

Orders from Above: Massive Human Rights Abuses Under Trump Administration Return to Mexico Policy

In September 2019, the Trump Administration’s policy of returning asylum seekers to Mexico, which it farcically refers to as the “Migrant Protection Protocols” (MPP), entered a new phase. The Department of Homeland Security (DHS) expanded this flawed program, sending men, women and children from Cuba, El Salvador, Guatemala, Honduras, Nicaragua, Venezuela, and other countries to wait in the notoriously dangerous Mexican border state of Tamaulipas and opened secretive tent courts in Laredo and Brownsville, Texas, for MPP hearings.

This policy delivers children, their families, and other asylum seekers to areas so plagued by violence that the U.S. State Department has designated the state of Tamaulipas a Level 4 threat risk—the same warning as Afghanistan, Iraq, Syria, Somalia, North Korea, and Yemen. Yet the administration cynically touts this dangerous and illegal policy as an “effective” alternative to family separation and family detention that brings “integrity” to the immigration system – asserting that it keeps “families together and not in custody.” But the reality is that the Trump Administration has refused to implement humane, effective, and fiscally prudent strategies to manage refugee arrivals in ways that uphold U.S. law and treaty commitments.

MPP works in tandem with other illegal administration policies (including turn-backs, the third-country transit asylum ban, which went into full effect in September, and, once implemented, asylum-seeker transfer agreements with El Salvador, Guatemala, and Honduras) to ban, block, and terrify refugees from seeking protection in the United States. The forced return policy violates legal prohibitions in U.S. law and international obligations on returning people seeking U.S. protection to persecution and torture, and blatantly flouts the asylum laws and due process protections Congress adopted for refugees seeking protection at the border.

Since the start of MPP in January, DHS has forced nearly 50,000 asylum seekers and migrants to wait in danger in Mexico. In addition, some 26,000 are stranded in Mexico due to metering—the illegal policy of turning back asylum applicants at ports of entry.

This report is based on interviews with asylum seekers stranded in Mexico, attorneys, humanitarian volunteers, and Mexican government officials; continuing field research, including in Matamoros, Mexico; observation of MPP immigration court hearings; and reports from human rights organizations, legal monitors, and the media. Human Rights First observed immigration court proceedings at the Brownsville tent court remotely from the Harlingen immigration court because U.S. Customs and Border Protection (CBP) denied Human Rights First’s request for access to the facility. This report is an update to our March 2019 and August 2019 reports. Human Rights First found:

- ☑ **The Trump Administration is delivering men, women and children seeking refuge from Cuba, El Salvador, Honduras, Nicaragua, Venezuela, and other countries to some of the most dangerous areas of Mexico.** DHS continues these dangerous forced returns despite widely reported media, academic, and NGO reports that organized criminal groups and corrupt Mexican law enforcement officials, among others, target asylum seekers for kidnapping, torture, rape, and other violent attacks. For example, after DHS returned them to Nuevo Laredo, a Guatemalan family with two young children, five Cuban asylum seekers, and four Venezuelan women and a girl were among those kidnapped and held captive in multiple separate incidents. Two other young women were kidnapped as they slept on the street after DHS returned a group of asylum seekers to Nuevo Laredo

following a Laredo tent court hearing. Instead of briefly passing through these dangerous regions to reach the U.S. border to request refugee protection, tens of thousands of asylum seekers are now stranded in peril for months.

- ☑ **There are already over 340 public reports of rape, kidnapping, torture, and other violent attacks against asylum seekers returned to Mexico under MPP** – a sharp increase from August when Human Rights First identified 110 publicly reported attacks against returned individuals. But these kidnappings and assaults are still likely vastly underreported as the overwhelming majority of returned individuals have not spoken with journalists or human rights investigators. These human rights abuses are the predictable result of the Trump Administration and DHS decision to send families and other asylum seekers to wait in dangerous areas, where they are targeted because of their race, gender, sexuality, nationality, and status as migrants.
- ☑ **The MPP fear screening process is a farce that returns asylum seekers to grave danger.** CBP continues to fail to refer asylum seekers for these deeply flawed fear-screening interviews, which appear to be increasingly cursory and perfunctory. DHS has returned individuals to Mexico under MPP who were previously targeted there, including a transgender woman from El Salvador, who had been kidnapped and raped, and a Nicaraguan political activist, who was kidnapped for ransom and who witnessed his abductors torturing another man captive who had tried to escape. A woman kidnapped in Mexico with her three children was told by a CBP officer, “we have orders from above to return all;” a CBP officer told a man kidnapped with his son in Mexico that if he insisted on claiming a fear of return there, he would be separated from his son.
- ☑ **In violation of its own policy, DHS returns Mexican nationals and vulnerable individuals, including those with serious medical issues, pregnant women, and LGBTQ persons.**
- ☑ **Refugees and migrants are stranded in Mexico in often inhumane and horrific conditions.** More than one thousand children, families, and adults are sleeping on the streets in front of the Matamoros port of entry without adequate access to water or proper sanitation, too afraid to enter the city because of the extreme violence there. An American nurse, visiting as a volunteer, told Human Rights First researchers that many of the children were suffering from diarrhea and dehydration.
- ☑ **MPP is a due process charade** that effectively makes it impossible for the vast majority to be represented by counsel in their immigration court removal proceedings. Nearly 99 percent of all returned asylum seekers were unrepresented through August, according to the latest available data from the immigration courts. Not only does MPP endanger the safety of refugees, but it also threatens the safety of American lawyers and volunteers whom DHS is essentially pushing to cross into areas of Mexico plagued by kidnappings and deadly violence to attempt to provide some assistance.

