

## Human Rights Fiasco: The Trump Administration's Dangerous Asylum Returns Continue

In January 2019, the Trump Administration started forcibly returning asylum seekers to Mexico under a new policy farcically dubbed the “Migrant Protection Protocols” (MPP). Waiting months in Mexico for their hearings, asylum-seeking men, women, and children from, among other countries, Cuba, El Salvador, Guatemala, Honduras, Nicaragua, and Venezuela face life-threatening dangers. Despite overwhelming evidence that this illegal policy is a human rights catastrophe, Trump Administration and Department of Homeland Security (DHS) officials continue to implement, defend, and expand it.

In October, DHS expanded MPP returns from Arizona and began forced returns through Eagle Pass, Texas to Piedras Negras, Mexico. There and in other dangerous border cities, including Tijuana, Mexicali, Ciudad Juárez, Nuevo Laredo, and Matamoros, asylum seekers and migrants returned under MPP face peril wherever they turn. They have been beaten, kidnapped, and raped in shelters, on the way to and from U.S. immigration court hearings, and on the street while looking for work, housing, and food.

Trump Administration and DHS officials are turning a blind eye to these human rights abuses, touting MPP as an alternative to family separation, a way to reduce “overcrowding” in detention facilities, and one of DHS’s “most successful initiatives,” which has “achieved operational effectiveness” by reducing the number of asylum seekers arriving at the southern border. These claims of “success” by DHS officials ignore the severe harms inflicted on the asylum seekers and migrants returned to Mexico under MPP. Mark Morgan, acting Commissioner of U.S. Customs and Border Protection (CBP), has even dismissed the hundreds of public reports of cases of torture, rape, kidnapping, and assault against people in the MPP program as “anecdotal stuff.”

MPP is not only immoral; it’s also illegal. Both U.S. law and treaties ratified by the United States prohibit the government from returning asylum seekers to persecution and torture. At the same time, the policy flouts asylum laws and due process protections Congress adopted for refugees seeking protection at the border.

The administration is using MPP in tandem with other illegal policies, including turn-backs and the third-country transit asylum ban, to subvert U.S. law. The result is effectively a near-ban on asylum. DHS has forced more than 60,000 asylum seekers and other migrants to wait in Mexico under MPP. In addition, some 21,000 are stranded in Mexico due to metering—the illegal policy of turning back asylum applicants at ports of entry. In November, the administration also began to take steps toward implementing asylum-seeker transfer agreements with Guatemala, Honduras, and El Salvador.

This report is based on interviews with asylum seekers stranded in Mexico, attorneys, court monitors, academic researchers, and Mexican government officials; field research in October and November in Ciudad Juárez, Nuevo Laredo, Piedras Negras, and Tijuana; observation of MPP immigration court hearings in November and December; and reports from human rights organizations, legal monitors, and the media. Human Rights First observed proceedings at the Laredo MPP tent court remotely from the San Antonio immigration court because CBP denied Human Rights First’s requests for access to the facility, just as it denied us access to the Brownsville tent court in September. This report builds on our March 2019, August 2019, and October 2019 reports. Human Rights First found:

- ☑ **Trump Administration and DHS officials continue to direct the forced return of men, women and children seeking refuge to some of the most dangerous areas of Mexico despite**

widespread reports that they are targeted for kidnapping, torture, rape, and other violent attacks. Those harmed include: a 9-year-old disabled girl and her mother kidnapped near the Tijuana port of entry and repeatedly raped; an asylum seeker kidnapped and raped in front of her three-year-old son after being sent by DHS to Matamoros; and a 7-year-old Honduran girl abducted from the Mexican migration office in Nuevo Laredo after an MPP tent court hearing. On hearing kidnappers threaten to murder migrants whose families failed to pay ransom, the girl said, “**Mommy, I don’t want to die.**” Instead of briefly passing through these dangerous regions to reach the U.S. border to request refugee protection, thousands of asylum seekers are stranded in peril for months. DHS now acknowledges that the wait is at least two to four months for an initial hearing, much longer for a final merits hearing.

- ☑ **There are now at least 636 public reports of rape, kidnapping, torture, and other violent attacks against asylum seekers and migrants returned to Mexico under MPP** – a sharp increase from October when Human Rights First identified 343 attacks. On November 13, U.S. Senator Ron Johnson entered Human Rights First’s prior report on MPP into the Congressional record apparently as proof, in his view, that only 343 of the thousands of returned asylum seekers had been targets of violence. But our count of kidnappings and violent assaults is only the tip of the iceberg. The overwhelming majority of returned individuals have not spoken with human rights investigators or journalists, so the actual number of attacks is certainly much higher. A recent study by the U.S. Immigration Policy Center at UC San Diego found that one in four people in MPP in Tijuana and Mexicali have been threatened with physical violence. The study did not include the extremely dangerous MPP return locations of Ciudad Juárez, Matamoros, or Nuevo Laredo.
- ☑ **Human Rights First’s tally of attacks includes at least 138 publicly reported cases of kidnapping or attempted kidnapping of children in the MPP program.** The extreme dangers children in MPP face while waiting months in Mexico have pushed some desperate parents to send them alone into the United States at ports of entry.
- ☑ **Despite claims by DHS officials that returned asylums seekers in MPP are safe in migrant shelters in Mexico, they are targeted for kidnapping, rape, robbery, and assault in these very shelters**, as well as: immediately after DHS returns them; as they go to and return from MPP hearings in the United States; and while they search for shelter, food, and work. They are attacked because of their race, gender, sexuality, nationality, and status as migrants.
- ☑ **The MPP screening process, which returns asylum seekers to wait in grave danger despite credible fears of persecution, appears to be increasingly cursory and adversarial.** Asylum officers, now potentially including border agents allowed by the Trump Administration to act as asylum officers, aggressively question victims of violence, including children, in an apparent effort to undermine their accounts. In other cases, interviews last only a few minutes and consist principally of yes-or-no questions. As a result, virtually everyone is sent back to Mexico regardless of the danger or the trauma they have faced. Returned asylum seekers include a sexual assault survivor who had bruises on her body and sobbing children who had been kidnapped. An investigation by U.S. Senator Jeff Merkley’s office found it “virtually impossible” for asylum seekers to pass MPP fear screenings.
- ☑ **DHS is returning and attempting to return some of the very few refugees who manage to receive asylum or other protection back to danger in Mexico with fake hearing notices.** In late November, the agency returned to notoriously dangerous Nuevo Laredo four Cuban and Venezuelan refugees granted asylum by U.S immigration judges where they remain at risk of kidnapping and attack, as of the date this report was published.

- In violation of its own policy, DHS returns vulnerable individuals, including those with serious medical issues, pregnant women including those with late-term pregnancies, LGBTQ persons, and Mexican nationals.** A pregnant asylum seeker suffered a miscarriage while trying to run away from persecutors after DHS returned her to Ciudad Juárez. An internal DHS report acknowledged that CBP has been illegally placing Mexican nationals into MPP.
- Refugees and other migrants are stranded in Mexico in often inhumane and horrific conditions.** As winter temperatures begin to drop, conditions for the many individuals stranded without proper shelter, particularly in Matamoros, have grown ever more desperate. Helen Perry, a nurse practitioner and Global Response Management's operations director, said: "Speaking from having seen other humanitarian crises in the world, this is one of the worst situations that I've seen. It's only going to get worse, and it's going to get worse rapidly." Despite claims by DHS that Mexico provides housing and humanitarian aid, shelters are minimal and dangerous.
- MPP and the tent courts are a due process charade** that effectively denies nearly all asylum seekers legal representation in immigration court removal proceedings. Ninety-eight percent of all returned individuals were unrepresented through September, according to data from the immigration courts. MPP endangers the safety not only of refugees, but also American lawyers and volunteers who are forced to cross into areas of Mexico plagued by kidnappings and other violence.
- Asylum seekers who miss MPP court hearings because of kidnappings are being ordered deported.** A pregnant Salvadoran woman in Laredo court told an immigration judge that her husband had gone missing in Mexico and couldn't attend court. The judge ordered him deported. A 9-year-old disabled girl and her mother missed their immigration court hearing while being held captive and raped. They were ordered removed by an immigration judge in San Diego.

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 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 (DOJ) used to carry out MPP and other forced return programs;**
- Adopt the Refugee Protection Act;**
- Hold MPP oversight hearings; 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.**



## At Least 636 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. **From the moment that asylum seekers are dumped in Mexico under MPP, they are forced to risk their lives daily to remain in Mexico waiting for U.S. immigration court hearings.** Vulnerable asylum seekers and migrants, including pregnant women, children, and people with disabilities, are kidnapped, raped, and assaulted in shelters, in taxis and buses, on the streets, on their way to U.S. immigration court, and even while seeking help from Mexican police and migration officers. There is virtually no escape from the violence: asylum seekers who flee border cities to wait elsewhere in Mexico for MPP hearings are attacked in those regions, on their journeys there, as well as on their way to and returning from immigration courts in the United States.

**During its most recent research, Human Rights First researchers identified an additional 201 previously unreported cases of individuals in the MPP program who were harmed in Mexico.** Although likely a gross underestimate of the harm to returned asylum seekers and migrants given the limited monitoring and investigation of the program to date, review of published media accounts, human rights reports, court filings, and other publicly available information reveal that **at least 636 individuals subject to MPP have been violently attacked or threatened in Mexico** – a sharp increase from early October when Human Rights First identified 343 publicly reported attacks against individuals in MPP.

There are certainly well over 636 cases of kidnappings, rape, torture, and assault as the vast majority of asylum seekers and migrants returned under MPP have not been interviewed by reporters or human rights organizations. This count is only the tip of the iceberg. For example, a recent [study](#) by the U.S. Immigration Policy Center at UC

San Diego found that one in four people in MPP in Tijuana and Mexicali have been threatened with physical violence while waiting for court hearings. The study did not include the extremely dangerous MPP return locations of Ciudad Juárez, Matamoros, or Nuevo Laredo. Human Rights First will continue to periodically update the number of reports of kidnappings and assaults it has tracked on [www.deliveredtodanger.org](http://www.deliveredtodanger.org), a new initiative launched in collaboration with the American Immigration Lawyers Association, Instituto para las Mujeres en la Migración, Latin America Working Group, Physicians for Human Rights, Refugees International, Washington Office on Latin America, and Women's Refugee Commission.

