers through the actions of its own state agents, as well as for placing asylum seekers in harm's way in Mexico and in asylum seekers' countries of origin. These facts raise serious concerns for the inter-American system, as previous decisions by the Commission and Court have noted.⁴⁹

VI. THE UNITED STATES' PRACTICE OF RETURNING ASYLUM SEEKERS TO MEXICO AND OTHER STATES PURSUANT TO TITLE 42 OF THE U.S. CODE CREATES THE RISK OF IMMEDIATE AND IRREPARABLE HARM TO PROPOSED BENEFICIARIES

The United States exposes Proposed Beneficiaries to serious and urgent risks of irreparable harm and violates its obligations under international law when it expels asylum seekers pursuant to Title 42. The COVID-19 emergency never justified Title 42 in its operation against asylum seekers. As public health experts have repeatedly affirmed,⁵⁰ the supposed public health logic of the policy is fundamentally flawed and rests on a discriminatory and xenophobic narrative that immigrants spread disease. *There is no justification for a measure as extraordinarily harmful as Title 42.*⁵¹ In May 2021, the United Nations High Commissioner for Refugees issued an extraordinary statement urging the United States to “swiftly lift the public health-related asylum restrictions that remain in effect at the border and to restore access to asylum for the people whose lives depend on it, in line with international legal and human rights obligations.”⁵² The continuation of Title 42 has led to at least one high-profile resignation in the U.S. Department of State in protest of the cruelty and abuse of international norms,⁵³ and it has

⁴⁹ See generally John Doe v. Canada, Case 12.586, Inter-Am. Comm'n H.R., Report No. 78/11, OEA/Ser.Merits, OEA/Ser.IV/II.141, doc. 29 (2011) (concluding that Canada's “direct-back policy” violated asylum seekers' rights); Nadege Dorzema v. Dominican Republic, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 251 (Oct. 24, 2012) (holding that Dominican authorities violated the rights of Haitian migrants when they were collectively expelled).

⁵⁰ Letter to Secretary of Health and Human Services Alex Azar and CDC Director Robert Redfield from leaders of public health schools, medical schools, hospitals, and other institutions (May 18, 2020), https://www.publichealth.columbia.edu/sites/default/files/public_health_experts_letter_05.18.2020.pdf; letter to Secretary of Homeland Security Chad Wolf and Attorney General William Barr from leaders of public health schools, medical schools, hospitals, and other institutions (Aug. 6, 2020), https://www.publichealth.columbia.edu/sites/default/files/public_health_experts_letter_8.6.2020.pdf; letter to Acting Secretary of Health and Human Services Norris Cochran and CDC Director Rochelle Walensky from leaders of public health schools, medical schools, hospitals, and other institutions (Jan. 28, 2021), https://www.publichealth.columbia.edu/sites/default/files/letter_on_cdc_order_1.28.2021.pdf; Epidemiologists and Public Health Experts Implore Biden Administration to End Title 42 and Restart Asylum, Columbia Mailman School of Public Health (Sep. 1, 2021), <https://www.publichealth.columbia.edu/research/program-forced-migration-and-health/press-release-epidemiologists-and-public-health-experts-implore-biden-administration-end-title-42>; CNN, “Fauci: Expelling immigrants 'not the solution' to stopping Covid-19 spread” (Oct. 3, 2021), <https://www.cnn.com/videos/politics/2021/10/03/sotu-fauci-on-covid-immigration-theory.cnn>.

⁵¹ U.N. High Commissioner for Refugees, UNHCR warns asylum under attack at Europe's borders, urges end to pushbacks and violence against refugees, <https://www.unhcr.org/en-us/news/press/2021/1/601121344/unhcr-warns-asylum-under-attack-europes-borders-urges-end-pushbacks-violence.html>.

⁵² Statement attributable to U.N. High Commissioner for Refugees Filippo Grandi on the need to end US COVID-19 asylum restrictions (May 20, 2021), <https://www.unhcr.org/news/press/2021/5/60a687764/statement-attributable-un-high-commissioner-refugees-filippo-grandi-need.html>.

