



**House Committee on Homeland Security:
Subcommittee on Border Security, Facilitation and Operation**

**Hearing entitled: “Examining the Human Rights and Legal Implications of DHS’ ‘Remain
in Mexico’ Policy”**

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Thank you for this opportunity to testify about the Department of Homeland Security’s Remain in Mexico Policy. The implementation of this unlawful policy has destroyed any semblance of due process in removal proceedings. The processes developed under the Remain in Mexico Policy serve to persecute—not protect—thousands of asylum seekers, becoming the next in the wave of continued attacks against the international right to seek asylum by the Trump administration. I thank the Committee for inviting me to share the stories of asylum-seekers subjected to one of the worst humanitarian crises that we and our partnering immigration and civil rights advocates in the Rio Grande Valley have ever seen.

My testimony this morning is based on my work as a staff attorney at the Racial and Economic Justice Program at the Texas Civil Rights Project (“TCRP”), a non-governmental and non-profit organization.¹ We are Texas lawyers and advocates for Texas communities, serving the rising movement for equality and justice. Our Racial and Economic Justice Program fights against discriminatory policies and practices based on immutable characteristics and immigration status. Along the Texas-Mexico border, our team works tirelessly to defend landowners whose land the federal government seeks to condemn to build a border wall, bring separated families back together, and ensure that the civil rights of immigrants are a reality. Through litigation, education, and advocacy, TCRP has fought for almost thirty years to ensure that the most vulnerable communities in our state can live with dignity and free from fear.

With this testimony, my hope is to bring to Congress the capricious, discriminatory, and punitive manner in which the Trump administration is implementing the Remain in Mexico policy to dismantle the fundamental human right to seek asylum.

I. Dismantling the Right to Asylum

People arriving at the U.S-Mexico border have a right to petition for asylum. The U.S. government cannot lawfully enact a forcible transfer program that strips a person of that right. Yet, when asylum-seekers arrive at the border in the Rio Grande Valley, the government now forcibly transfers them to a dangerous place in a process that disregards any fundamental due

¹ Texas Civil Rights Project, <https://texascivilrightsproject.org/about-us/>.



process rights. This forcible transfer program is the most recent in a long series of efforts by the Trump administration to dismantle the right to seek asylum.

A. The Right to Seek Asylum is Established, Binding, and Fundamental

The right to seek asylum is a core human right and a central principle of immigration laws. It is enshrined in Article 14 of the 1948 Universal Declaration of Human Rights, a document created when last there were this many people seeking safety across the globe.² The Universal Declaration of Human Rights provides that “[e]veryone has the right to seek and to enjoy in other countries asylum from persecution.” To protect that right, 146 countries—including the United States—signed the 1967 Protocol Relating to the Status of Refugees. In 1980, Congress codified the United States’ obligation to receive persons “unable or unwilling to return to” their home countries “because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”³

These and other laws prohibit also the United States from returning asylum-seekers to countries where they face persecution or torture.⁴ This right to *non-refoulement* is incorporated into United States law. The United States cannot remove an individual to any country when the person’s “life or freedom would be threatened” due to persecution.⁵

A State that sets up an agreement to send asylum-seekers to a third country will violate its *non-refoulement* obligations unless the agreement meets certain standards. The agreement must be formal and enforceable, provide procedural safeguards for every individual, and permit appeals.⁶ A State “cannot *en masse* transfer asylum-seekers to a third country to await asylum processing.”⁷ A State must create a screening process—prior to transfer—that allow each person to present their views on aspects such as risk factors in the receiving country, to maintain family unity, and to screen for any threat of persecution.⁸ UNHCR has emphasized that the threshold in these screenings must be low enough to prevent *refoulement*.⁹ The burden is on the State to

² Press Release, *Global Forced Displacement Tops 50 Million for the First Time Since World War II – UNHCR Report*, UNHCR (June 20, 2014), <https://www.unhcr.org/en-us/news/press/2014/6/53999cf46/global-forced-displacement-tops-50-million-first-time-since-world-war-ii.html>.

³ 8 U.S.C. §§ 1101(a)(42), 1158(b)(1).