## Children Kidnapped and Vulnerable Individuals in Grave Danger

**Children have not been spared from the kidnappings, sexual assault, and other violent attacks on asylum seekers and migrants DHS returns to Mexico through MPP.** Among the overall number of attacks, **Human Rights First has tracked at least 138 children in the MPP program who were kidnapped, or subjected to kidnapping attempts, in Mexico to date.** Given the limited monitoring of MPP returnees, the number of children targeted as they wait in danger in Mexico is certainly much larger. Over 16,000 children have been returned to Mexico under MPP, as [Reuters](#) reported in October. Children kidnapped or otherwise harmed in MPP include:

- **A disabled nine-year-old girl was twice kidnapped and repeatedly sexually assaulted** after DHS sent the child and her asylum-seeking mother, Lucia, to Tijuana, according to a statement submitted by the American Immigration Council (AIC) to Congress. Lucia said that the men who kidnapped them the second time “tied my daughter up in a sheet so she could not move. They beat us repeatedly. They took off all of our clothes, touched us sexually, raped us, and masturbated in front of us.”
- **A two-year-old boy was kidnapped in September from a house in Ciudad Juárez while his mother was doing chores in another room**, according to Tania Guerrero of Catholic Legal Immigration Network's (CLINIC) Estamos Unidos Project. DHS had sent the family to Mexico under MPP.
- **A Honduran boy and his asylum-seeking father were abducted the same day DHS returned them to Nuevo Laredo by kidnappers who threatened to take the boy's kidneys**, according to an account first published by [Vice News](#) and recently included on an episode of [This American Life](#).
- **Seven and ten year-old-girls were threatened with rape by kidnappers** who also abducted their brother and father, an asylum seeker from Honduras, after DHS returned the family to Nuevo Laredo.
- **A three year-old-boy was kidnapped along with his mother, who was raped in front of him**, when DHS sent the family to Matamoros.
- **A 12-year-old Salvadoran girl was nearly abducted from her mother in Monterrey** after they were sent by DHS to Nuevo Laredo under MPP then dumped by Mexican authorities in Monterrey. Armed men chased the family and grabbed the girl, but her mother managed to wrestle her back and escape.
- A seven-year-old Honduran girl returned by DHS to Nuevo Laredo told her asylum-seeking mother “**Mommy, I don't want to die**” after overhearing the men who kidnapped them discussing murdering migrants who could not pay ransom.
- Some parents are so terrified for the safety of their children that some have begun to send them alone to ports of entry to be treated as unaccompanied minors and taken to shelters in the United States. Government data reported by [CNN](#) indicates that at least 135 children who were returned to Mexico under MPP are now in the care of the U.S. Department of Health and Human Services, the agency

charged with the care of unaccompanied minors. Taylor Levy, an immigration attorney representing asylum seekers returned to Ciudad Juárez under MPP, said that since at least July she has been fielding inquiries from parents desperate to protect their children by sending them into the United States alone.

**DHS continues to return vulnerable asylum seekers and migrants to Mexico in violation of internal MPP policy.** DHS claims “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,” LGBTQ persons, and Mexican nationals who are not eligible for MPP. Those returned in violation of the policy include:

- A disabled nine-year-old girl who was subsequently kidnapped with her mother and repeatedly raped and a 16-year-old Cuban boy diagnosed with lupus and heart and kidney disorders;
- **LGBT asylum seekers**, including a 20-year-old gay Honduran man who is HIV+ and was separated from other asylum-seeking family members and returned to Nuevo Laredo, an LGBT Cuban woman who had been robbed and threatened in Nuevo Laredo while waiting on the metering list, and a gay asylum seeker from Cuba who was robbed and threatened in Mexico but subsequently returned to Matamoros;
- **Pregnant women**, including several with late-term pregnancies, such as a pregnant Honduran asylum seeker under MPP suffered a miscarriage when she fell while trying to escape from persecutors who had followed her from Honduras, a Venezuelan asylum seeker who suffered serious post-natal complications after giving birth to twins in Mexico who DHS had returned in late September to Nuevo Laredo while eight months pregnant, a Salvadoran woman whose husband had gone missing months earlier who was returned again to Mexico after an MPP hearing in early November while eight-and-a-half months pregnant, and a 28-week pregnant Nicaraguan woman with a six-year-old child who told the judge she was afraid to be in Mexico but was not referred for a non-refoulement interview;
- **Indigenous asylum seekers** particularly from Guatemala who are not native-speakers of or fluent in Spanish, including Rosalía, a native Mam speaker sent by DHS to Mexicali; and
- At least 57 **Mexican nationals**, according to immigration court data analyzed by Syracuse University’s Transactional Records Access Clearinghouse (TRAC) – in clear violation of MPP, which explicitly exempts “citizens or nationals of Mexico.” An internal DHS review reportedly found CBP places some Mexican nationals in MPP and acknowledged the need to “address situations where families are placed in MPP and returned to Mexico despite having at least one immediate family member who is Mexican.”

## Asylum Seekers Risk Their Lives to Appear in U.S. MPP Courts

**Asylum seekers in MPP are at great risk of kidnapping while going to and from U.S. ports of entry to attend immigration court hearings because they are easily identifiable as migrants.** Asylum seekers, many of whom spend months waiting on metering lists at ports of entry are forced to wait months more to attend MPP hearings. Wait times for initial hearings are far longer than the 45 days that DHS had initially claimed, with the agency now acknowledging that asylum seekers are waiting between two and four months just for a first hearing. Government data analyzed by TRAC shows that 25 percent of asylum seekers in MPP whose cases were filed with the immigration court in May (1,204 out of 5,080) were still waiting for an initial hearing – four months later – in September. Forty-eight percent of MPP cases filed in June (2,854 out of 5,973) had already been waiting three months for an initial hearing, as of the end of September. Some asylum seekers have already been in Mexico under MPP for nine months waiting for final merits hearings. In early December 2019, asylum seekers appearing in the Laredo MPP tent court, who had already been waiting in Mexico for months due to metering and months

more for their initial hearings, were scheduled for final merits hearings in March 2020 – another three months away. Asylum seekers who have been attacked before or after appearing for MPP hearings include.

- **Lucia and her disabled nine-year-old daughter**, as discussed above, **were returned by DHS to Tijuana following an MPP hearing in San Diego, they were kidnapped just blocks from the port of entry, held for nearly two weeks and repeatedly raped.**
- **A Honduran asylum seeker and his two children, a 12-year-old boy and a 16-year-old girl, were kidnapped while returning from a Laredo MPP tent court hearing in September.** During another hearing in November, observed by a Human Rights First researcher, the family begged not to be sent to Mexico. The girl, sobbing, said that when they return to court “bad people” approach them. The boy said to the judge, “I hope you can help us, please. I don’t want to return to Mexico. We run a lot of risk.”
- In late October, **a Venezuelan asylum seeker was kidnapped while returning to Nuevo Laredo for an MPP hearing at the port of entry tent court in Laredo.** Immediately after getting off of a bus from Monterrey five men approached him and a Guatemalan asylum seeker traveling with him. The two were taken from the bus station in separate vehicles. “I started to cry in the truck. One guy told me to calm down and shut up or he would beat me.” The man was taken to two different houses where the cartel held a dozen other migrants including a Colombian man with a toddler and Nicaraguan family with a nine-month-old baby. The kidnapers punched the Nicaraguan mother in the neck, as they forced her to call family members to beg for a ransom to be paid. The kidnapers released the man after several days of captivity. He fears returning to Nuevo Laredo for his next hearing in December, as his abductors recorded his details from his passport into a notebook and took a photograph of him.
- A 13-year-old boy and his mother were nearly kidnapped in Nuevo Laredo while walking from the bus station toward the port of entry to attend an MPP hearing in Laredo in late September. An armed man and woman approached the family, took photos of them and tried to force them into a waiting vehicle. They escaped on foot to the office of the Instituto Nacional de Migración (National Migration Institute – INM) but so feared leaving that they missed the hearing. A Mexican migration officer eventually ordered the family to get out, saying “it wasn’t [INM’s] problem.” A local pastor, who happened to arrive, hid the family in the back of a passenger van and spirited them from the parking lot of INM building to a shelter.
- A Venezuelan refugee returned by DHS to Mexico after an immigration judge granted him withholding of removal at the Laredo MPP tent court was nearly kidnapped in November while returning to the port of entry to request to be allowed to enter the United States. At the Nuevo Laredo bus station, a group of around ten men surrounded the Venezuelan man. He managed to push his way through, jump into a waiting taxi, and immediately walk onto the international bridge to Laredo, Texas, to escape.
- In mid-October, a Honduran asylum seeker and her daughter told an immigration judge at the Laredo MPP tent court that they had been kidnapped and assaulted in Nuevo Laredo. According to a court monitor attending the hearing from San Antonio, the woman said that if she didn’t return for her next court hearing, “[i]t’s because something happened to me in Nuevo Laredo.”

## Asylum Seekers Targeted at Shelters

**Asylum seekers returned by DHS to Mexico under MPP are under serious threat of kidnapping and assault, even inside of migrant shelters, which overwhelmingly lack protection from Mexican authorities.**

Further asylum seekers in MPP are attacked outside of migrant shelters when the very limited beds in these facilities are full as well as when asylum seekers go out in search of work, food, and other necessities.

Despite widely available evidence of the dangers facing asylum seekers forced to wait in Mexico, acting CBP Commissioner Morgan claimed that migrant shelters in Mexico have “persistent law enforcement present” and that “safety was okay.” Yet since August, at least three individuals who reportedly attempted to prevent organized criminal groups from kidnapping or assaulting migrants in Nuevo Laredo shelters, including pastors Aaron Mendez and Ricardo Alcaraz, were abducted and remain missing. Attacks against migrant shelters in Guadalajara and Tlaxcala have also recently taken place. Many incidents go unreported because of fears of reprisal, as in the case of pastor Alcaraz whose family received threats after they publicly denounced his kidnapping. In Ciudad Juárez, Uber and taxi drivers reportedly refuse to pick up migrants at shelters because of the danger that kidnapers and extortionists will target them and their passengers.