⁵³ Resignation letter to Secretary of State Anthony Blinken from Daniel Foote (Sep. 22, 2021), <https://www.washingtonpost.com/context/read-resignation-letter-from-u-s-special-envoy-for-haiti-daniel-foote/3136ae0e-96e5-448e-9d12-0e0cabfb3c0b/>.

drawn condemnation from another departing State Department lawyer, who called the program “illegal.”⁵⁴

A. The United States prevents asylum seekers from obtaining protection from persecution and torture

The Title 42 expulsion policy creates an insurmountable barrier to accessing the U.S. asylum system for most asylum seekers. Anyone who approaches the border without documents can be summarily expelled without asylum procedures. And as detailed in the original CBP implementation memo, CBP officers have the authority to decide whether to subject individual noncitizens to Title 42.⁵⁵ If an asylum seeker approaches or crosses the U.S.-Mexico border and a CBP officer determines that the individual does not possess travel documents or is seeking to enter without authorization, the officer can expel the individual pursuant to Title 42 regardless of any attempt to request protection. This practice runs counter to the longstanding practice of the United States and the plain language of U.S. asylum law, which requires that asylum seekers receive, at a minimum, a credible fear screening—the threshold requirement when an asylum seeker expresses a fear of return, even if the asylum seeker does not have valid travel documents or crosses the border without presenting at a port of entry.⁵⁶

The denial of the right of asylum is serious, urgent, and irreparable. While an asylum seeker expelled pursuant to Title 42 could conceivably be granted a new chance to apply for asylum, in practice the initial denial of the right to seek asylum may lead to irreparable harm. The United States has expelled asylum seekers directly to their countries of origin where they have suffered prior persecution and fear additional harms. Some asylum seekers—such as Proposed Beneficiaries K.R.C. and M.S.N.O.A.—may not even present themselves at the U.S. border out of fear that identifying themselves as an asylum seeker will result in expulsion to their country of persecution.⁵⁷ The United States also has expelled asylum seekers directly to southern Mexico in an effort to prevent attempts to seek asylum in the United States again. Asylum seekers often lack the financial resources or physical ability to attempt the dangerous journey again, even were Title 42 to be terminated. For those murdered after expulsion, it is too late.

Accordingly, the continued implementation of Title 42 risks continued irreparable harm to every asylum seeker who the United States expels. While not every asylum seeker at the U.S.-Mexico border will succeed in their requests for protection, the application of Title 42 deprives all asylum seekers of the benefits of due process and fair procedures to adjudicate their claims for asylum, withholding of removal, and/or protection under the Convention against Torture. Such procedures are required by both domestic and international law, and their consistent application to all migrants attempting to claim asylum seeks to ensure that individuals are not returned to a country in which they would face a risk of persecution. As the United Nations High Commission for Refugees has observed, “[t]he summary, mass expulsions of individuals currently under way under the Title 42 authority, without screening for protection needs, is

⁵⁴ Memo from Harold Koh (Oct. 2, 2021), <https://www.politico.com/f/?id=0000017c-4c4a-dddc-a77e-4ddb3ae0000>.

⁵⁵ COVID-19 Capiro Memo at 1, <https://www.documentcloud.org/documents/6824221-COVID-19-CAPIO.html>.

⁵⁶ See 8 C.F.R. § 208.30; Notice of Proposed Rulemaking, Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers, 86 Fed. Reg. 46906 (Aug. 20, 2021).

⁵⁷ Declarations of K.R.C. & M.S.N.O.A., Annex 1 at 9 & 13.

inconsistent with international norms and may constitute *refoulement*.”⁵⁸ By denying due process protections to individuals and families at the border, the United States risks sending each asylum seeker to a place where they face persecution and violence on account of their race, sexual orientation, or other protected characteristics. The irreparable consequences of denying asylum seekers the chance to present their asylum claims in the United States necessitate that the United States halt implementation of Title 42.

B. United States’ expulsions *refoul* asylum seekers and put them at risk of chain *refoulement* to countries of persecution

When the United States expels asylum seekers it exposes them—through direct and chain *refoulement*—to the very persecution that drove them to seek protection at the U.S.-Mexico border. The U.N. Office of the High Commissioner for Human Rights has made clear that forced return policies—which, like the Title 42 expulsion policy, fail to provide a mechanism to assess protection needs—violate the principle of *non-refoulement*.⁵⁹ Moreover, the Commission itself has expressed concern about the risk of *refoulement* in the context of expedited expulsions such as those carried out under Title 42.⁶⁰

In many instances, the United States has expelled asylum seekers directly to the countries they have fled. The vast majority of migrants and asylum seekers expelled under Title 42 have been expelled to Mexico, including Mexican asylum seekers returned to the very country they are attempting to flee. The U.S. government also has used Title 42 to expel migrants and asylum seekers directly to the danger they fled in Brazil, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, and other countries.⁶¹ For example, the U.S. government expelled Proposed Beneficiaries D.M., L.O., and M.Y.M.O. to Haiti, D.G.M.L., J.M.D.M., and T.W.M.L. to Mexico, and S.S.A. and J.I.A.V. to Honduras – the very countries they had fled.⁶² The expulsion of thousands of families and individuals to Guatemala and Haiti in September and October 2021,⁶³ in many cases after they had requested asylum and expressed fear to return to their countries of persecution,⁶⁴ are recent examples of this practice. The United States carried out these mass expulsions to Haiti in a haphazard and reckless manner, having expelled foreign-