Despite widely reported attacks on returned asylum seekers under MPP, CBP Acting Commissioner Mark Morgan stated in September that he didn't believe accounts of kidnappings, dismissing them as “anecdotal allegations.” Morgan cited a lack of information from the Mexican government “corroborating or verifying these allegations” but failed to acknowledge that attacks against migrants often go unreported to Mexican law enforcement, in part because some Mexican police officers and security forces have been implicated in kidnappings, rape, and other human rights abuses against migrants. In late August, Human Rights First filed a complaint with the DHS Office of Inspector General (OIG) and Office of Civil Rights and Civil Liberties with information on the rape, kidnapping, and assault of dozens of returned asylum seekers in Mexico.

Human Rights First urges the Trump Administration to:

- Cease 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 on 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. Instead, the United States should employ effective and humane strategies that uphold U.S. laws and treaties.
- Direct U.S. Customs and Border Protection (CBP) to restore timely and orderly asylum processing at ports of entry and ensure humane conditions for those held temporarily under CBP custody**, meeting all legal standards, including the Flores Settlement Agreement and DHS internal detention policies.

Human Rights First recommends that Congress:

- Withhold appropriations to DHS and the Department of Justice used to carry out MPP; hold MPP oversight hearings** (including the legally dubious transfer of funds for disaster preparation to fund the construction of MPP tent courts); and **conduct official visits to Mexican border towns, CBP facilities and Border Patrol stations on the southern border, and immigration courts including tent facilities to monitor the massive human rights violations caused by MPP.**



Hundreds of Publicly Reported Cases of Rape, Kidnapping, and Assault

Instead of allowing asylum seekers to remain safely in the United States while their asylum claims are decided, as required by the U.S. Refugee Act and subsequent immigration law, the Trump Administration – through MPP – delivers asylum seekers and migrants to rape, kidnapping, torture, and other violent assaults in Mexico. Some

returned asylum seekers have been targeted outside of Mexican migration offices and in transiting to and from U.S. ports of entry to attend immigration court. **During its most recent research, Human Rights First researchers identified an additional 55 unreported cases of individuals returned under MPP who were harmed in Mexico.** Although likely a gross underestimate of the harm to returned asylum seekers given the limited monitoring and investigations of the program to date, review of published media accounts, human rights reports, legal monitor findings, court filings, and other publicly available information reveal that **at least 343 individuals subject to MPP have been violently attacked or threatened in Mexico**¹ – already more than triple the 110 incidents Human Rights First identified in our August 2019 [report](#).

In Nuevo Laredo and Matamoros, Tamaulipas, thousands of asylum seekers face acute dangers. DHS returns more than 1,000 asylum seekers there each week despite the U.S. Department of State Travel Advisory designating the area as a Level 4 risk – the “highest advisory level due to greater likelihood of life-threatening risks” and the same threat assessment level as Afghanistan, Iraq, Syria, Somalia, North Korea, and Yemen. The travel advisory warns U.S. citizens not to travel to Tamaulipas due to “violent crime, such as murder, armed robbery, carjacking, kidnapping, extortion, and sexual assault,” as well as widespread gang activity and abductions by armed groups who demand ransom payments. According to the advisory, Mexican “federal and state security forces have limited capability to respond to violence in many parts of” Tamaulipas. But despite the State Department warnings, the Trump Administration sends asylum seekers to face these extreme dangers for months as they await immigration hearings in the United States.

Through MPP, DHS effectively delivers families, children and other individual asylum seekers to cartels, criminal groups, and corrupt Mexican law enforcement officials who routinely kidnap, torture, rape, and extort returned asylum seekers. Some kidnappings take place immediately after DHS dumps asylum seekers in Mexico, often from outside of the offices of the Instituto Nacional de Migración (Mexican Migration Institute or INM). Asylum seekers are also at high risk of abduction as they travel to and from U.S. ports of entry for immigration hearings. CBP sometimes requires individuals in MPP to appear at 4:30 in the morning for processing before immigration hearings, forcing them to travel through dangerous areas in the middle of the night – yet another reflection of the total lack of concern for the safety of asylum seekers returned to Mexico.

For example, **in Nuevo Laredo, organized criminal syndicates target returned asylum seekers.** Not even migrant shelters there are safe. On August 3, Pastor [Aarón Méndez](#), director of a migrant shelter in Nuevo Laredo, was kidnapped after reportedly protecting Cuban asylum seekers from being abducted. He remains missing. A Honduran migrant [told](#) the Texas Observer that cartel members had threatened a woman who had provided her and other migrants with shelter in Nuevo Laredo and, as a result, the woman had forced all the migrants to leave. A few of the dozens of kidnappings of asylum seekers returned by DHS to Nuevo Laredo include:

- A three-year-old boy from Honduras and his parents were kidnapped after DHS returned them to Nuevo Laredo. The boy’s parents were separated, and the woman reported hearing the kidnapers beat and electrocute her husband. When she last saw him lying on the ground, beaten and bleeding, he told her, “Love, they’re going to kill us.” The woman and her three-year-old son were released but she does not know if her husband is alive.
- Two young women were abducted in Nuevo Laredo from a group of asylum seekers who had just been returned there by DHS following an immigration court hearing in late September at the Laredo tent court. An asylum seeker in the group reported that they had been forced to sleep on the street because no transportation had been provided to return asylum seekers to Monterrey, where they had previously been

¹ A list of these incidents is on file with Human Rights First.

bused by the Mexican government. During the night unknown men kidnapped the young women while the others managed to escape.