- Despite claims by DHS of “persistent law enforcement” presence, **only one of the 14 shelters with MPP returnees visited by Human Rights First researchers in Tijuana, Mexicali, Ciudad Juárez, Piedras Negras, and Nuevo Laredo had government-provided security.**
- In Nuevo Laredo, **asylum seekers returned by DHS under MPP described attacks and/or threats against at least five migrant shelters since MPP began there.**
  - Human Rights First reviewed several reports that armed cartel members opened fire outside of a church-based shelter that they later entered, threatening to kidnap migrants. A Venezuelan asylum seeker returned by DHS to Nuevo Laredo reported that cartel members threatened a pastor at the same shelter.
  - Asylum seekers in MPP at a Nuevo Laredo church-run shelter housing some 70 individuals, including many children, told Human Rights First researchers in November that armed cartel members had recently broken in, terrifying those at the shelter.
  - A Cuban asylum seeker returned by DHS to Mexico stated that in August cartel members had robbed him inside of a church offering shelter to migrants in Nuevo Laredo.
  - MPP returnees at another religiously affiliated shelter in Nuevo Laredo visited by researchers said that cartel members were frequently outside and that they were to go outside fearing abduction. Even though the shelter is near the port of entry, the pastor drives asylum seekers there to attend MPP immigration court hearings to reduce the risk of kidnapping. An asylum seeker in MPP at a shelter run by a Catholic priest reported that he had seen men he believed were cartel lookouts circling the building.
  - Another pastor was threatened by cartel members while transporting migrants to a shelter in Nuevo Laredo.
  - A 25-year-old Honduran woman and her three young children – all under 5 – who crossed the border near Piedras Negras were kidnapped upon exiting a taxi in front of a shelter in Nuevo Laredo after DHS returned them there in mid-October. Men in white vans intercepted the family, held them captive for five days, and demanded money from family members, according to an academic researcher who spoke with the relatives.
- Migrant shelters in Ciudad Juárez have also been targeted. In September, armed, masked men attacked a church-based shelter in Ciudad Juárez housing mainly Cuban migrants, according to a Cuban asylum seeker who was sleeping in the shelter with his partner and nine-year-old daughter at the time. The men shouted: “asshole Cubans, open up,” as they forced their way into the shelter. The armed men threatened to “kill one of these asshole Cubans” and fired their weapons indiscriminately, nearly hitting the Cuban man. At another shelter on the outskirts of Ciudad Juárez, a Honduran asylum seeker who DHS had

returned under MPP was nearly abducted by four masked men in a black van who repeatedly came to the shelter where she was staying and interrogated other migrants about her whereabouts.

- A Honduran asylum seeker returned by DHS to Nuevo Laredo with her 10-year-old daughter was forced to flee a church shelter in Monterrey in September because cartel members had demanded that the church make an extortion payment for each Honduran migrant staying in its facility.

**Asylum seekers in MPP who cannot find space in or avoid migrant shelters, which have been targets of attacks, are also at risk of kidnapping and assault in migrant hotels and other accommodation.**

- **A disabled nine-year-old girl was sexually assaulted after she and her mother, Lucia, were placed in MPP by DHS and sent to Tijuana,** according to AIC. The family were forced from a migrant shelter demanding payment and had moved into the house of a local man in exchange for Lucia doing domestic work. The man, who turned out to work for a cartel, locked them in the house, forced Lucia to work without pay, and sexually assaulted the girl.
- **A 12-year-old Salvadoran girl was nearly raped after she, her father, and younger brother were returned by DHS to Ciudad Juárez under MPP.** After the Casa Migrante told the family that they could not extend their stay due to limited capacity at the shelter, the family rented a room in a local home. While the girl's father was out purchasing food, the husband of the house's owner tried to rape the girl. The man threatened to have the girl's father arrested and deported, if she reported him to the police.
- In early July, armed cartel members attacked a home where several Cubans were renting rooms while waiting for permission to approach the port of entry at Laredo to request asylum. The cartel members announced they were searching for "foreigners," roughed up the elderly Mexican couple renting out the home, beat several of the men and placed rifles to their heads, robbed the group, took their photos and ordered them to leave the city. **DHS returned these asylum seekers to Nuevo Laredo through MPP, telling one man that his fear of the cartel was "outside their [CBP's] jurisdiction."**
- While waiting on CBP's metering list at the Laredo port of entry, **a Venezuelan asylum-seeking family with a 7-year-old daughter reported that armed men kidnapped numerous individuals from the migrant hotel where they were staying in July.** In the early hours of the morning, a group of men abducted migrants from the rooms on either side of theirs, firing guns into the air outside. The family fled to a shelter but did not remain there long because the pastor running the shelter was kidnapped.
- An asylum-seeking Venezuelan family with 16- and 11-year-old girls and 10- and 3-year-old boys were robbed in a migrant hotel after DHS returned them to Nuevo Laredo. A hotel manager said he was powerless to stop the cartel from entering the hotel. Men had previously tried to kidnap one of the girls, as the family passed through the Nuevo Laredo bus station.

**Returned asylum seekers forced to venture onto the streets or take public transportation to purchase food or in search of work to support themselves and hire attorneys to represent them are also targets of attack because of their nationality, race, gender, and status as migrants.**

- **Nicole, a pregnant asylum seeker from Honduras suffered a miscarriage after she fell while escaping from her persecutors** who had tracked her and her husband to where the family was attempting to hide while waiting for their MPP hearing in El Paso, according to Tania Guerrero, an attorney with CLINIC.
- A 28-year-old Salvadoran asylum seeker sent to Nuevo Laredo by DHS under MPP went missing in September after leaving a shelter in Nuevo Laredo to work for the day. The man was still missing at the

time his 8-year-old son and wife, who was due to give birth in mid-November, appeared at their master calendar hearing in early November at the Laredo MPP tent court.

- In November, a Salvadoran asylum seeker and her two young children, who DHS returned to Matamoros, were abducted in a taxi while trying to reach a nearby store to purchase food. The taxi driver handed the family over to kidnappers who held them for seven days while attempting to extort the woman's relatives, according to Charlene D'Cruz, an immigration attorney heading the Lawyers for Good Government project at the Matamoros tent encampment. **D'Cruz said that abductions are so common in Matamoros that "most people expect that they're going to be kidnapped at some point."**
- A Cuban asylum-seeking couple were robbed and pushed to the ground while walking to a store in Mexicali, where the pair had moved after DHS returned them to Nuevo Laredo. The couple had previously been abducted, robbed, and threatened in Reynosa. Another couple seeking asylum from Cuba were abducted from the street in Mexicali in August, according to their attorney Margaret Cargioli from the Immigrant Defenders Law Center. The family is afraid to venture outside now because the kidnappers took their phones and recorded their biographical information.
- A 51-year-old member of a Cuban opposition party said that he and his adult sons, who were returned to Nuevo Laredo by DHS, have been repeatedly targeted because of their nationality. In one incident, men shouted at them on the street: "asshole Cubans, you're fucked." Then **in late October, a group of men cornered the family in the street, beating the older man with a board.**
- Lizbeth, a Salvadoran asylum seeker who was returned by DHS to Mexico through MPP, was savagely beaten in the street by two men with a belt while returning from a convenience store to the home where she had found accommodation on the outskirts of Tijuana, according to her attorney Siobhan Waldron.
- After being returned to Ciudad Juárez by DHS, a Venezuelan asylum seeker was robbed while walking in downtown Juárez. The assailant used the woman's stolen phone to threaten and extort her family members in the United States claiming he knew where the woman lived. When the woman's family stopped answering the calls, a man with a photo of the woman appeared near her home in Juárez asking about her. She reported the incident to authorities, but the police did not conduct any investigation.
- Armed men cut a 33-year-old Venezuelan asylum seeker with a knife as he was searching for a migrant shelter in Nuevo Laredo when the man refused to get in their truck. DHS later returned the man under MPP despite the attack. A former police officer, the man stated that fears going outside the shelter where he is staying. "You cannot understand how bad it is," he said.
- In November, a female asylum seeker from Honduras returned by DHS to Matamoros was kidnapped near the tent camp just feet from the local INM office and the building where Lawyers for Good Government is assisting MPP returnees with asylum applications, according to attorney Charlene D'Cruz.
- In September, the 18-year-old son of a Venezuelan asylum seeker returned by DHS to Nuevo Laredo was nearly kidnapped while working at a fruit and vegetable stand where he and his mother had found work. A passerby intervened to stop five men from kidnapping the young man when they began interrogating him about whether he was a foreigner. The young man had previously received a graze wound on his neck during a shooting near the stand.
- **Kidnappings of asylum seekers in MPP from the bus station in Nuevo Laredo are common,** including: a family seeking asylum from Venezuela with daughters ages seven and two; two Honduran asylum-seeking sisters and their three children held captive for five days and threatened with death if their

family did not pay ransom; and, a Guatemalan family with two boys who were kidnapped from the station while waiting for a bus to Monterrey while on the port of entry asylum metering list.

**Individuals and families who attempt to relocate away from the border region are still kidnapped and attacked – sometimes in transit to these regions or on return to MPP hearings, as well as in cities like Monterrey, where Mexican authorities dump returned asylum seekers without assistance.**

- A 4-year-old Honduran boy and his 23-year-old asylum seeker mother were kidnapped in Monterrey after being bused there following their return to Nuevo Laredo by DHS. On the second night of their captivity, one of the kidnapers began to sexually assault the woman but was interrupted by another of the kidnapers who set the family free.
- A 3-year-old Salvadoran boy and his mother were kidnapped while attempting to reach Monterrey after DHS returned them to Nuevo Laredo. Family members were forced to pay a ransom to secure their release. The family went into hiding in the house of Good Samaritan who is providing them with food because they fear going outside.
- A group of men stopped and threatened a Venezuelan asylum seeker traveling from Nuevo Laredo, where she had been returned by DHS under MPP, to Toluca. The men asked whether the woman was Venezuela or Cuban and gave a “first warning” to the minister traveling with the woman at the time.
- An asylum seeker from Ecuador was abducted in September while traveling to Monterrey after being returned to Nuevo Laredo by DHS. The kidnapers removed her from a car and took her to a series of houses where they demanded money for her release.
- A group of men beat and robbed a Salvadoran asylum seeker returned by DHS to Nuevo Laredo in July when he stepped out of the migrant shelter in Monterrey to purchase food for himself and his daughter.
- A Venezuelan asylum seeker in MPP, who was later granted withholding of removal at the Laredo tent court facility, was beaten by a group of men with sticks in Monterrey. On another occasion armed men in a vehicle nearly kidnapped him while he was traveling in a taxi in Monterrey.
- Cartel members in Monterrey sent extortion demands and threatening messages to a Cuban asylum seeker placed in MPP by DHS and returned to Nuevo Laredo in July. The man was forced to relocate again to another part of Mexico. He had previously been assaulted three times while in Reynosa.
- Another Cuban asylum seeker sent by DHS to Nuevo Laredo who had moved to Monterrey was kidnapped there and released only after he and his family paid a significant ransom.