⁵⁸ News Comment by U.N. High Commissioner for Refugees Filippo Grandi on conditions and expulsions at U.S. border (Sep. 21, 2021), <https://www.unhcr.org/en-us/news/press/2021/9/614a27324/news-comment-un-high-commissioner-refugees-filippo-grandi-conditions-expulsions.html>.

⁵⁹ Special Rapporteur on the human rights of migrants, Report on means to address the human rights impact of pushbacks of migrants on land and at sea, A/HRC/47/30 (May 12, 2021).

⁶⁰ Inter-Am. Comm’n H.R., The IACHR Expresses Concern about the Expulsion of People in a human mobility context from the United States and Mexico and calls on States to Ensure the Effective Protection of Their Rights (Sep. 17, 2021), http://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2021/243.asp.

⁶¹ Human Rights First, *Humanitarian Disgrace: US Continues to Illegally Block; Expel Refugees to Danger* (Dec. 2020), <https://www.humanrightsfirst.org/sites/default/files/HumanitarianDisgrace.12.16.2020.pdf>; Kevin Sieff, “She fled detention and torture in Nicaragua for asylum in the United States. The government put her on a plane back home,” *Washington Post* (Aug. 28, 2020), https://www.washingtonpost.com/world/the_americas/nicaragua-asylum-us-border/2020/08/27/9aaba414-e561-11ea-970a-64c73a1c2392_story.html; This American Life, “The Walls Close In” (Oct. 23, 2020), <https://www.thisamericanlife.org/721/the-walls-close-in>.

⁶² Declarations of D.G.M.L., D.M., & S.S.A, Annex 1 at 2, 4, & 24.

⁶³ Camilo Montoya-Galvez, “U.S. expels nearly 4,000 Haitians in 9 days as part of deportation blitz,” CBS News (Sept. 27, 2021) <https://www.cbsnews.com/news/haiti-migrants-us-expels-nearly-4000-in-nine-days/>; Human Rights Watch, “Mexico: Mass Expulsion of Asylum Seekers to Guatemala,” (Sept. 8, 2021), <https://www.hrw.org/news/2021/09/08/mexico-mass-expulsion-asylum-seekers-guatemala>.

⁶⁴ Declaration of Mirlande Joachim, Esq., Annex 1 at 84.

born children without documentation of Haitian citizenship as well as an Angolan national to Haiti, for example.⁶⁵ Some Haitians were held in congregate settings in detention centers for days, and denied medical attention and access to counsel prior to their expulsion, undermining the U.S. government's claim that these expulsions protect public health.⁶⁶

Further, when the United States expels non-Mexican asylum seekers to Mexico, it puts them at risk of chain *refoulement* to the persecution they have fled. The Mexican migration system does not ensure appropriate international protection. Reports indicate that "Mexican migration officials often fail to inform detained migrants of their right to seek asylum, pressure asylum seekers not to file applications for protection, and fail to forward their requests to the Mexican asylum agency."⁶⁷ In August 2021, hundreds of migrants and asylum seekers expelled by the United States via expulsion flights directly to southern Mexico were reportedly forcibly returned⁶⁸ by Mexican authorities to remote border towns in Guatemala and left without access to adequate shelter, food, or medical care.⁶⁹ Mexico has already returned dozens of Haitian migrants to Haiti by plane since late September 2021.⁷⁰

Reports of forced returns by Mexican authorities of asylum seekers are widespread. The United States is therefore well aware that the practice of expelling asylum seekers to Mexico risks their return to the persecution they have fled. Human Rights First documented the following examples of *refoulement* of asylum seekers by Mexican authorities, some of whom had previously been expelled by the United States:

- "In June 2021, Mexican immigration officials deported a Yemeni asylum seeker who had been expelled by DHS to Tijuana in February 2021 after he attempted to seek protection in the United States. The man, who is currently in Yemen, told Human Rights First that he fears for his life.
- "In July 2021, Mexican immigration officials deported a Honduran asylum seeker who had been expelled to Mexico under Title 42. After Mexican police forced the owner of the house in Piedras Negras where the man was staying to evict him because he did not have legal status in Mexico, he was left homeless, sleeping in the streets for a week and a half. He had contacted a legal services organization for assistance with an exemption to the expulsion policy shortly before Mexican immigration officials detained him and other migrants and deported them by bus to the border between Guatemala and Honduras. Now in hiding in Honduras, where he fears the gang that murdered his father will follow

⁶⁵ Caitlin Hu, "More than 40 children with non-Haitian passports deported to Haiti, says International Organization for Migration," *CNN* (Sep. 24, 2021), <https://edition.cnn.com/2021/09/23/americas/haitian-kids-deportees-intl-latam/index.html>.