- Five Cuban asylum seekers returned by DHS to Nuevo Laredo were kidnapped there, as reported by an attorney representing clients in Nuevo Laredo. Even after they were released, the Cubans continued to receive threats from individuals they suspect are related to the cartels that control the area.
- Four Venezuelan women and a girl were abducted just outside the INM offices in Nuevo Laredo in July, according to a declaration provided to Human Rights First from a Cuban asylum seeker who reported witnessing the kidnappings. He reported that a group of men stopped a taxi that an INM employee had arranged to take the four Venezuelan women and girl to a local shelter and kidnapped them.
- The men who kidnapped a Guatemalan asylum-seeking family, including children ages 4 and 6, in Nuevo Laredo specifically targeted them because they had been expelled by DHS under MPP. The family was released after several days in captivity but told they could be kidnapped again at any time and that they would be required to pay extortion calculated based on the number of days they were in Nuevo Laredo. The kidnappers reviewed the family's MPP court documents to determine the date they had been returned by DHS and the date of their upcoming court hearing. They are living in terror waiting for their next hearing, afraid they could easily be kidnapped again while going to or returning from court.
- In late September, a Honduran asylum seeker was kidnapped while travelling from Monterrey to Nuevo Laredo to attend an MPP hearing at the Laredo tent court with his 16-year-old son. Another asylum-seeking family brought the boy to the port, where CBP processed him as an unaccompanied child given his father's disappearance. According to attorneys familiar with the case, the man remains missing.
- A child and his father were kidnapped the same day DHS returned them to Nuevo Laredo and the kidnappers threatened to take the child's kidneys. They were held with dozens of abducted women and children, and around twenty men. The kidnappers separated the women from the men and beat the men who tried to see what was happening to the women. One man who tried to escape was shot and killed. "One of the kidnappers told me that the kidneys of my [child] were good for removal," the father sobbed, recounting his ordeal to Vice News. "I can't sleep thinking about it. Every night, I dream about everything that has happened to us." After this trauma, **the father said his child "has stopped talking altogether."**
- After DHS expelled a six-year-old boy and his mother to Nuevo Laredo under MPP, they were abducted at the bus station and held for three weeks in a succession of different houses. "It's dangerous here. Lots of things can happen," the mother said.
- An 18-year-old young woman who DHS separated from her sister was returned to Nuevo Laredo, where she was reportedly kidnapped and raped.
- A seven-year-old girl and her mother, a Honduran asylum seeker, were kidnapped along with four other migrants just days after they were returned to Nuevo Laredo in July, according to the Los Angeles Times.

Asylum seekers returned by DHS under MPP have been kidnapped and harmed in other parts of the Mexican border region as well, including:

- A Central American family with three children were abducted by men wearing Mexican police uniforms after being returned by DHS to Ciudad Juárez in August. An attorney assisting the family reported that photos sent with ransom demands to the family's relatives in the United States showed the family in what appeared to be a government office.

- A Guatemalan family with two children were kidnapped for ransom by men in Mexican federal police uniforms after DHS returned them to Ciudad Juárez in July. The family told an immigration attorney that the kidnappers tortured some of the migrants held with them, duct-taping plastic bags over their heads to suffocate them. They and others managed to escape when their abductors unexpectedly left. However, the family later saw the same men who had kidnapped them near the shelter where they were hiding.
- In Tijuana, a woman and her child were kidnapped after DHS returned them to Mexico under MPP. A family member in the United States contacted Margaret Cargioli, an attorney at the Immigrant Defenders Law Center, concerned that the family would be ordered removed if they were not released in time for their upcoming immigration court hearing in San Diego.
- A Honduran asylum seeker, who had previously been kidnapped in Mexico with his son, was kidnapped again after DHS returned them to Matamoros. He told his attorney, Veronica Walther, that the armed men who abducted him “burned me with lit cigarettes” because he could not meet their extortion demands.
- A 3-month-old baby and her asylum-seeking mother from Honduras were nearly kidnapped in Matamoros after being returned there by DHS. The woman told researchers from Human Rights First in September that men had attempted to force the family into a car but were prevented from abducting them by the owner of a nearby laundromat who intervened.

In addition to harm suffered during abductions, numerous asylum seekers have been assaulted or threatened in Mexico after being returned there by DHS. Some recent attacks include:

- On September 3, three armed men burst into a Ciudad Juárez shelter, where they assaulted and robbed a group of Cuban asylum seekers returned there under MPP. Several individuals were transported to a local hospital for treatment.
- An asylum seeker from Honduras sent by DHS to Matamoros in July was assaulted and threatened with rape, targeted for being a lesbian and a migrant. In an interview recorded by the Texas Civil Rights Project and shared with Human Rights First, the woman said that a few blocks from the makeshift tent camp in Matamoros attackers who discovered she was a lesbian hit her in the face, leaving her with a busted lip. In September, men at the camp told her they would “teach us [lesbians] to like men,” a statement she understood to be a threat to rape her.
- In late September, a young woman and her brother seeking asylum from Cuba who had been returned by DHS to Matamoros under MPP were attacked in the street, beaten, and robbed, according to their legal representative.
- A Salvadoran asylum seeker returned by DHS to Tijuana was attacked, threatened, and abused with slurs calling Salvadorans “trash” and “leeches.” The incident exacerbated the woman’s already precarious mental state. A therapist evaluating the woman found her to be acutely suicidal, according to her attorney.
- A gay Cuban asylum seeker, returned by DHS to Matamoros in July after he spent months waiting on the metering list at the port of entry, said police officers had extorted him in Matamoros. In an interview conducted by the Texas Civil Rights Project and shared with Human Rights First, the man reported that police frequently attempt to enter the apartment building in Matamoros where he has found shelter and demand money from the approximately 60 to 70 migrants crammed into six or seven units there.
- A Cuban woman who was seeking asylum, but turned back to Matamoros by DHS, told Human Rights First researchers that she had been threatened and assaulted during the nearly five months she had already been waiting in Matamoros. She said that other Cuban women returned to Matamoros had been raped, but women have “only two options, you are quiet, or they kill you.”