## Mexican Authorities Complicit

Mexican migration and police officers are responsible for and/or complicit in the kidnapping, rape, assault, and extortion of asylum seekers and migrants returned by DHS to Mexico under MPP. Some attacks have been carried out inside of Mexican migration installations and police stations, as discussed below. In fact, the U.S. Department of State reported in its 2018 assessment of human rights in Mexico that migrants are victimized by police, immigration officers, and customs officials. Mexican authorities also consistently fail to investigate or prosecute reported crimes against migrants.

Trump Administration officials when questioned about the dangers facing those returned to Mexico by DHS have repeatedly asserted that Mexico shelters and ensures humanitarian assistance for asylum seekers in MPP

(though no written agreement with Mexico detailing specific responsibilities – including for safety and security in notoriously dangerous areas – has been publicly released). But the mere assertion that Mexico is responsible does not relieve the United States of its responsibility to protect refugees seeking asylum at and within its borders. This attempt to evade and shift responsibility for refugee protection to Mexico is particularly disingenuous given the documented history of kidnappings, killings, and disappearances in Mexico and along the border, the targeting of refugees and migrants in Mexico, and the extensive documentation of 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. Some example of Mexican officials' complicity and collaboration in these attacks, include:

- In mid-September, **cartel members openly kidnapped returned asylum seekers inside the INM building in Nuevo Laredo** following U.S. immigration court hearings, including the seven-year-old Honduran girl and her mother mentioned above. The woman overheard a Mexican migration officer tell the kidnappers the number of migrants returned from court that day and the men counting victims to abduct. The family tried to escape in the car of local pastor, but cartel members forced the vehicle to stop a few blocks away, abducted them, and held them in a house with some 20 other kidnapped migrants. A cartel member threatened to kill the woman if she reported the kidnapping to the police and **bragged “the man from migration gave you to us.”**
- In late July, **a woman with a baby girl in her arms, who DHS had just returned to Mexico under MPP, were abducted from the parking lot behind the INM building in Nuevo Laredo.** According to a Venezuelan asylum seeker returned the same day, armed men entered the parking lot, which is enclosed by a concrete wall and metal fencing, and forced the family into their vehicle. INM officials and a patrol of Mexican soldiers who passed by shortly afterwards did nothing to investigate or respond to the abduction.
- DHS returned a Salvadoran asylum seeker, her husband, and three young children to Mexico in October even though they had been kidnapped and threatened by Mexican federal police in Ciudad Juárez. **The officers brought the family to what appeared to be a police station, demanded ransom from the woman’s family in the United States saying that they “would never see them again,” if they failed to pay, and even threatened to take away the woman’s children and put them up for adoption.**
- **In Ciudad Juárez, Mexican police attacked a Salvadoran asylum seeker, throwing him to the ground, kicking and robbed him in front of his two children as they approached the port of entry to attend an MPP court hearing in August.** The man was walking with his children in the early morning hours to report to CBP at the port of entry by 4:30 am for their hearing. When the man was able to show the police his MPP court documents, they released him but stole his money.
- Mexican migration agents in Nuevo Laredo also appear to have been involved in the near kidnapping of a Honduran asylum seeker, her husband, and son in late September after DHS sent them to Nuevo Laredo. As the family and other migrants were walking from the INM building after Mexican migration told them to leave or get on a bus for the southern Mexican border, men in vans abducted more than a dozen migrants, including the Honduran woman. Her husband and son managed to run back to the INM office. **Mexican immigration officers were either directly participating in or permitting the men to kidnap asylum seekers from the INM building because the kidnappers showed the woman a photo of her family crying inside the building to pressure her to convince them to come out.** The family managed to escape with a pastor who spirited them to a shelter in Monterrey, according to an academic researcher who interviewed migrant families in Monterrey in mid-October.

- In mid-October, a **Venezuelan asylum-seeking family of five including two girls ages eight and ten were nearly kidnapped at the Nuevo Laredo airport while returning for an MPP hearing**. The family had moved to another Mexican city after nearly being kidnapped outside of a shelter in Nuevo Laredo. As they passed through internal migration controls, a Mexican migration official took photos of the family and their documents with what appeared to be her personal cell phone. When the family challenged the official, they were allowed to proceed. However, upon exiting the terminal a group of men immediately approached them and tried to force the family into a waiting vehicle – indicating to the family that the migration official had sent their photos to the kidnappers. The family narrowly managed to escape abduction by pushing their way back into the terminal.
- **Mexican police asked for a bribe when a former judge seeking asylum from Cuba and her husband attempted to report an assault against the man in southern Mexico**, according to their immigration attorney Natalie Cadwalader-Schultheis of Justice for Our Neighbors. The couple refused to pay and the police failed to investigate the attack even though it had been captured on a film by a nearby security camera. The couple were also robbed and threatened at gunpoint with other Cuban asylum seekers in Reynosa, but DHS returned them to Matamoros under MPP nonetheless.
- **Mexican police have repeatedly threatened, wrongfully detained, and extorted the clients of Constance Wannamaker**, an immigration attorney representing asylum seekers returned to Ciudad Juárez under MPP. Police there threatened to beat a Honduran asylum-seeking client and demanded money from him. Two Cuban asylum-seeking clients, one of whom was pregnant, were also repeatedly detained and extorted by Mexican police in Juárez and in Tapachula in southern Mexico.
- Lisa Knox, an immigration attorney who represents asylum seekers in MPP said she had been alerted by her clients to **multiple instances of physical assault and abuse by Mexican police in Tijuana against returned asylum seekers**. One Honduran asylum seeker told her that he been attacked in Tijuana, and in another incident, Mexican police had detained him and called him a “dirty Honduran.”
- A Cuban asylum-seeking client of Kenna Giffen, an immigration attorney working with asylum seekers returned to Matamoros, told Giffen that **Mexican police had entered a church in Reynosa sheltering migrants and demanded money**. The police detained those who refused to pay from the church.

## U.S. Officials Continue MPP Returns Despite Widespread Human Rights Abuses

Despite extensive reports of attacks on asylum seekers in Mexico, Trump Administration officials continue to deny the massive human rights fiasco that has resulted from MPP. In November, CBP’s acting Commissioner Morgan referred to the hundreds of reports of violence against asylum seekers from human rights organizations, academic researchers, and journalists, as “**anecdotal stuff**.” In late October, outgoing acting DHS Secretary McAleenan denied hearing any “verified incident” of Mexican authorities handing migrants to cartels nor of the widely reported abduction in August of Pastor Mendez, who was reportedly attempting to protect migrants in his shelter from cartels.

Public denials by DHS officials of the grave harms suffered by asylum seekers in Mexico fly in the face of warnings and evidence from the U.S. Department of State of the deadly dangers in the regions where DHS is returning individuals through MPP. The Tamaulipas region, which encompasses Nuevo Laredo and Matamoros, is designated as a Level Four threat, the same level threat assigned to Afghanistan, Iran, Libya, and Syria. In mid-

November, as cartel violence in the region spiked while the Trump Administration continued to expand its dangerous forced return policy, the U.S. Consulate in Nuevo Laredo issued a travel warning advising U.S. citizens and personnel to avoid public places. The State Department has also indicated that Mexican police officers and security forces have been implicated in kidnappings, rape, and other human rights abuses against migrants.

In the past two years, violence across Mexico has reached renewed highs. This year has seen some 90 murders daily, many linked to drug cartels, which places the country on track to repeat the record high of nearly 36,000 homicides in 2018. That year a quarter of all murders were concentrated in five cities, including Tijuana and Ciudad Juárez, where DHS is forcibly returning asylum seekers under MPP. In November, gang warfare in Ciudad Juárez escalated with pitched gun battles in the city's streets. Overall, federal crimes in Mexico, including kidnapping, increased by 18 percent in 2018. In September of this year, there were 65 reported kidnappings in Nuevo Laredo, likely a small fraction of the total given factors that deter reporting, including the ineffectiveness of the Mexican police and their complicity in human rights abuses.

Refugee protection professionals implementing MPP have warned that the policy delivers asylum seekers to death, kidnapping, and rape. An asylum officer who resigned in protest condemned MPP, writing that by participating in sham fear-screening interviews he was “**literally sending people back to be raped and killed.**” Michael Knowles, president of a union representing employees of the U.S. Citizenship and Immigration Services (USCIS) and a longtime asylum officer, testified before Congress that MPP is an “**unmitigated disaster**” and stated that “[t]hese policies are . . . the basis for human rights abuses on behalf of our nation.” He said: “**I don’t know a single asylum officer in this country who believes [MPP] is a good policy.**” Asylum officers and government officials reportedly told the L.A. Times that asylum officers across the country are requesting transfers, retiring early, and quitting to avoid enforcing inhumane immigration policies, including MPP.

**Notwithstanding extensive, publicly available information (including from U.S. government sources) of the extreme danger migrants in Mexico face, there is no publicly available information showing that the Trump Administration assessed the potential level of harm to asylum seekers before initiating forced returns to Mexico under MPP.** Over the last two months, DHS officials have continued to expand these returns, yet have declined when asked by members of Congress to say whether they are reviewing the forced return program in light of these extensive reports of harm. When asked by Representative Nanette Barragán at an October 30 hearing whether DHS had assessed harms asylum seekers might suffer under MPP, then acting DHS Secretary McAleenan dodged the question ultimately offering only that, “[a]ssessments were done on Mexicans’ ability to manage this program jointly with the United States.” A DHS “assessment” of MPP dated October 28 fails to even mention the extensive reports of kidnappings and assaults in MPP, or any assessment of harms suffered by asylum seekers. The document absurdly claims that MPP is an “indispensable tool in . . . restoring integrity to the immigration system.” In contrast, a November report by Senator Merkley found that “[t]he administration’s MPP program put[s] thousands at risk as they await their asylum hearings in dangerous Mexican border towns.”