⁶⁶ Declaration of Mirlande Joachim, Esq., Annex 1 at 85 & 86.

⁶⁷ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 22, https://www.humanrightsfirst.org/sites/default/files/HumanRightsTravesty_FINAL.pdf.

⁶⁸ Center for Gender & Refugee Studies, et al., "Impacts of U.S. and Mexican migration enforcement on migrant and refugee rights in Mexico," (Sep. 2021), <https://cgrs.uchastings.edu/sites/default/files/NGO-Memo-Impacts-of-Mexican-U.S.-Migration-Enforcement-9.20.21-1-1.pdf>.

⁶⁹ Kevin Sieff, "Mexico has pushed hundreds of migrants expelled from the U.S. on to Guatemala, stranding them in a remote village far from their homes," *Washington Post* (Aug. 10, 2021), <https://www.washingtonpost.com/world/2021/08/10/mexico-deport-guatemala/>.

⁷⁰ Daina Beth Solomon, "Mexico sends 70 Haitian migrants back home by plane," *Reuters* (Sep. 29, 2021) <https://www.reuters.com/world/americas/mexican-government-sends-70-migrants-back-haiti-by-plane-2021-09-29/>.

through on their threats to kill him, he told Human Rights First, ‘I can’t sleep because I’m scared they’ll come kill me.’

- “In August 2021, Mexican immigration officials deported a Honduran asylum seeker to Guatemala. The man and his family had been approved for an exemption to the expulsion policy after having been kidnapped, assaulted, and robbed in Mexico. But Mexican immigration officials stopped and detained him in Ciudad del Carmen as he was traveling to join his family in Tijuana, where they were scheduled for an exemption appointment on August 19, according to Ginger Cline, an attorney with Al Otro Lado.
- “In August 2021, Mexican immigration officers flew a Haitian asylum-seeking couple to southern Mexico from Matamoros for deportation. The couple, who had been approved for an exemption to the Biden administration expulsion policy, were en route to the border when officials from Grupos Beta, a Mexican government migration agency, intercepted them. Charlene D’Cruz, their attorney, located them in a migration detention center in Tapachula. D’Cruz reported that she is aware of at least 12 other asylum seekers detained by Grupos Beta in the Matamoros area and flown to Tapachula in summer 2021, including a young Honduran man who was waiting to present himself at the port of entry after having been approved for a Title 42 exemption.
- “Mexican immigration officials detained a Guatemalan asylum seeker in Mexicali and threatened to deport him to Guatemala until his lawyers intervened. The man, who had received threats by organized criminal groups in Mexico, had been approved for an exemption to the expulsion policy and was travelling to the port of entry when Mexican immigration officials intercepted him, according to Al Otro Lado attorney Ginger Cline.”⁷¹

The United States’ implementation of Title 42 creates life-threatening risks for asylum seekers, both when it summarily expels these asylum seekers directly to their countries of persecution and when it expels them to Mexico. The United States expels asylum seekers to Mexico with the knowledge that Mexican authorities are also illegally returning asylum seekers to the very countries they have fled.

C. The United States compounds the risks asylum seekers face in Mexico through expulsion practices

When the United States expels asylum seekers, it returns them to dangerous conditions in Mexico, and increases the danger they face in Mexico through these expulsions.

On return to Mexico, asylum seekers are marked as migrants by their expulsion, subjecting them to increased risk of extortion, kidnapping, and violence by organized criminal groups and corrupt officials, among others.⁷² Because CBP carries out expulsions at predictable times and locations, armed groups are able to wait in areas used by CBP for expulsions, ready to

⁷¹ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc*, at 22-23.