- A teenage Guatemalan asylum seeker was attacked and beaten in the street in Mexicali, according to attorneys from a legal services organization that visited Mexicali in September. On the day prior to Human Rights First's visit to Mexicali in June, forty men attacked residents of a migrant hostel with metal bars and pipes, severely injuring several individuals including a Central American asylum seeker

DHS continues to expel asylum seekers under MPP who were previously targeted in Mexico despite their vulnerability to additional harms on account of their status as migrants, nationality, gender, and/or other protected characteristics. Examples include:

- An attorney who attempted to interview a Central American asylum seeker who had been raped in Ciudad Juárez, but was returned there by DHS nonetheless, said that the woman "was so traumatized she couldn't write her name on a pad of paper. **She trembled so much it was just scribbles.**" The attorney told Human Rights First that the woman is pregnant as a result of the assault.
- A Venezuelan asylum seeker who was kidnapped in Reynosa and expelled by DHS to Nuevo Laredo under MPP told reporters from Voices of America, **"I thought this would be, as they say, the American dream. But for me, it's only been an American nightmare."**
- Three children, all under the age of ten, and their mother sought asylum in the United States but were sent by DHS to Matamoros. They were returned to Mexico even though they had previously been abducted in Villahermosa. The family was held by kidnappers for nearly a month and only managed to escape when other migrants held with them helped the family to escape when the woman's youngest daughter became gravely ill. When the mother told CBP about the kidnapping and her fears her family would be harmed if returned to Mexico, the officer told her that "we have orders from above to return all."
- DHS sent Eduardo Águila, a 33-year-old Nicaraguan asylum seeker, back to Mexico under MPP even though he had been repeatedly stabbed and kidnapped there, according to a report in the Texas Observer. During the kidnapping, his abductors tied his hands with a cable, beat and burned him. After he escaped to Tijuana, men slashed his arm with a knife. When Mr. Águila requested asylum, CBP officers sent him to the hospital for treatment but then returned him to Tijuana with paperwork noting that "he sustained laceration to right elbow during entry."
- DHS returned Edwin, a Cuban asylum seeker, to Mexico even though he had been extorted by corrupt police officers and robbed at gunpoint in Reynosa. Afraid to remain there on the metering list at the port of entry, Edwin had crossed the river to seek asylum. CBP officers returned him to Nuevo Laredo without explaining that he could request a fear interview. Edwin traveled to Monterrey in search of safer accommodation but remained in danger there and was pursued by two men in the street late one night as he left a job washing dishes.
- Mario Rodríguez, a 27-year-old asylum seeker from Nicaragua, was returned to Matamoros by DHS even though CBP agents were personally aware that he had been brutally attacked there while forced to wait on an illegal metering list. In late July, a man who identified Mr. Rodríguez as a migrant hit him in the head with a wrench. With blood pouring down his face, Mr. Rodríguez unsuccessfully begged CBP officials on the international bridge that links Matamoros and Brownsville to allow him to seek asylum. Weeks later, when he was finally allowed to approach the Brownsville port of entry, CBP returned him to Matamoros under MPP, despite his efforts to tell CBP officers about his fear of remaining in Mexico. Mr. Rodríguez told the Texas Observer that he was considering returning to Nicaragua because he'd heard that with the cost of repatriating a body, it would be cheaper for his family if he died in Nicaragua rather than in Mexico.

- A 12-year-old girl and her father, asylum seekers from Honduras, were kidnapped in southern Mexico, an experience that further traumatized the girl who had already been traumatized by a brutal attack on her family in Honduras. When her father told CBP about the kidnapping, a CBP officer said that he did not believe the man because he had not filed a police report.

It is often fruitless, however, and at times dangerous, to report crimes to the Mexican police, who have themselves been implicated in human rights abuses against migrants and who consistently fail to investigate or prosecute reported crimes. Human Rights Watch has reported that Mexican officials have, for instance, “acknowledged that corruption among Ciudad Juárez police officers [is] commonplace.”

DHS returns asylum seekers and migrants to Mexico in violation of internal MPP policy. DHS claims that “individuals from vulnerable populations may be excluded on a case-by-case basis;” yet, the agency returns vulnerable individuals including those with “known physical/mental health issues” and LGBTQ persons, as well as Mexican nationals, who are not eligible for MPP. Those returned in violation of the policy include:

- Approximately a dozen LGBTQ asylum seekers from Cuba, El Salvador and Honduras returned by DHS to Matamoros and at least one gay Honduran asylum seeker was sent to Nuevo Laredo, despite persecution of LGBTQ people in Mexico. At least one report had indicated that CBP does not return LGBTQ asylum seekers to Mexico under MPP, yet these vulnerable asylum seekers were returned to highly dangerous areas;
- A Honduran asylum seeker who suffers from severe seizures after he was kidnapped and beaten in Ciudad Juárez;
- A boy with Down syndrome and a deaf, mute woman returned by DHS to Matamoros;
- A child who suffers brain seizures and needs medical care his father said he could not secure in Mexico;
- Multiple pregnant women, including a woman experiencing contractions and another woman who ultimately gave birth in a tent in Matamoros, according to a complaint filed with the DHS OIG by the ACLU of Texas and the ACLU Border Rights Center; and
- Over 50 Mexican nationals, according to immigration court data analyzed by Syracuse University Transactional Records Access Clearinghouse (TRAC) – a clear violation of the policy, which explicitly exempts “citizens or nationals of Mexico” from MPP.