At a November 13 Senate Homeland Security and Governmental Affairs hearing, Senator Gary C. Peters asked acting CBP Commissioner Morgan whether DHS was considering revisiting its use of MPP in light of the very troubling reports of kidnappings, sexual assaults, and other harms to asylum seekers. In response, Morgan did not indicate that DHS officials would reconsider their use of MPP, instead testifying that “those things” are not happening when people stay in shelters, but only when they leave shelters. Taylor Levy, an El Paso based immigration attorney who has represented asylum seekers in Ciudad Juárez, reported that she had informed Morgan’s staff of the violence and kidnappings right outside of a Juárez shelter they were visiting – including that people had been raped and beaten in front of their children. Many asylum seekers, as detailed in this report and other accounts, have been attacked at shelters in Mexico, and while traveling back and forth to shelters to attend MPP hearings, buy food or conduct other essential activities. Morgan also attempted to dismiss reports of

kidnappings, assaults, and other attacks by stating that “the data is not substantiated by the Mexican military or national guard.” However, efforts to pretend these attacks are not happening – on the grounds that Mexican authorities have not provided data on them to DHS – is both disingenuous and absurd given the well-documented failures of Mexican officials to protect migrants and refugees, their complicity in attacks against migrants and refugees, and the extensive criminal activities of cartels more broadly in border and other regions of Mexico.

## Sham Protection Interviews Increasingly Cursory and Adversarial

DHS’s MPP screenings appear rigged against asylum seekers at every stage. Screening interviews have become increasingly cursory, farcical, and hostile. DHS officials overrule some asylum officers’ decisions that MPP returnees face serious danger in Mexico. In addition, CBP officers also continue to fail to refer individuals who express fear of return for fear-screening interviews, and immigration judges routinely do not ask asylum seekers if they are afraid to return to Mexico and sometimes do not refer them for screenings. Some asylum seekers even report being restrained in handcuffs during MPP fear-screening interviews. As a result, very few asylum seekers have been removed from MPP, even when they suffer serious harms and/or threats in Mexico.

The 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. In an amicus brief submitted in the suit challenging MPP, the U.N. Refugee Agency made clear that MPP fear-screening procedures “lack key safeguards required by international law” as “applicants do not have access to counsel in the screening procedure; a decision is not appealable by the applicant; and applicants cannot meaningfully prepare their refugee status determination claims by meeting with lawyers and/or receive notice of upcoming court dates, or otherwise be assured of due process in their full asylum hearings.” An amicus brief by the union for asylum officers from USCIS, who conduct these screenings, states that “MPP fails to provide even the basic procedural protections available to asylum applicants subject to [expedited removal].” 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 despite these risks.

DHS has publicly defended the small percentage of individuals who pass MPP fear screenings by audaciously suggesting that asylum seekers – who are fleeing violence in their home countries are unlikely to harbor legitimate fears of return to Mexico because they “voluntarily entered Mexico en route to the United States” – disingenuously ignoring the difference between passing through a dangerous area with the much greater risk faced by those placed in MPP who are forced to remain in a highly dangerous area for many months.

**Fear-screening interviews conducted by asylum officers have become increasingly farcical, cursory, adversarial, and seemingly rigged against asylum seekers.**

- **Some MPP fear interviews last just minutes, consist of yes-or-no questions, and/or focus on issues not relevant to fear of Mexico.** Credible fear interviews conducted by trained asylum officers generally take several hours to complete. Yet two unrepresented asylum seekers from Honduras and Venezuela returned to Tijuana told attorney Lisa Knox in late November that their MPP fear interviews lasted about five minutes. An Ecuadoran asylum seeker kidnapped in September in Nuevo Laredo with her daughter, told her attorney Esmeralda Sosa, that she was asked only a few questions even though she had presented evidence in the form of text messages from the kidnappers during an MPP screening. Sosa was not permitted to attend or monitor. A Salvadoran asylum seeker, who had nearly been kidnapped in Nuevo Laredo, indicated that the officer conducting her 15-minute-long interview principally asked about the route she and her children took to the United States and “why they had come illegally.”

The aggressive questioning made her afraid to fully recount what had happened, in part, because she feared her responses might be shared with Mexican migration officials who she had seen speaking to one of the men who tried to kidnap her.

- A former asylum seeker who resigned in protest over MPP decried the fear interview process as “practically ensur[ing]” the violation of international law. He wrote, “[t]he current **process places on the applicants the highest burden of proof in civil proceedings in the lowest quality hearing available . . .** we are conducting the interviews telephonically, often with poor telephone connections, while at the same time denying applicants any time to rest, gather evidence, present witnesses, and, most egregious of all, denying them access to legal representation.” Another asylum officer speaking to Vox reportedly stated that the standard for fear of Mexico screenings is “all but impossible to meet.”
- **DHS continues to generally refuse access to attorneys during MPP screening interviews even where it has the physical capacity to do so.** Several attorneys representing asylum seekers at the Laredo and Brownsville MPP facilities told Human Rights First that CBP had not permitted them to be present with their clients during MPP fear-screening interviews; only two attorneys reported that after repeated requests to the Houston Asylum Office and local CBP officers that they were permitted to sit in on interviews conducted at the Brownsville tent facility. DHS has generally maintained that it cannot provide access to counsel during fear screenings because of “limited capacity and resources at ports-of-entry and Border Patrol stations.” But this inadequate claim does not explain why attorneys are excluded from monitoring interviews telephonically and does not account for why the agency chose to conduct MPP fear-screening interviews in CBP facilities where attorneys are routinely barred. In November, a **federal district court issued a temporary restraining order** in a suit brought by Jewish Family Services and the ACLU of San Diego and Imperial Counties, **finding that the Administrative Procedure Act “provides a right of access to retained counsel for [MPP] interviews”** and requiring DHS to grant the plaintiffs, a family of Guatemalan asylum seekers returned to Tijuana under MPP, access to their lawyers before and during MPP fear-screening interviews while in CBP custody.
- **Although asylum seekers frequently report being told by DHS that they cannot pass MPP fear screenings without corroborating evidence, which is often difficult for many to secure at that stage, even those who have evidence are blocked from presenting it, as DHS lacks processes to allow individuals or their attorneys to submit evidence.** Attorney Kenna Giffin reported that DHS would not allow her to submit medical and other documentary evidence of behalf of a Cuban asylum seeker who had been sexually assaulted in Mexico because she had made the request for interview in court and they would not accept a same-day submission of evidence. An attorney representing a Cuban asylum seeker who was gang raped in Mexico and returned to Nuevo Laredo was told by an asylum officer that medical evidence regarding the assault was “not needed.” The officer conducting the interview telephonically was uncertain as to how to receive documents at the time of the interview from an MPP tent court. Neither woman passed the MPP screening interview. In early December, a lawyer representing an asylum seeker in the Laredo MPP court requested during the hearing an MPP fear interview for her client and inquired as to where she could send documentary evidence. Neither the immigration judge nor the DHS attorney could explain how to submit evidence for the telephonic MPP screening interview.
- **The percentage of individuals who pass DHS’s farcical fear of Mexico screenings remains very low.** Figures from DHS published in late October indicate that fewer than 1,000 people were found by asylum officers to meet the unduly high Mexico fear standards – 13 percent of the 7,400 individuals actually provided MPP fear screenings. It is also unclear how many of the asylum seekers referred for fear-screening interviews were referred by an immigration judge, or whether the passage rate has shifted

over time as MPP has expanded. But the overall percentage of individuals removed from MPP with genuine fears of remaining in Mexico is likely much lower than the 13 percent calculated by DHS given CBP's widespread failure to refer the majority of individuals who indicate a fear of return, as the UC San Diego [study](#) found, and efforts by CBP to dissuade or punish asylum seekers who request such interviews, likely many asylum seekers who fear return to Mexico have not been referred for interview at all. For instance:

- A Venezuelan asylum seeker said that after a negative MPP fear-screening decision a CBP officer at the Laredo port of entry told him to not bother requesting another interview because “they’re not taking anyone out” of MPP.
  - Another Venezuelan asylum seeker told attorney Lisa Knox that she was held in isolation for two days in a CBP cell in San Ysidro without access to drinking water after requesting a fear interview.
  - One immigration attorney, who represents clients returned to Matamoros, reported that she does not request MPP fear screenings for some clients with legitimate fears of returning to Mexico because those returned after interview, which the vast majority do not pass, are often released at night, heightening the dangers they face.
- [TRAC](#) data shows that as of September only **one percent** of individuals (659 out of 47,313) scheduled for MPP immigration court hearings had been removed from the program (this figure includes those who were removed at the discretion of CBP for reasons other than passing the MPP fear screening).

**DHS officials have overturned positive MPP fear-screening determinations and pressured USCIS asylum officers to determine that asylum seekers and migrants do not meet the MPP fear-screening standard.**

- The Merkley [report](#) on MPP found that **DHS political appointees interfere in MPP fear screenings, overturning decisions by professional asylum officers** that individuals have met the high screening threshold. According to the report's findings, “decisions that migrants should remain in the U.S. for their safety were forwarded on to supervisors, and in some cases all the way up to headquarters,” where they were frequently reversed. One whistleblower said getting final approval to remove asylum seekers who face harm in Mexico from the MPP program requires “Herculean efforts.”
- The internal DHS [review](#) of MPP reported on by BuzzFeed reportedly concluded that “**some CBP officials pressure USCIS to arrive at negative outcomes when interviewing migrants on their claim of fear of persecution or torture**” in Mexico under MPP.

**The vast majority of individuals have been returned after MPP screening interviews even when they have been previously targeted in Mexico.** Indeed, the Merkley report concluded that is “**virtually impossible for any asylum-seeker—regardless of the actual danger they face—to be granted permission to leave Mexico.**”

Some of those returned by DHS after screening despite having suffered serious harms in Mexico include:

- DHS returned [a nine-year-old disabled girl and her mother](#) after failing an MPP fear screening even though they had been held against their will, subject to labor exploitation, and the girl sexually assaulted. After failing the screening, the girl and her mother were abducted blocks from port of entry in Tijuana by armed men, who repeatedly raped them over the course of nearly two weeks in captivity.
- In mid-November, an asylum-seeking woman who had been raped in front of her three-year-old son was returned to Matamoros after she did not pass an MPP fear-screening interview, according to attorney Jennifer Harbury. The woman and her son had previously been kidnapped in Reynosa and returned to Mexico under MPP without being referred for a fear screening.