⁷² See Declaration of Savitri Arvey in *Huisha-Huisha v. Mayorkas*, Annex 1 at 79, para. 1 (“More than 1 out of 5 of the asylum seekers I have worked with reported being kidnapped in Mexico, and many of the women were raped during their capture.”); Supplemental Declaration of Taylor Levy in *Huisha-Huisha v. Mayorkas*, Annex 1 at 30, para. 4 (“approximately 40% of the clients I worked with in Nuevo Laredo, Mexico report either an actual or attempted kidnapping (or both).”).

kidnap migrants and asylum seekers who are sent back across the border into Mexico.⁷³ For example, Proposed Beneficiary N.I.C.B., her husband J.J.B.B., and their children K.I.B.C. and A.E.B.C. experienced this situation; the family was kidnapped almost immediately upon their expulsion. For those with relatives in the United States, the armed groups routinely extort those relatives for money.⁷⁴ For those without the ability to pay off the gangs, the consequences can be serious. For example, one 15-year-old boy who had been expelled to Reynosa twice was murdered for failing to pay a “crossing fee” to gangs in the area when he tried to re-enter the United States.⁷⁵ Many other individuals and families have been kidnapped, beaten, and held for ransom immediately after being expelled to Nuevo Laredo, Reynosa, and other Mexican cities.⁷⁶

CBP conducts expulsions in ways that directly increase the risk of expelled migrants being marked as such. Officials continue to conduct expulsions late at night, after shelters are closed, leaving large groups of migrants to fend for themselves on the streets. In addition, CBP expels some migrants, including Proposed Beneficiary I.B., at a different part of the border than where they initially crossed. These asylum seekers are dropped into unfamiliar cities, creating situations where they are easily identifiable as confused and vulnerable, and making them ideal targets for organized criminal groups seeking to extort and attack them.⁷⁷ CBP carries out expulsions in remote border towns that are not official U.S.-Mexico repatriation points and which lack migrant shelters or transportation infrastructure, further endangering the lives and safety of people who are expelled.⁷⁸

CBP also engages in a variety of practices that create visual indications of asylum seekers’ status as vulnerable expelled migrants. Officers expel large groups of people with their shoelaces removed,⁷⁹ and provide migrants with identical medical masks or bags for their belongings with a U.S. government logo.⁸⁰

All of these CBP practices increase expelled asylum seekers’ risk of serial violent attacks in the border cities to which they are expelled. Widespread violence places asylum seekers, many of whom already belong to vulnerable communities, in extremely dangerous situations in border cities. Asylum seekers, including Proposed Beneficiary L.A.R.M., her sons O.S.R.R. and C.A.R.R., and her brother and his family, frequently fear leaving the shelters or encampments where they are stranded after expulsion from the United States because of the prevalence of

⁷³ See Supplemental Declaration of Taylor Levy in *Huisha-Huisha v. Mayorkas*, Annex 1 at 34, para. 29 (“CBP expulsions of migrants occur in predictable locations at predictable times in areas where kidnappers and organized crime are rampant.”); Declaration of Julia Neusner in *Huisha-Huisha v. Mayorkas*, Annex 1 at 67-70, para. 5-15; Declaration of Jennifer Harbury in *Huisha-Huisha v. Mayorkas*, Annex 1 at 62-64, para. 6-13; Declaration of Erika Pinheiro in *Huisha-Huisha v. Mayorkas*, Annex 1 at 57-60, para. 27-40; Declaration of Chelsea Sachau in *Huisha-Huisha v. Mayorkas*, Annex 1 at 48-49, para. 17-18; see also Damià Bonmatí, “Migrants Returned to Mexico Describe Horror of Kidnappings, Torture, Rape,” *NBC News* (Sep. 28, 2021), <https://www.nbcnews.com/news/latino/migrants-returned-mexico-describe-horror-kidnappings-torture-rape-rcna2300>.

⁷⁴ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 11-12.

⁷⁵ *Id.* at 11.

⁷⁶ *Id.* at 11-12.

⁷⁷ Supplemental Declaration of Taylor Levy in *Huisha-Huisha v. Mayorkas*, Annex 1 at 34 para. 30-31; Declaration of Julia Neusner in *Huisha-Huisha v. Mayorkas*, Annex 1 at 70-71, para. 16-18.

⁷⁸ Human Rights First, *Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger* (Apr. 2021), at 9.

⁷⁹ Declaration of Julia Neusner in *Huisha-Huisha v. Mayorkas*, Annex 1 at 67, para. 6.