Screening Sham

DHS’s MPP screening process is a sham that lacks the basic safeguards Congress created to prevent the deportation of asylum seekers to persecution through the credible fear screening process and other safeguards to assure access to asylum hearings. But the design and implementation of the MPP screenings makes clear that they are not intended to protect asylum seekers and migrants at risk in Mexico but to expedite their return there despite these risks. The amicus brief submitted in the suit challenging MPP by the union for the asylum officers from the U.S. Citizenship and Immigration Services (USCIS), who conduct these screenings, stated that “MPP fails to provide even the basic procedural protections available to asylum applicants subject to [expedited removal].” Indeed, the MPP screening process is rigged against asylum seekers at every stage:

CBP officers continue to routinely fail to even refer asylum seekers and migrants for fear screenings, even if they affirmatively express a fear of return to Mexico. Individuals returned without screening include:

- A Honduran asylum seeker and his 9-year-old son were expelled to Matamoros without a fear screening even though the man explained to CBP officers that he and his son had been kidnapped and that he was subsequently tortured by Mexican law enforcement officers in Tamaulipas who burned him with lit cigarettes. The man showed Human Rights First researchers several small circular scars on his stomach that appeared consistent with his account. **He said a CBP officer threatened to separate him from his son if he persisted in insisting that he feared return to Mexico.**
- CBP officers returned a Nicaraguan political activist seeking asylum in the United States to Mexico even though corrupt Mexican police officers in Reynosa had handed him over to kidnapers in mid-August. He was held along with a group of about 24 other migrants – including about ten non-Spanish speaking black migrants, several other Central American migrants, and a Russian man who had been tortured by the abductors after apparently attempting to escape.
- CBP returned Yerson, a Cuban asylum seeker, to Mexico where he had been repeatedly robbed in Reynosa in the days before he crossed the border to seek asylum. Yerson was returned to Mexico without a fear screening: “I told [the CBP officer processing him for MPP] that I had been robbed three times in Reynosa, but he didn’t pay attention to me. . . . He only told me that I was going to be brought to the bridge in Nuevo Laredo.”
- Border Patrol agents failed to refer for screening L.E.L.P., a pregnant 18-year-old Ecuadoran asylum seeker who had been kidnapped in Nuevo Laredo after she was returned there under MPP. Despite advocates’ repeated attempts to request that she be removed from MPP, L.E.L.P. was again returned to Nuevo Laredo in late September, according to the OIG complaint filed by the ACLU of Texas and the ACLU Border Rights Center.

Fear screening interviews conducted by asylum officers have become increasingly farcical. DHS continues to deny asylum seekers basic due process protections. In an amicus brief submitted in the suit challenging MPP, the U.N. Refugee Agency made clear that fear screening procedures, like those employed by DHS in 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 asylum officer speaking to Vox reportedly stated that the standard for fear of Mexico screenings is “all but impossible to meet.”

- **DHS refuses to allow access to attorneys during MPP screening interviews even where it has the physical capacity to do so.** For instance, an attorney who represents asylum seekers at the Laredo tent court facility told Human Rights First in September that CBP has not permitted him to be present with clients during MPP fear-screening interviews even though they take place at the same facility and in the same interview rooms used for attorney visits. From the start of MPP, DHS has claimed that it cannot provide access to counsel during fear screenings because of “limited capacity and resources at ports-of-entry and Border Patrol stations.” However, this inadequate claim does not explain why attorneys are excluded from monitoring interviews telephonically, as was initially permitted in a small handful of cases, and does not account for why the agency chose to conduct MPP fear-screening interviews in CBP facilities where attorneys are routinely barred. In contrast, credible fear interviews are regularly conducted at immigration detention facilities where attorneys can be present or can participate by telephone.
- Jodi Goodwin, one of the few attorneys representing asylum seekers returned to Matamoros, reported that MPP **fear screening interviews, which ordinarily require several hours, are now being conducted in ten minutes or less and consist only of yes-or-no questions.** An attorney representing

asylum seekers returned to Nuevo Laredo told Human Rights First researchers that MPP fear screening interviews last less than half an hour there. The attorneys said that their clients have been processed by CBP and returned to Mexico within two hours of being referred by immigration judges for MPP fear-screening interviews.

- A lesbian asylum seeker from Cuba who requested an MPP fear interview at the Brownsville port of entry in September reported to a Human Rights First researcher that **a CBP officer entered the room during her telephonic fear screening, spoke to the asylum officer conducting the interview, and appeared to instruct the asylum officer to alter the line of questioning.** The woman did not pass the fear screening and was returned to Mexico.
- **The percentage of individuals who pass DHS's farcical fear of Mexico screenings remains microscopic.** Data from TRAC shows that as of August only one percent of individuals in MPP (460 out of 38,291) were removed from the program (which includes those who did not pass a fear screening but were removed at the discretion of CBP for other reasons).

The vast majority of individuals have been returned after MPP screening interviews even when they have been previously targeted in attacks in Mexico:

- In Matamoros, six LGBTQ individuals – including a transgender Salvadoran woman who had been kidnapped in Mexico at gunpoint and raped – were again expelled to Matamoros under MPP after requesting and failing to pass MPP fear screening interviews at the Brownsville port of entry in early September. A young gay Honduran asylum seeker was returned to Nuevo Laredo after the interviewing DHS officer decided that he did not meet the high screening standard despite the documented harms suffered by gay men in Mexico.
- An asylum-seeking couple from Cuba who had been kidnapped in Mexicali was returned there by DHS after failing an MPP fear-screening interview. The pair, who later spotted one of the men who abducted them in Mexicali, were “so traumatized after being kidnapped they spoke in a whisper” during a consultation in September with lawyers from the Immigrant Defenders Law Center visiting Mexicali.
- Eduardo Águila, the Nicaraguan asylum seeker who was repeatedly stabbed and kidnapped in Mexico, was again returned to Tijuana by DHS after he did not pass an MPP fear screening. Although he had police reports of the attacks against him, he was not allowed to present this evidence during the interview.
- DHS returned a Guatemalan asylum seeker to Ciudad Juárez in late September after an MPP fear screening even though the men who had kidnapped her continued to stalk and threaten her. According to Christina Brown, an attorney who spoke with the woman, the kidnappers sent her threatening messages and one tracked her to and entered the migrant shelter where she was sleeping at the time. The woman fears she could be kidnapped again when she goes to the port for her next immigration court hearing, as the kidnappers took her MPP documents that contain the hearing date and time. Despite this evident danger, USCIS found the woman had not established a sufficient likelihood of harm if returned to Mexico.
- An asylum-seeking woman who was kidnapped in Mexico with her son, repeatedly raped, and pursued by the kidnapper to Tijuana, did not pass an MPP fear screening. Even though the woman had a video sent to her by the kidnapper proving that he was in the same city as her and had reported the kidnapping, rape and threats to local police, she and her son were returned to Tijuana, according to the attorneys representing the family.

Stranded in Desperate Straits

Under the Trump Administration’s MPP policy, DHS dumps asylum seekers in Mexico to wait for months even though they do not have access to adequate shelter, food, healthcare, or other humanitarian needs.

A CBP officer falsely told a Nicaraguan family returned to Matamoros that they were being sent to a shelter with food and clothing, and another officer told a Honduran father that he and his young son would be “protected” in Mexico. Acting CBP Commissioner Morgan has stated that the U.S. government does not track what happens to individuals the agency returns to Mexico under MPP. The lack of safe shelter, particularly in Nuevo Laredo and Matamoros where DHS began returns in July, leaves thousands of asylum seekers homeless and exacerbates the already high risk of kidnapping, extortion, assault, and exploitation in border areas in Mexico.

- In Matamoros, in late September, Human Rights First researchers observed an estimated 1,200 to 1,500 asylum seekers, including hundreds of children and several breast-feeding infants, sleeping in some 300 tents in a plaza abutting the port of entry and in an adjoining park, as well as without any cover on the pavement and sidewalks. An nurse visiting the camp told Human Rights First that about 1,500 people were sleeping in the plaza, a number that aligned with Human Rights First’s count of tents and other observations; a Mexican migration officer told Human Rights First that about 400 migrants were staying in the camp. Some asylum seekers have been at the makeshift camp for nearly six months, as they initially waited under the Trump Administration’s metering policy, only to be turned back to Mexico under MPP.
- Asylum seekers sleeping in the Matamoros port of entry plaza reported they are afraid to venture further into the city. Two asylum seekers from Cuba waiting to seek asylum said they were robbed at knifepoint blocks from the plaza. Other returned individuals stated that they travel in groups for safety to buy food and water at nearby convenience stores and take turns staying up at night to guard children and families sleeping in the plaza because unknown men have been seen peeking into their tents at night. Single mothers were fearful their children might be kidnapped and trafficked, and a couple from Nicaragua, as well as others, reported rumors that children might be abducted for organ trafficking.
- On September 24, a group of over 16 Mexican marines appeared at the encampment in the evening in flak jackets and helmets, and carrying rifles. One of the marines told Human Rights First researchers that the unit was conducting a community patrol of the encampment and described the area as “dangerous” and “controlled by cartels.”
- Sanitation is extremely limited at the Matamoros encampment. Volunteers visiting the camp raised concerns about the lack of sufficient toilets. At the time of Human Rights First’s visit, two months after returns there began, the park next to the camp was strewn with human feces, and additional portable toilets had just been installed. Many complained about the lack of running water for bathing and washing clothing, explaining that they were forced to wash in the swift waters of the Rio Grande River. In September, a teenage migrant girl bathing in the river nearly drowned. On September 23, Human Rights First researchers observed Mexican authorities recover a decomposing body from the area of the river where children were bathing. A volunteer nurse reported that many children were suffering diarrhea and skin infections.
- Many at the camp reported that there was insufficient drinking water. Returned individuals said that free water supplies were very limited and inadequate given the extreme heat, which was in excess of 90 degrees. A nurse visiting the camp noted that many of the children and adults were dehydrated.

Stranded in dangerous regions of the border and facing squalid living conditions, asylum seekers must choose between remaining in the area in hopes of obtaining an attorney and pursuing their asylum claims or being bused

to distant parts of Mexico where they will be far from the already exceedingly limited legal services along the border and unable to return for their hearings.

- In Matamoros, an INM official said that, as of late September, DHS had sent approximately 10,000 asylum seekers and migrants to the city under MPP. He claimed that on the day prior to Human Rights First's visit over 120 returned individuals in three busloads had journeyed to Tapachula in southern Mexico intending to return to their countries of origin. The INM officer estimated that half of those sent to Matamoros under MPP had returned to their home countries. From what asylum seekers told Human Rights First, some were leaving given the dangers in Matamoros, the lack of safe shelter in the city, and poor conditions in the plaza's tent encampment. While the decision to be bused to the southern Mexican border was purportedly voluntarily, MPP presents asylum seekers with the impossible choice of risking their lives – and those of their children – by trying to survive for months in a dangerous area in unsanitary conditions or risking their lives by returning to danger in their home countries. A Honduran woman sent to Matamoros by DHS during Human Rights First's research there in late September reported that her first immigration court hearing was scheduled for January 2020. She said that she and three young children, including a 1-year-old baby, had nowhere to sleep for the night and that she did not know how they would even survive for the next four months until the first of likely several hearings.
- Desperation also leads some asylum seekers and migrants to attempt dangerous border crossings between ports of entry. In September, a Honduran mother and her two-year-old toddler, who had been returned by DHS to Matamoros under MPP, drowned while attempting to swim across the Rio Grande.