- A Cuban woman kidnapped and gang raped in Nuevo Laredo when she first arrived there to seek asylum at the port of entry did not pass an MPP fear-screening interview. The attackers said, “this is what we do to Cubans here.” After DHS initially returned her to Nuevo Laredo, the women lived in hiding, only leaving to receive treatment for her trauma and to attend an MPP court hearing. During a fear-screening interview in November after that hearing, an asylum officer asked the woman for proof that “the attackers believed they were targeting [her] because [she is] Cuban” and concluded that despite the serious harm she suffered in Mexico that her fear of return to Mexico was insufficient to justify removing her from MPP.
- A Guatemalan man and his nine-year-old son, who were twice nearly kidnapped in Mexico, did not pass an MPP fear screening after aggressive questioning of the boy by an asylum officer. The officer questioned the nine-year-old child about details of the kidnapping attempts, one of which occurred just a day after the family was returned to Mexico, resulting in the nine-year-old becoming confused, overwhelmed, and crying, according to an attorney who spoke with Human Rights First.
- An asylum seeker from El Salvador and his six-year-old son who were kidnapped, robbed, and extorted multiple times, including by Mexican police, were returned by DHS to Mexico after failing to pass an MPP fear screening, according to their attorney Constance Wannamaker. Though the family’s account was deemed credible, as indicated by the interview worksheet, the asylum officer found that they did not meet the standard to establish a more likely than not probability of harm in Mexico.
- A Cuban asylum seeker, who was the victim of two kidnappings in Reynosa and who was physically abused and sexually assaulted after being returned under MPP, did not pass a fear screening in November, according to her attorney Kenna Giffen. The woman who was referred for interview following a hearing in the Brownsville tent court fainted in terror of being returned to Mexico and was put into a wheelchair. DHS did not permit the woman to be represented by counsel during the interview.
- A Honduran asylum seeker who did not pass an MPP fear screening had been repeatedly stripped and searched for money by men in Mexican police uniforms who threatened to kidnap her older son and had been followed and threatened by men in Mexicali. The woman was found not credible and the family returned to Mexico. The woman reported to her attorney Troy Elder of Immigrant Defenders Law Center, who DHS did not allow to be present during the interview, that the asylum officer interviewing her and her sons questioned the boys about whether they “like” Mexico in what appeared to her to be an attempt to contradict her fear of remaining there.

**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.** In a survey of individuals returned by DHS to Tijuana and Mexicali, the [U.S. Immigration Policy Center](#) at UC San Diego found in a report published in an October 2019 that 60 percent of those who expressed a fear of return to Mexico to a CBP officer were not referred for a fear screening with an asylum officer. An internal DHS [report](#) by senior officials charged with reviewing the implementation of MPP found – according to a November 14 BuzzFeed article – that CBP officers fail to refer asylum seekers for fear screenings and that asylum officers. Asylum seekers returned to Mexico without screenings include:

- **An asylum-seeking woman was not referred by CBP for an MPP fear interview before being sent to Matamoros even though she was kidnapped and raped in front of her three-year-old son.** The woman was still bleeding days after the attack and in need of additional medical attention when she met with attorney Jennifer Harbury in November. Before being returned to Mexico, the woman had tried to explain that she and her son had been kidnapped in Reynosa before crossing into the United States to seek asylum, but CBP sent them back without referring them to an asylum officer for an MPP screening.

- **CBP officers in Laredo failed to refer a Guatemalan family with two children for a fear-screening interview even though they explained that they had been kidnapped from the Nuevo Laredo bus station, held for days, and threatened that they would have to pay to remain in the city.** The CBP officer processing the family when they were allowed to enter the port of entry after waiting on a metering list said kidnapping was immaterial to fear of Mexico unless the person was raped or seriously injured.
- Immigration attorney Lisa Knox reported that **CBP officers refused to refer her asylum-seeking client from Honduras for an MPP fear-screening interview after he had been attacked and robbed in Mexicali by men with machetes.** The man also informed the private security guards transporting him back to Mexico from the immigration court that he feared return but was not referred for an MPP fear interview. Similarly, a Salvadoran asylum seeker who had been kidnapped in Ciudad Juárez and escaped by climbing out of a window after DHS sent her to Juárez under MPP was not referred for a fear-screening interview even though she specifically requested one.
- **CBP officers accused a 32-year-old Nicaraguan woman fleeing political persecution of lying about having been kidnapped and raped by cartel members** in Nuevo Laredo after DHS returned her there in July. After a ransom was paid, the cartel had forced her to cross the river. When she attempted to express her fear of return to Mexico, a CBP officer accused her of lying and sent her to Nuevo Laredo.
- A Salvadoran asylum seeker abducted with her three children in Monterrey was not referred by CBP for an MPP screening despite the woman describing her fear of being returned to Mexico. A CBP officer told the woman that, “everyone has to go back.” After being returned by DHS to Tijuana in October, the woman received a death threat in November from men involved in her family’s kidnapping.
- **A teenage Venezuelan girl was returned with her father and brother to Ciudad Juárez even though she had been the victim of an attempted sexual assault in Mexico,** which has left her symptoms of continued trauma, according to attorney Tania Guerrero of CLINIC. Despite explaining their fear of return to Mexico, CBP sent them to Ciudad Juárez in September.
- An asylum-seeking woman from Cuba reported that CBP refused to listen when she recounted having been kidnapped with her husband in Nuevo Laredo and held with other migrants who were being beaten by cartel members. After being forced to wait on the metering wait list at the Laredo port of entry, **a CBP officer told the woman in response to her fear of Mexico: “I don’t want to hear it. You can tell it to the judge at your hearing.”**

**Immigration judges often fail to ask asylum seekers if they are afraid to return to Mexico during hearings and sometimes fail to refer them for an MPP screenings even when they express fear of return:**

- During MPP hearings in November and December at the San Antonio immigration court, where immigration judges conduct remote proceedings for asylum seekers returned to the notoriously dangerous city of Nuevo Laredo, **Human Rights First observed only one judge in November affirmatively ask whether asylum seekers in court feared return to Mexico.** However, that judge was not inquiring about fear of return to Mexico in December hearings. Researchers monitored the hearings of 185 individuals before seven different immigration judges. Some asylum seekers may be reluctant to raise their fear of return for fear that they will be asked to share details of violence and threats they have suffered in front of their children and to do so via video-teleconference from a remote courtroom where they cannot see who may be listening to their statements in the judge’s courtroom.
- **DHS attorneys offer specious legal arguments in an attempt to block non-refoulement interviews and return asylum seekers to danger.** For example, a family of three asylum seekers from El Salvador,

who had previously failed an MPP fear screening, told an immigration judge from the Laredo MPP tent court that they had received new threats and feared return to Mexico. The DHS trial attorney argued that new threats were not a “changed circumstance” warranting another non-refoulement interview, as they had been threatened on prior occasions.

■ **Some immigration judges fail to refer asylum seekers for non-refoulement interviews despite expressed fears of harm.**

- A 28-week pregnant Nicaraguan asylum seeker with a six-year-old child in the Laredo MPP court in November told an immigration judge that she feared remaining in Mexico. Because she had not passed a prior MPP screening, the judge did not request that DHS refer her for interview.
- An asylum seeker from Honduras with a toddler in her arms told an immigration judge during her MPP hearing in November that she was afraid to be returned again to Nuevo Laredo, but the judge merely asked the woman when she would prefer her next hearing and did not ask DHS to ensure she received an MPP fear screening.
- A woman kidnapped from the Nuevo Laredo INM office in mid-September after being returned to Mexico following an earlier MPP hearing reported that she was not referred for a fear interview even after explaining to an immigration judge in October that she had been kidnapped. She recalled that the judge told her, “this happens and there’s nothing we can do.”
- A Honduran asylum seeker with a seven-year-old daughter told an immigration judge during a Laredo MPP hearing in December monitored by Human Rights First that she feared return to Mexico. The judge disregarded her fear and scheduled another hearing. Only after the asylum seeker repeated that she was afraid of going back to Mexico did the judge refer her for an MPP screening.

## Third-Country Transit Ban Blocks MPP Asylum Seekers

In July, the Trump Administration issued as an [interim final rule](#) that bars individuals seeking protection at the southern U.S. border on or after July 16, 2019, from receiving asylum if they have [transited through third countries](#) en route to the United States. Given the rule’s extremely narrow and essentially insurmountable exceptions, the vast majority of asylum seekers, including many of those in the MPP program are barred from receiving asylum in the United States if they did not apply for asylum in a transit country – even if they would have been in danger and at risk of return to persecution. This new regulatory asylum bar is an attempt to contravene the law established by Congress that merely passing through a third country is not a basis to deny asylum. U.S. immigration law bars refugees who transit through other countries from asylum only if they “firmly resettled” in the transit country, or if the United States has a formal return agreement with a country where refugees are both safe from persecution and would have access to a full and fair procedure to seek asylum.

With the third country transit asylum ban in place, even if an immigration judge finds that a refugee subject to the transit ban has a well-founded fear of persecution (the standard for asylum), that refugee will be ordered deported unless they meet the much more stringent requirements for withholding of removal or protection under the Convention against Torture (CAT). In [FY 2017](#), only about seven percent of withholding and five percent of CAT applications were granted. Effectively cut off from attorneys in the United States by MPP, few will meet the excessively high requirements to receive these protections. Refugees who are granted these [highly deficient](#) forms of protection face barriers to a stable life in the United States, have no pathway to legal permanent

residence or citizenship, and are often left separated from their families, as these limited deportation protections do not allow the refugee's children or spouse to be brought to, or remain in, safety in the United States. For example:

- A Venezuelan refugee was denied asylum at the Laredo MPP tent court in October solely because he entered the United States to apply for asylum days after the third-country transit ban was implemented. An immigration judge ruled the man, a former police officer who refused to comply with an order to arrest opposition protestors, was a refugee entitled to withholding of removal – a form of relief from deportation that will leave him permanently separated from his three children in Venezuela who remain at risk.
- A Venezuela woman was granted withholding of removal and CAT protection in late November at the Laredo MPP tent court by an immigration judge. Determining the woman was a refugee entitled to protection, the immigration judge would have granted the woman asylum but for the third-country transit asylum ban, according to her attorney David Robledo. The woman had sought asylum based on political persecution in Venezuela in late July just after the ban went into effect.

DHS was initially applying the third country transit asylum ban even to asylum seekers who arrived at the U.S. border to seek protection prior to July 16 who had been turned away by CBP officers or forced to place their names on waiting lists at a U.S. port of entry. However, in mid-November, a federal district court hearing a challenge to the government's practice of metering asylum seekers at the southern border entered a preliminary injunction, prohibiting the government from applying the asylum ban to those who tried to seek asylum at ports of entry before the rule went into effect. The Executive Office for Immigration Review, the office within DOJ in charge of the immigration courts issued guidance to immigration judges several days later. Nonetheless, some immigration judges appear unaware of the district court ruling and continue to deny asylum to those who should be covered by the injunction. For asylum seekers in MPP, 98 percent of whom are unrepresented, there is a particularly high risk of erroneous denials of asylum given that these individuals are unlikely to be aware of the evidence they must provide to demonstrate that they attempted to request asylum prior to July 16.