⁸⁰ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 12-13.

violence. In one survey, more than 80 percent of asylum seekers in Mexican states near the border reported that they had been the victim of an attack, an attempted attack, or threats in the previous month.⁸¹ LGBTQ asylum seekers who responded to the survey were even more likely to report having been targeted with 89 percent reporting violence or threats.⁸² There are reports of more than 6,000 violent attacks since the beginning of the Biden administration against asylum seekers and migrants who are stranded in or expelled to Mexico, including assault, kidnapping, rape, robbery, and torture.⁸³ For example, Human Rights First documented the following instances of asylum seekers being expelled directly into life-threatening situations in Mexico, facilitated by the CBP practices described above:

- “A Honduran family with three children was kidnapped and severely beaten immediately after DHS expelled them to Nuevo Laredo in June 2021. Shortly after they managed to escape, the family witnessed people they believed to be gang members drag a boy from a house and shoot him in the street.
- “A young transgender woman from Central America was beaten and raped by gang members, causing her to contract HIV, after DHS expelled her to Reynosa. She had crossed the Rio Grande to seek U.S. asylum protection after fleeing severe beatings for her gender identity in her home country, according to an August 2021 declaration by Jennifer Harbury, an attorney who assisted her.
- “In August 2021, a Salvadoran man told Human Rights First that after Border Patrol agents expelled him to Piedras Negras at midnight he was threatened and attacked. With migrant shelters closed by the city, he was forced to sleep in an abandoned house, but men—one armed with a bat—threatened to beat him and other stranded migrants if they didn’t leave.
- “An asylum-seeking mother and her 15-year-old son were kidnapped almost immediately after being expelled by DHS to Reynosa. They were forced into a van at gunpoint where they were held for two weeks, denied food, and threatened with being killed, until family members paid ransom. According to the woman’s attorney, Taylor Levy, the woman has developed severe anxiety and panic attacks as a result.”⁸⁴

Mexican authorities do little to alleviate, and are sometimes complicit in, these dangers. In some cities, such as Piedras Negras, the local government has prohibited shelters from housing migrants, leaving many asylum seekers exposed to crime on the streets.⁸⁵ Mexican police often fail to investigate crimes against migrants or are complicit in their perpetration.⁸⁶ For example, Mexican police robbed, extorted, and threatened with deportation Proposed

⁸¹ *Id.* at 8.

⁸² Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 8.

⁸³ Human Rights First, *Tracker of Reported Attacks During the Biden Administration Against Asylum Seekers and Migrants Who Are Stranded in and/or Expelled to Mexico*, <https://www.humanrightsfirst.org/sites/default/files/AttacksonAsylumSeekersStrandedinMexicoDuringBidenAdministration.8.23.2021.pdf>.

⁸⁴ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 11-12; *see also* Declaration of Julia Neusner in *Huisha-Huisha v. Mayorkas*, Annex 1 at 69, para. 13.

⁸⁵ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 28.

⁸⁶ *Id.* at 15.

Beneficiaries from Haiti, O.P.F. and J.A., on multiple occasions in summer 2021.⁸⁷ Many do not seek help from the police, including Proposed Beneficiaries T.B.C. and S.A.F., fearing that the police will deport or harm them.⁸⁸ Of particular concern, Black asylum seekers are frequent targets of violence by Mexican authorities. Nearly 20 percent of Haitian asylum seekers who responded to a survey of asylum seekers reported being beaten, extorted, or threatened by the police in northern Mexican border states.⁸⁹

In addition to direct violence, asylum seekers living in Mexico frequently lack the most basic necessities, such as food, shelter, sanitation, and medical attention. Makeshift encampments provide little security and are plagued by unsanitary conditions.⁹⁰ Some encampments are so dangerous that advocates and aid organizations are unwilling to provide services in them.⁹¹ Many asylum seekers, unable to find work and with insufficient humanitarian supplies, are malnourished.⁹² Medical care often is inaccessible for asylum seekers expelled to Mexico, and human rights advocates have observed that care routinely is denied to asylum seekers.⁹³

D. CBP pushback and expulsion practices harm asylum seekers

Asylum seekers are also subject to direct harm at the hands of U.S. border officials. In September 2021, images and video footage showed CBP agents on horseback and wielding reins to chase Haitian asylum seekers back into the Rio Grande and away from the border.⁹⁴ This is a particularly striking example of violence, but reports of mistreatment of asylum seekers by U.S. border officials are common.⁹⁵

Additionally, CBP fails to provide suitable medical care and treatment to asylum seekers. The United States “continues to expel people to Mexico who are visibly sick or injured, ignoring pleas for medical attention, and in some cases transporting injured migrants directly from hospitals to expel them to Mexico while still in hospital gowns.”⁹⁶ For example, in August 2021 CBP expelled a woman with a severely injured leg to Mexico, against doctors’ recommendations that she remain hospitalized for two weeks and without prescribed medications or proper

⁸⁷ Declaration of O.P.F., Annex 1 at 18.