The Trump Administration has repeatedly asserted that Mexico will ensure humanitarian assistance for returned asylum seekers. But that claim does not relieve the United States of its responsibility to protect refugees seeking asylum at and within its borders. The administration's attempt to evade and shift responsibility is particularly disingenuous given the documented history of kidnappings, killings, and disappearances along the border, the targeting of refugees and migrants in Mexico, and corruption among Mexican authorities – including migration officials. The Mexican government should and must do more, but the United States must uphold its asylum laws and treaty commitments, and stop refouling asylum seekers and migrants to places where they face persecution, torture, and other human rights abuses.

MPP and Tent Courts are a Due Process Farce

The Trump Administration now effectively blocks refugee protection for the vast majority of asylum seekers at the southern border with its MPP policy, port of entry asylum turn backs, the third-country transit asylum ban, and the potential implementation of asylum seeker transfer agreements with El Salvador, Guatemala, and Honduras.

MPP is a due process charade—restricting access to counsel, legal information, and the ability to attend and participate in immigration hearings. In yet another attack on U.S. due process, DHS began to use secretive tent courts in Laredo and Brownsville, Texas, for MPP hearings in September and also plans to build a tent court in Eagle Pass, Texas. In July, the administration had notified Congress that it would move \$155 million from the Federal Emergency Management Agency disaster relief fund to fund construction of the tent courts. These facilities are closed to media, public observers, as well as legal service providers offering legal information sessions and screenings for potential legal representation. Referring to the MPP tent courts, immigration judge Ashley Tabaddor, president of the National Association of Immigration Judges, said: “We don't do stuff behind closed doors. That is not what America is about. . . . **we are moving closer and closer to a model that doesn't resemble anything in the American judicial system.**”

Refugees subject to the third-country transit asylum ban (those who applied for asylum at a port of entry or otherwise entered the United States along the southern border on or after July 16) are permitted to apply only for withholding of removal and Convention Against Torture protection. Effectively cut off from attorneys in the United States by MPP, few will meet the excessively high requirements to receive these highly deficient forms of protection. As a result, asylum seekers in MPP, even those with well-founded fears of persecution, are likely to be denied asylum and other forms of protection and be deported to countries where they fear persecution.

MPP seriously interferes with the right, guaranteed under Section 292 of the Immigration and Nationality Act, to be represented by a lawyer.

- **Nearly 99 percent of MPP returnees did not have lawyers, as of the end of August, according to immigration court data analyzed by TRAC.** Only 476 out of 37,831 individuals in MPP court proceedings have legal counsel registered with the immigration court.
- Cuban, Honduran, and other asylum seekers appearing in the Brownsville tent court were overwhelmingly unrepresented at immigration court in late September. At one hearing docket observed by a Human Rights First court monitor, only one of the 23 immigrants appearing at the master calendar hearing had legal representation. At another docket, only one Cuban woman and one Honduran family of three had legal representation. The rest of the 20 individuals who appeared at the court did not have lawyers.
- At the Laredo tent court, very few of the asylum seekers and migrants appearing for court were represented, according to legal observers. A monitor from Refugees International reported that only four of 26 individuals in court on September 16 were represented by counsel. On September 18, Amnesty International monitors observed only 6 individuals with attorneys out of the 46 who appeared in court for MPP hearings.

These abysmal representation rates are the predictable consequence of a policy that effectively prevents asylum seekers from searching for attorneys in the United States as well as the acute safety concerns that prevent many U.S.-based legal services organizations and individual immigration attorneys from representing asylum seekers returned to Mexico.

- U.S.-based attorneys attempting to represent asylum seekers placed in MPP and returned to Mexico face severe dangers to travel to regions where DHS has returned asylum seekers, including Nuevo Laredo and Matamoros in Tamaulipas. The U.S. State Department recommends that U.S. citizens do not travel to Tamaulipas, which is designated as a level 4 security risk – the same applied to Afghanistan, Iraq, Syria, Somalia, North Korea, and Yemen.
- Amnesty International observers reported that asylum seekers in Brownsville MPP hearings in September were so desperate to escape the deadly dangers in Mexico that they all asked to schedule their asylum hearings rather than request more time to find an attorney.
- The Trump Administration failed to secure any guarantees from Mexico about whether U.S.-licensed lawyers would require work visas to visit clients in person or might face sanctions for the unlicensed practice of law in Mexico. Indeed, U.S.-based attorneys have reported that Mexican government officials have threatened to arrest American lawyers for practicing law in Mexico without a license.
- Human Rights First researchers spoke with over 100 asylum seekers and migrants in Matamoros; none had a lawyer. A human rights advocate from Nicaragua, who has been waiting already for three months in the dangerous and squalid conditions in Matamoros, told Human Rights First researchers that he was going to present his case on his own.

- In addition, Mexican immigration officials are busing some returned individuals into the interior of Mexico, effectively cutting them off from any opportunity to meet with U.S.-based lawyers operating in the border region. INM officials in Matamoros told Human Rights First researchers in late September that the agency was regularly organizing buses transporting dozens of migrants daily to Tapachula, over 1,100 miles away on the southern Mexico-Guatemala border.

Restrictions by DHS and the immigration courts on access to counsel and the use of tent court hearings undermine asylum seekers' right to legal representation and to understand and participate in their own removal proceedings.