- At the Laredo MPP tent court in early December, a Cuban woman and her one-year-old son were determined by an immigration judge to be refugees were denied asylum on account of the third-country transit ban even though they had attempted to apply for asylum before July 16. The immigration judge, who appeared confused about the scope of third-country asylum transit ban and incorrectly stated that the ban applies to asylum *applications* filed on or after July 16 (rather than considering the date of the asylum seeker attempted seek protection at southern U.S. border), granted the family withholding of removal instead of asylum. The government attorney reserved the right to appeal the judge's decision and the family was transferred to a family detention center in Texas.
- During another Laredo MPP hearing in December the same immigration judge denied asylum to an unrepresented Cuban refugee and her two sons because of the third-country asylum transit ban. Although the family had gone to request asylum at the Laredo port of entry in late June and had been told by an official to register on the metering list, the immigration judge found the family ineligible for asylum under the mistaken understanding that the third-country transit asylum ban depends on the date an asylum seeker files their asylum application in court. This refugee family was denied asylum and given only the limited relief of withholding of removal as a result.
- In Laredo MPP master calendar hearings observed by a Human Rights First court monitor in December, an immigration judge advised all asylum seekers present that they were ineligible for asylum under the transit ban without inquiring whether they had attempted to request asylum prior to July 16, thus entirely disregarding the preliminary injunction.

## Stranded in Appalling Conditions

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 necessities. 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. A recent study by the U.S. Immigration Policy Center at UC San Diego found that one out of every three people in MPP have been homeless after being returned to Tijuana and Mexicali while waiting for MPP hearings. The governor of Baja California recently scrapped plans to open a government-supported shelter in Mexicali after protests by local residents. An internal report by DHS reportedly concluded that some asylum seekers lose their space at shelters when they travel to MPP court hearings, leaving even more stranded and in danger. Wait times for initial hearings are far longer than the 45 days that DHS had initially claimed, with the agency now acknowledging that asylum seekers are waiting between two and four months for a first hearing. The lack of safe shelter leaves thousands homeless and exacerbates the already high risk of kidnapping, extortion, assault, and exploitation in border areas in Mexico.

- In Matamoros, the tent encampment visited by Human Rights First in October has grown to an estimated 1,500 to 2,000 people sleeping in hundreds of tents in the port of entry plaza and surrounding sidewalks. Some tents are patched together with garbage bags. Asylum seekers live in unsanitary and deteriorating conditions. According to a November article from the Associated Press, “near the wooden toilets, the air smells like feces. Flies buzz around toilet paper discarded on the ground. A volunteer uses a shovel to remove waste that has pooled in front of a set of toilets.” Asylum seekers and migrants in the tent camp lack access to adequate, safe drinking water, and are forced to bathe and wash clothes in the Rio Grande, which is contaminated with bacteria. In mid-November temperatures dropped to near freezing, making conditions in the tent camp even worse. Helen Perry, a nurse practitioner and Global Response Management's operations director, said: “[H]aving seen other humanitarian crises in the world, this is one of the worst situations that I've seen. It's only going to get worse, and it's going to get worse rapidly.”
- Many children have fallen sick as a result of the conditions in the Matamoros tent camp. A Nicaraguan asylum seeker living in a damaged tent with her eight-year-old daughter told the Associated Press that her daughter had been diagnosed with pneumonia but was running out of antibiotics. In November, a gravely ill two-year-old toddler diagnosed with possible sepsis by a volunteer doctor in Matamoros and was left by CBP outside in the cold rain for hours because the Brownsville port of entry refused to remove the child and her parents from MPP to enter the United States to seek emergency medical care. Only after the intervention of five attorneys, an additional medical evaluation by a CBP nurse practitioner, and coverage by the media did CBP relent.
- Despite these conditions, many asylum seekers prefer to remain in the plaza camp near the port of entry, which they believe is safer than venturing into Matamoros, where many have been kidnapped, according to attorney Charlene D'Cruz who works with unrepresented asylum seekers there. They also fear moving away from an area where attorneys from the United States can cross into in order to provide legal counsel without venturing into even more dangerous areas. Trust in local authorities among returned asylum seekers is low, particularly after an incident in early November when a video of a Mexican child welfare officer threatening to separate children from families in the camp circulated widely. While some asylum seekers have relocated to a municipal shelter recently opened in Matamoros, with capacity of just 300 it is reportedly already full, according to the Washington Post.

- The Mexican government has also bused asylum seekers in MPP from Matamoros and Ciudad Juárez among other MPP return locations to southern Mexico – with some abandoning their requests for asylum given the dangers in Mexico, while others are unaware that these one-way tickets will likely prevent them from returning for MPP hearings.

## MPP and Tent Court Due Process Farce Continues

The Trump Administration is eviscerating asylum protections for refugees at the southern U.S. border with its MPP policy, port of entry asylum turnbacks, the third-country transit asylum ban, and the implementation of asylum seeker transfer agreements with El Salvador, Guatemala, and Honduras.

MPP is a due process charade that restricts access to counsel, legal information, and the ability of asylum seekers to attend and participate in immigration hearings. Immigration judges have ordered asylum seekers deported when they have missed court because they were kidnapped in Mexico. DHS even returns some asylum seekers to Mexico *after* immigration judges grant them asylum or other protection in the United States. Refugees with legitimate protection needs are giving up on their cases because of the grave dangers they face in Mexico and risking further persecution and torture by returning to their home countries. With immigration courts instructed by DOJ to speed up MPP cases, immigration judges are under pressure to make rapid rulings. One frustrated immigration judge in San Antonio was overheard by a Human Rights First researcher in November telling a courtroom assistant: “You’re going to hear me scream every day that I can’t get through these dockets.” Another judge with 92 people on his docket in early December conducted a group master calendar hearing for 12 people simultaneously, raising concerns about their ability to understand the removal proceedings against them.

In yet another attack on U.S. due process, DHS continues to use secretive tent courts in Laredo and Brownsville, Texas, for MPP hearings. Referring to these 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.**”

**Stranding asylum seekers in Mexico creates fundamental barriers to attend U.S. immigration court hearings that can result in asylum seekers being ordered deported and terrifies some asylum seekers into abandoning their asylum claims.** Some asylum seekers are being ordered removed *in absentia* because they were kidnapped at the time of hearings or were otherwise unable to arrive at the port of entry at the precise time designated by CBP. Other asylum seekers, having been kidnapped, assaulted, or otherwise terrorized in Mexico, are withdrawing their claims for asylum and risking their lives to return to their home countries.

- **Immigration judges have publicly stated that they are under pressure from DOJ to order asylum seekers deported who do not appear for hearings.** According to reports from immigration court staff to Human Rights First, some immigration judges are even instructing court clerks to pre-print *in absentia* removal orders for all of their MPP cases in anticipation of ordering the vast majority deported. Those ordered removed after missing court include:
  - Asylum-seeker Elizabeth, missed an MPP hearing in El Paso and was ordered removed *in absentia* because she was searching for her two-year-old son who had been kidnapped.
  - Rosalía and her two-year-old daughter, who were returned to Mexicali, missed court in San Diego in October because they arrived a few minutes after 3:30 in the morning – the time CBP had

- instructed them to present at the port of entry. CBP officers refused to transport them to the immigration court and the family was ordered removed in absentia.
- The children and mother of a Colombian asylum seeker who did not appear at the Laredo MPP court with her for their hearing in December were ordered removed *in absentia*. The woman explained that she could not afford to bring her family from Guadalajara because she had to hire an attorney to file charges against a man who had sexually abused her daughter and that she could not even afford to see a doctor for cancer treatment.
  - At a Laredo MPP hearing in December an immigration judge informed a Guatemalan asylum seeker that her daughter's *in absentia* removal order was unlikely to be reopened on the basis that her daughter was afraid to traveling through the border region to attend her MPP hearing in Brownsville. The judge told her, "to be blunt, being afraid is probably not going to cut it."
- **Even individuals who have been reported to immigration judges as having been kidnapped at the time of their hearings are being given *in absentia* removal orders.** In early November, an eight-and-a-half-month pregnant Salvadoran woman appeared in the Laredo MPP tent court with her eight-year-old son. While crying, she told the judge that her husband was supposed to appear in court as well but he had gone missing in Mexico in September and she hadn't seen him since. DHS asked for him to be deported *in absentia*, claiming that they were asking for a deportation order because it would not be possible to give notice to the husband regardless. The husband was subsequently ordered deported.
  - **The extreme dangers faced in Mexico push some asylum seekers to risk persecution and torture in their home countries.**
    - Two Venezuelan men – who were kidnapped as they attempted to approach the Laredo port of entry to seek asylum, beaten, ransomed, forced across the border by their abductors, and again threatened with kidnapping by the same men on the bridge just after DHS returned them to Nuevo Laredo – are so afraid for their lives that they have been forced to abandon their U.S. asylum claims. According to immigration attorney David Robledo who unsuccessfully requested that DHS provide the men a remote MPP fear screening, the men have relocated to another city in the interior of Mexico but are too afraid to return to the border region to attend MPP court.
    - A 36-year-old Venezuelan woman seeking asylum said she is so afraid to remain in Mexico under MPP that she wants to formally withdraw her asylum application and leave as soon as possible. However, the woman fears risking the safety of her 11- and 13-year-old sons to pass through Nuevo Laredo, after previously having been threatened with kidnapping. Given the dangers, she was uncertain if she would attend their MPP immigration court hearing to inform the court of her decision.
    - In November, a Honduran woman with a two-year-old boy, who DHS returned to Nuevo Laredo under MPP, told an immigration judge during a hearing monitored by a Human Rights First researcher that she had been kidnapped with her baby, and said, "If I am to be deported, I would like to be deported to my own country, not Mexico."
    - Another Honduran woman appearing in the Laredo MPP tent court with her two-year-old daughter in November, burst into tears, and asked an immigration judge for voluntary departure because she "never imagined the road would be difficult." The government attorney asked for a removal order instead, which the immigration judge ultimately entered.