⁸⁸ Declaration of T.B.C., Annex 1 at 26.

⁸⁹ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 8.

⁹⁰ *Id.* at 26; *see also* Declaration of Julia Neusner in *Huisha-Huisha v. Mayorkas*, Annex 1 at 73, para. 27; Declaration of Savitry Arvey in *Huisha-Huisha v. Mayorkas*, Annex 1 at 80, para. 7.

⁹¹ Declaration of Erika Pinheiro in *Huisha-Huisha v. Mayorkas*, Annex 1 at 57-58, para. 28.

⁹² Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 26.

⁹³ *Id.* at 29; *see also* Declaration of Julia Neusner in *Huisha-Huisha v. Mayorkas*, Annex 1 at 67-70, para. 5-15.

⁹⁴ *See, e.g.*, Eileen Sullivan & Zolan Kanno-Youngs, “Images of Border Patrol’s Treatment of Haitian Migrants Prompt Outrage,” *N.Y. Times* (Sep. 21, 2021), <https://www.nytimes.com/2021/09/21/us/politics/haitians-border-patrol-photos.html>.

⁹⁵ *See, e.g.*, Human Rights First, *Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger* (Apr. 2021), at 22-25, <https://www.humanrightsfirst.org/sites/default/files/FailuretoProtect.4.20.21.pdf>; Kino Border Initiative & Network Lobby, *Due Process Denied* (Aug. 2021), <https://networklobby.org/wp-content/uploads/2021/08/KINO-NETWORK-CBP-Abuses-consolidated.pdf>.

⁹⁶ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 29-32.

clothing—she was wearing only disposable scrubs and no underwear.⁹⁷ The United States also expelled a father and his visibly disabled nine-year-old daughter, whose spinal injuries were so severe that the father had to carry her across the border.⁹⁸ Denial of treatment also has led to deaths:

- “Maily Martinez miscarried ... twins [at eight-and-a-half months pregnant] after Border Patrol agents denied her medical attention and expelled her to Mexico in July 2021. Martinez had attempted to cross the border with her husband and two-year-old son near Yuma, Arizona. Border Patrol agents ignored her pleas for medical treatment and expelled the Honduran family to Mexico, where Martinez learned shortly after that the twins, who she was planning to name Derrick and Patrick, had died. ‘With medical attention, my sons would be with me,’ she told Telemundo News. The twins’ father mourned, “They were in our arms for five minutes . . . and then they were cremated.”⁹⁹
- At least three asylum-seeking clients of the legal services organization *Al Otro Lado* have died since March 2021 because they were unable to seek medical attention in the United States.¹⁰⁰
- A blind, elderly grandmother who had sought U.S. asylum after surviving a gang massacre that had killed seven of her family members became gravely ill and died soon after the U.S. government expelled her to Reynosa in a frail condition.¹⁰¹

E. The United States separates families when carrying out Title 42 expulsions

Title 42 expulsions drive family separation. Some asylum seekers report that border officials have separated them from their family members—including children—during their expulsion.¹⁰² In some instances, family members have been returned alone to Mexico, and in other instances, family members have been returned to different parts of Mexico.¹⁰³ For instance, “Border Patrol agents separated a Cuban asylum seeker from his wife in March 2021, then expelled him alone to Mexico after falsely claiming that he would be reunited with her.”¹⁰⁴ Border Patrol agents also separated a 16-year-old Salvadoran boy from his 19-year-old brother after they crossed the border from Baja California to seek asylum. CBP expelled the older brother alone to Mexico.¹⁰⁵ CBP officers at ports of entry also have separated families by turning away some family members under Title 42. In September 2021, for example, CBP allowed a Honduran asylum-seeker with life-threatening injuries she had sustained while escaping kidnappers to enter the United States at the Brownsville port of entry, but turned away her 19-

⁹⁷ *Id.* at 29-32.

⁹⁸ Declaration of Astrid Dominguez in *Huisha-Huisha v. Mayorkas*, Annex 1 at 43, para. 2.

⁹⁹ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 29-32.

¹⁰⁰ Declaration of Erika Pinheiro in *Huisha-Huisha v. Mayorkas*, Annex 1 at 51, para. 2.

¹⁰¹ Declaration of Jennifer Harbury in *Huisha-Huisha v. Mayorkas*, Annex 1 at 64, para. 12-C.

¹⁰² International Organization for Migration, *Retornados a México bajo Título 42*, https://rosanjose.iom.int/site/sites/default/files/Reportes/dtm_editorial_final_12_08_2021.pdf.

¹⁰³ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 18-20.