- DHS restrictions at the Laredo and Brownsville tent courts severely limit access to counsel for asylum seekers attending immigration hearings in the United States. Acting DHS Secretary McAleenan claimed that the agency “built space for aliens to meet with their attorneys to protect [the] right [to counsel]” at the tent court facilities, but the very few attorneys representing clients in MPP hearings at these facilities said that CBP allows at most one hour for client meetings in advance of hearings, even when attorneys are representing multiple individuals scheduled for hearings on the same day and frequently denies requests to meet with clients after hearings, citing capacity constraints. This time is insufficient to consult with clients and prepare their asylum applications. For asylum seekers forced to wait in Mexico, these immigration court hearings are sometimes the only opportunity to meet in person with their attorneys, as many lawyers are unable to travel to Mexico because of security and other concerns.
- Immigration courts in San Diego and El Paso are also restricting access to lawyers and legal information. Human Rights Watch found that the El Paso immigration court prevents lawyers from meeting with clients prior to MPP hearings. The El Paso and San Diego courts continue to prohibit legal services providers and volunteer attorneys from offering legal information or meeting with unrepresented individuals to assess their cases for representation, according to attorneys representing clients in MPP hearings.
- The use of video teleconferencing (VTC) for immigration hearings threaten the due process rights of asylum seekers. All hearings conducted in the tent courts in Laredo and Brownsville are conducted remotely with immigration judges in regular courthouse facilities. Already human rights monitors and journalists watching these hearings via VTC have reported flaws in translations and interruptions in video feeds. A 2017 report commissioned by the immigration courts found that VTC may be so disruptive that “due process issues may arise.” Judges reported that it is difficult to interpret body language and nonverbal communication, which some judges consider in making credibility determinations.
- U.S. asylum law is highly complex; yet, MPP leaves asylum seekers who do not speak English and are not trained lawyers to answer complicated questions without legal representation. One Cuban asylum seeker, at a hearing attended by Human Rights First in late September, kept trying to explain to the immigration judge that he had come legally to apply for asylum at the official border post on the bridge to the United States. Non-asylum seekers also struggle in MPP without legal representation. In hearings observed by Human Rights First, one woman, whose boyfriend was in the United States and planned to marry her, was essentially left asking the immigration judge and DHS attorney whether she should pursue or abandon her immigration court hearing. A Cuban woman who had a U.S. citizen parent was unrepresented, while the judge and trial attorney tried to navigate the challenge of handling the proceeding without legally advising her of a potential claim to U.S. citizenship.

Stranding asylum seekers in Mexico creates fundamental barriers to attend court hearings and cuts them off from attorneys in the United States who could help prepare asylum applications, collect evidence, and represent them in court. As a result, very few returned asylum seekers are likely to win their cases, despite

many having valid claims. Some may be ordered removed *in absentia* because CBP provides inaccurate notices for hearings that are often scheduled many months away.

- Asylum seekers miss hearings because they have been kidnapped or are otherwise unable to make dangerous journey to the port of entry. As noted above, a Honduran man was kidnapped while traveling between Monterrey and Nuevo Laredo to attend court at the Laredo tent court facility in September. In Ciudad Juárez, Uber and taxi drivers reportedly refuse to pick up migrants at shelters because of the danger that kidnappers and extortionists will target their passengers.
- In MPP hearings observed by Human Rights First and other court monitors, asylum seekers struggled to understand how to fulfill the requirements of completing asylum applications in English, submitting English translations of all evidence in support of their asylum cases, and providing certifications of translation. An immigration judge hearing cases for the Laredo MPP tent court told one family: “These [asylum] applications are in English, and neither of you read or write English. And you’re in a country where most people speak Spanish. So all I can tell you is to do your best.” Another judge hearing cases for the Brownsville tent court encouraged asylum seekers to reach out to family or friends for help. Given the lack of access to legal representation, many will have no choice but to have asylum applications and documents translated by individuals who will understandably make many mistakes – mistakes which government attorneys may subsequently cite as evidence of “inconsistencies” or a lack of credibility.
- DHS continues to issue immigration documents to asylum seekers in MPP that fail to list an address where they can receive crucial hearing notices and other important documents. For asylum seekers in MPP, many of whom are sleeping in shelters, living on the streets, or moving from place to place due to threats and attacks, DHS has been listing the addresses of shelters, even shelters where they have never been, as well as using “Facebook” as an address and claiming to contact asylum seekers through social media. Other documents list no address at all. At one hearing observed by Human Rights First, the one individual with an attorney was the only to challenge the fake address CBP had placed on the notice to appear. Immigration judges may order asylum seekers who miss hearings removed *in absentia*.

DHS’ denial of public and press access to MPP tent courts interferes with court monitoring efforts to ensure that immigration hearings are conducted fairly and consistently.

- Immigration court regulations provide that “[a]ll hearings . . . shall be open to the public” except in limited circumstances as determined by the presiding immigration judge. Yet CBP is denying public and press access to hearings at the tent courts in Laredo and Brownsville. While hearings at these facilities may be observed from the courtroom of the judge presiding via VTC, the schedule of hearings and judges assigned to them has not been made public, making it extremely difficult for court monitors and journalists to determine from where to watch MPP proceedings. For instance, in an email dated September 24, a CBP official denied Human Rights First’s request to view hearings in-person at the Brownsville tent court but indicated that researchers could “observe hearings in-person, by visiting the San Antonio, Harlingen, and Port Isabel . . . immigration courts.”
- Observing hearings remotely is not equivalent to monitoring in the physical courtroom with the asylum seekers and migrants. Given the size and angle of the television screens linked to the remote hearing location, as well as the distance to the observation area, it can be difficult for observers to see how many people are attending the hearing and to gather other crucial information.

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 Houston, Los Angeles, New York, and Washington D.C.

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