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

- **Nearly 98 percent of MPP returnees did not have lawyers, as of the end of September, according to immigration court data analyzed by TRAC.** Only 939 out of 46,654 individuals in MPP court proceedings have legal counsel registered with the immigration court.
- Very few asylum seekers appearing at the Laredo tent court were represented by an attorney during the first week of November and the first week of December when Human Rights First observed MPP hearings from the San Antonio immigration court. Only 42 of the 185 individuals who attended court had a lawyer.
- At two shelters Human Rights First visited in Nuevo Laredo in November only three individuals out of more than 30 returned under MPP were represented by counsel. At another makeshift shelter researchers visited in Nuevo Laredo, a pastor working with the shelter said that to his knowledge none of the approximately 70 MPP returnees in the shelter, many of them Central Americans, had a lawyer.

**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.** In December, an immigration judge hearing cases at the Laredo MPP tent court acknowledged to an unrepresented asylum seeker that MPP “makes it difficult for attorneys to represent people.”

- U.S.-based attorneys attempting to represent asylum seekers in MPP face severe dangers to travel to regions where DHS returns asylum seekers including Nuevo Laredo and Matamoros in Tamaulipas. In mid-November, as cartel violence in the region spiked, the U.S. Consulate in Nuevo Laredo issued a travel warning advising U.S. citizens and personnel to avoid public places.
- The few lawyers willing to enter dangerous regions in Mexico to meet with clients risk their lives to do so. A shooting half a block from the port of entry in Ciudad Juárez prevented a Cuban asylum seeker returned to Mexico through MPP from reaching the international bridge where her immigration attorney, Constance Wannamaker, had arranged to meet. The client later told her attorney that a dead body had been dumped from a car directly in front of her house. John Anthony Balli, an attorney representing a Cuban client in Nuevo Laredo in MPP reported that because of escalating violence there in November, neither he nor his staff could risk visiting the city to obtain crucial evidence needed for a merits hearing scheduled only two weeks away.
- Asylum seekers appearing for hearings in the Laredo MPP tent court in November told immigration judges that efforts to search for attorneys were fruitless. A woman with two sons told an immigration judge that from the list of phone numbers for legal services providers distributed by CBP only one attorney had answered her many calls but had told her he could not accept her case because she was in Mexico. Another asylum seeker noted that, “no one will take our cases.” When asked if he wanted more time to find representation, the man said that after a month and a half of searching he had concluded that finding a lawyer willing to represent him in Mexico was impossible. **“I’ve run out of time. I’m exhausted. Whatever happens to me should happen now,”** he said.
- **The terror of remaining in Mexico pushes some unrepresented asylum seekers to ask for earlier hearings rather than accept additional time to find an attorney or prepare evidence in support of their asylum claims.** During hearings monitored by a Human Rights First researcher, an unrepresented Venezuelan asylum seeker said he wanted the next available hearing even though an immigration judge

offered him time to gather documents in support of his case. An unrepresented Honduran asylum seeker with a toddler told an immigration judge she feared remaining in Nuevo Laredo and asked for an earlier hearing to get out of Mexico, rejecting the judge's offer of additional time to search for an attorney.

**MPP immigration court proceedings implemented by DHS and DOJ create fundamental barriers to due process.** Restrictions by DHS and the immigration courts on access to attorneys, who could help prepare asylum applications, collect and submit evidence, and represent them in court, as well as the use of tent court hearings undermine asylum seekers' right to legal representation and to understand and participate in their own removal proceedings. The failure of DHS and DOJ to provide proper notice of immigration hearings to asylum seekers returned to Mexico can result in immigration judges issuing removal orders or terminating proceedings where asylum seekers miss hearings. As a result, few returned asylum seekers are likely to win their cases, despite many having valid claims.

- **DHS restrictions at MPP courts severely limit access to counsel for asylum seekers.** Then acting DHS Secretary McAleenan claimed in September that the agency “built space for aliens to meet with their attorneys to protect [the] right [to counsel]” at the MPP tent courts in Brownsville and Laredo. However, the very few attorneys representing clients in MPP hearings at these facilities said that DHS allows at most one hour for client meetings before hearings, even when attorneys represent multiple individuals with hearings on the same day and frequently denies requests to meet with clients after hearings, citing capacity constraints. An attorney representing an MPP client before the San Diego immigration court said lawyers often have only around twenty minutes to meet with clients before hearings because of delays in processing the individuals appearing for MPP hearings. This time is completely insufficient to consult with clients and prepare their asylum applications. Human Rights Watch found in September that the El Paso immigration court had prevented lawyers from meeting with clients prior to MPP hearings.
- **None of the MPP courts permit legal services providers and volunteer attorneys to offer legal information or meet with unrepresented individuals to assess their cases for representation.** For many asylum seekers forced to wait in Mexico, these immigration court hearings are the only opportunity to meet in person with attorneys, as many lawyers cannot travel to Mexico because of safety and other concerns. By barring legal presentations and consultations at these initial MPP hearings, DHS officials are further limiting the ability of unrepresented asylum seekers to secure legal representation and legal assistance.
- In MPP hearings observed by Human Rights First and other court monitors, **unrepresented asylum seekers struggle to understand how to complete asylum applications in English and submit certified English translations of evidence in support of their cases.** For instance, an immigration judge hearing cases for the Laredo MPP court refused in December to accept evidence that an asylum seeker had tried to request asylum prior to the July implementation of the third-country transit ban because it had not been translated to English. In November, a judge presiding in a case at the Laredo MPP tent court told a 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 and translation help, many 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.
- While stranded in Mexico, **asylum seekers also face barriers to gather and submit evidence to support their asylum applications.** For instance, during an MPP hearing observed by Human Rights

First, an immigration judge told an asylum seeker with a video in support of his case that he had to submit a translated transcript of the video and still shots. For unrepresented asylum seekers sleeping in makeshift tents on the streets, gathering evidence, translating it, and printing it is often an insurmountable obstacle. Even immigration judges hearing MPP cases are aware of the difficulty asylum seekers face in submitting evidence to the court when they are required by DHS to remain in Mexico. An immigration judge in San Antonio in November explained that she was not requiring a Cuban asylum seeker to submit evidence in advance of his next hearing because she recognized it would be almost impossible for him to access the MPP tent court prior to his hearing in order to submit it.

- **DHS issues faulty immigration documents to asylum seekers in MPP with erroneous hearing dates and/or without an address, which may cause some asylum seekers to miss their hearings.** In November, Human Rights First observed an immigration judge in San Antonio tell an asylum seeker who had attempted to appear at the Laredo MPP tent court on the date DHS had instructed to return the next day because the hearing date in DHS and DOJ's records did not correspond. 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. An internal DHS report that BuzzFeed reported on in November reportedly found that some people are forced to give up their space in their shelters when they travel to the United States for court hearings, leaving them with no address to receive important notices from the immigration court. Asylum seekers returned to Mexico under MPP who miss hearings because of faulty notices may be ordered removed *in absentia* and are physically prevented by DHS from going to court later (because they are not allowed to enter the United States from Mexico) to explain their absence and request to re-open their cases. While some immigration judges in San Diego appear to be terminating proceedings in cases with faulty DHS hearing notices, this practice can leave asylum seekers stuck in Mexico and in legal limbo, unable to pursue their asylum applications.
- **Requests by some asylum seekers for additional time to consult with an attorney were denied** during Laredo MPP hearings observed by Human Rights First in December. One judge forced asylum seekers to respond to the removal charges lodged by the government against them despite their requests for more time to find a lawyer, undermining asylum seekers' due process rights.
- **The use of video conferencing (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 permanent 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.

**DHS is returning some asylum seekers to danger in Mexico even after they win their cases – typically issuing false hearing notice documents.** Since August, when DHS attempted to return to Mexico the first person granted asylum under MPP – an Evangelical Christian church leader from Honduras and Human Rights First client – the agency has returned numerous individuals *after* they have won asylum or other protection in U.S. immigration court, including:

- A Cuban asylum seeker and three Venezuelan asylum seekers granted asylum at the Laredo MPP tent court in late November were returned by CBP to notoriously dangerous Nuevo Laredo. Their attorneys were told that CBP policy is now to return to Mexico all individuals who win asylum pending appeal.

- A Venezuelan asylum seeker ruled by a U.S. immigration judge to be a refugee entitled to withholding of removal in October was returned by CBP to Nuevo Laredo despite this favorable ruling. When he attempted to return to the U.S. port of entry in early November to request that CBP allow him to enter the United States through the Laredo port of entry he was nearly kidnapped at the Nuevo Laredo bus station.
- A Guatemalan woman who was granted asylum without an attorney by an immigration judge in San Diego in September was returned by CBP to Tijuana along with her 6-year-old son.

An article in the San Diego Union Tribune previously reported that DHS had returned to Mexico at least 14 others whose immigration proceedings had already concluded. Those returned to Mexico have typically been issued MPP hearing notices purporting to schedule them for additional proceedings in immigration court even though no such hearing is set to take place. The agency appears to issue these fake notices to convince Mexican officials at ports of entry that these individuals have active MPP cases, as the Mexican Foreign Affairs Ministry has said Mexico will only accept individuals through MPP with upcoming hearing dates. CBP has acknowledged that the date on these documents does not correspond to an additional hearing but claims that these notices are issued to allow individuals returned to Mexico to check whether the government has appealed the decision of the immigration judge. However, these claims fail to explain why the document CBP is issuing is titled “subsequent hearings information,” states “[a]t your last court appearance, the immigration judge ordered you return to court for another hearing,” and fails to mention an appeal status check-in. Moreover, individuals determined by an immigration judge to be refugees entitled to protection under U.S. law should NOT be returned to Mexico by CBP but instead should be released into the United States, even if their cases should go on to appeal.

**DHS’ categorical denial of public and press access to MPP tent courts in Brownsville and Laredo interferes with court monitoring efforts to ensure that 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. In late October, a CBP public liaison officer informed Human Rights First via email that “these [tent court] facilities are not to in-person public access at this time” and that “[i]n upcoming weeks . . . we will explore opportunities to allow for NGOs to request access to view the space outside of hearing hours.” To date, the agency has not granted Human Rights First, despite repeated requests, access to the facilities, let alone to monitor immigration hearings inside the Laredo and Brownsville tent courts.
- 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 difficult for court monitors and journalists to determine from where to watch MPP proceedings. For instance, in November, immigration court personnel at times declined to provide a Human Rights First researcher the names and courtroom locations of the immigration judges hearing MPP cases at one of two San Antonio immigration court locations. Other court monitors have reported arriving late to hearing observations because they have needed to check both locations for MPP hearings.
- It is crucial that the public and human rights monitors have access to the tent 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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#### **ACKNOWLEDGEMENTS**

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