¹⁰⁴ Human Rights First, *Failure to Protect, Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger* (Apr. 2021), at 18.

¹⁰⁵ *Id.* at 18.

year-old son, leaving him alone and in distress in Mexico.¹⁰⁶ The Commission already recognized the grave and irreparable harms that may result from separating children from their families when it granted precautionary measures against the United States regarding the “Zero Tolerance Policy” in 2018.¹⁰⁷

Even when CBP expels families together, a risk of family separation remains. In some cases, children cross the border alone after their parents are kidnapped following expulsion to Mexico.¹⁰⁸ Moreover, Title 42 itself creates incentives for families to self-separate: many parents feel compelled to send their children across the border alone to avoid imminent threats of kidnapping, violence, and trafficking.¹⁰⁹

VII. REMEDIES: MEASURES OF PROTECTION REQUESTED UNDER ARTICLE 25(4)(C)

Article 25(4)(c) requires a description of the measures of protection requested.¹¹⁰ The 31 named Proposed Beneficiaries request that the Inter-American Commission on Human Rights adopt the following Precautionary Measures and call upon the United States to take the following specific actions:

1. Permit the 31 named Proposed Beneficiaries to request asylum and other forms of protection they might be eligible for at U.S. ports of entry or within the United States consistent with U.S. law when Title 42 is not invoked.
2. Ensure the safe transit of the 31 named Proposed Beneficiaries to a port of entry and parole them into the United States to make their requests for protection.

Proposed Beneficiaries also request that the Inter-American Commission on Human Rights adopt the following Precautionary Measures requiring the United States to officially end its practice of expelling asylum seekers under Title 42 and calling upon the United States to take the following specific actions:

3. Announce an official end to expulsions pursuant to Title 42 and fully restore the right of persons seeking protection to request asylum at or after crossing the U.S.-Mexico border, including at U.S. ports of entry.

¹⁰⁶ Declaration of Charlene D’Cruz, Esq., Annex 1 at 28.

¹⁰⁷ Inter-Am. Comm’n H.R., Resolution 64/18, PM 731/18, Migrant Children Affected by the “Zero Tolerance” Policy Regarding the United States of America (noting the serious emotional and psychological harms that may result from family separation); Res 64/2018 para 27, citing Inter-Am. Comm’n H.R., “Request for Precautionary Measures to the Inter-American Court of Human Rights regarding boy LM,” May 18, 2011, para. 54 and Inter-Am. Ct. H.R., Order of the Inter-American Court of Human Rights of July 1, 2011, Provisional Measures regarding Paraguay. L.M. Matter, Considerandum 14 and 18.

¹⁰⁸ Nicole Sganga & Camilo Montoya-Galvez, “Over 2,100 Children Cross Border Alone After Being Expelled with Families to Mexico,” *CBS News* (May 7, 2021), <https://www.cbsnews.com/news/migrant-children-left-families-asylum-border/>; Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 4.

¹⁰⁹ Human Rights First, *Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc* (Aug. 2021), at 19-20.

¹¹⁰ Inter-Am. Comm’n H.R., Rules of Procedures, Art. 25(4)(c).

4. Withdraw and/or rescind the operative CDC Title 42 order, DHS COVID-19 Capiro memorandum, and any and all other regulations, memoranda, or other orders implementing the Title 42 expulsion policy.
5. Direct personnel and other resources to prioritize swiftly processing asylum seekers at ports of entry and along the border,¹¹¹ avoiding the detention of asylum seekers.
6. Parole in persons previously expelled pursuant to Title 42 to pursue their asylum claims within the United States and ensure their safe transit to the United States.
7. Investigate and provide accountability for abuses committed by Border Patrol agents and CBP officers in the treatment of Haitian and other asylum seekers subjected to Title 42 expulsions and pushbacks.
8. Work with officials in the United States, Mexico, and other countries, together with non-governmental organizations, to reunify family members who have been separated by Title 42 expulsions.
9. Refrain from cooperation with Mexico or other governments in immigration enforcement actions that result in the *refoulement* of refugees.
10. Take any other action necessary to allow asylum seekers at the U.S.-Mexico border to safely pursue their asylum claims from within the United States.

¹¹¹ See *Al Otro Lado v. Mayorkas*, 17-cv-02366 (S.D. Cal Sep. 9, 2021) available at <https://ccrjustice.org/sites/default/files/attach/2021/09/742%20Order%20granting%20in%20part%20Plaintiffs%20Motion%20for%20Summary%20Judgment%202021.08.02.pdf> (finding the U.S. practice of restricting or “metering” requests for asylum at ports of entry illegal).