⁴ Article 33 of the 1951 Convention Relating to the Status of Refugees—which the United States is bound to comply with—provides: No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. Similarly, Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—to which the United States is also bound—provides: No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

⁵ 8 U.S.C. § 1231(b)(3)(A) (The five protected grounds are race, religion, nationality, membership in a particular group, or political opinion).

⁶ Brief for the United Nations High Commissioner for Refugees in Support of Appellees’ Answering Brief at 11-12, *Innovation Law Lab v. McAleenan*, 394 F.Supp.3d 1168 (S.D. Cal. 2019) (No. 19-15716).

⁷ *Id.* at 17.

⁸ *Id.* at 18.

⁹ *Id.* at 19.



screen for *refoulement*, not the asylum-seeker to affirmatively claim fear of persecution.¹⁰ The United States would violate its international obligations if the government created a transfer agreement that did not include any of these elements.¹¹

The reality on the ground is that the United States is violating each of these obligations through its implementation of the Remain in Mexico Policy.

B. Government Policies Prevent Asylum Seekers from Seeking Safety

From what I and my colleagues at TCRP have personally witnessed, the Remain in Mexico program is part of the pattern to dismantle the right to seek asylum.

Since 2017, we have seen how the Trump administration has callously enacted multiple policies that deter black and brown migrants from seeking protection in the United States. In 2017, at the administration's very beginning, it sought to issue a "Muslim Ban," a discriminatory policy that kept families apart on the basis of their religion.¹² The Trump administration formalized the "Turnback Policy," also known as "metering," requiring CBP officers to directly or constructively keep asylum seekers from entering the United States, such as by claiming the processing centers were "full."¹³ In some cases, officers have sworn to our clients that the facilities are "full" only to later swear before a judge that those facilities were empty.¹⁴ In 2018, the Trump administration began a secret "pilot project" in Texas to separate migrant children from their families.¹⁵ TCRP began to document the family separations here in McAllen. For the past year-and-a-half, TCRP has met thousands of separated parents and seen their struggles to seek safety when their children were and continue to be used to punish the parents.¹⁶

In December 2018, the Department of Homeland Security announced the "Migration Protection Protocols,"¹⁷ known colloquially as the "Remain in Mexico" Policy. In January 2019, the policy

¹⁰ *Id.* at 20.

¹¹ *Id.* at 22.

¹² See Executive Order 13,760, *Protecting the Nation from Foreign Terrorist Entry into the United States* (Jan. 27, 2017); Executive Order 13,780, *Protecting the Nation from Foreign Terrorist Entry into the United States* (Mar. 06, 2017); & Presidential Proclamation 9, 645, *Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats* (Sept. 24, 2017).

¹³ See *Al Otro Lado v. McAleenan*, 394 F.Supp.3d 1168, 1187, 1208 (S.D. Cal. 2019).

¹⁴ Customs and Border Protections officials testified under oath that, as of early September 2019, CBP facilities in the Rio Grande Sector were at thirty percent capacity. Transcript of Oral Argument at 40-41, *Rosa v. McAleenan*, 2019 WL 5191095 (S.D. Tex. 2019).

¹⁵ U.S. GOV'T ACCOUNTABILITY OFFICE, UNACCOMPANIED CHILDREN: AGENCY EFFORTS TO REUNIFY CHILDREN SEPARATED FROM PARENTS AT THE BORDER, GAO-19-163, 15-16 (Oct. 2018).

¹⁶ LAURA PEÑA, THE REAL NATIONAL EMERGENCY: ZERO TOLERANCE & THE CONTINUING HORRORS OF FAMILY SEPARATION AT THE BORDER, TEXAS CIVIL RIGHTS PROJECT (Feb. 2019), <https://texascivilrightsproject.org/wp-content/uploads/2019/02/FamilySeparations-Report-FINAL.pdf>.

¹⁷ Department of Homeland Security, *Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration* (Dec. 20, 2018), <https://www.dhs.gov/news/2018/12/20/secretary-nielsen-announces-historic-action-confront-illegal-immigration>. The government's implementation of its Remain in Mexico policy came months after the family separation policy was found to be unconstitutional. Former national security experts have raised serious



was started in California, then rolled out along the border in phases. Around the end of July 2019, the government started forcibly removing asylum-seekers who arrived in the Rio Grande Sector to Matamoros, Mexico. By the end of September 2019, the government had forcibly transferred more than 10,000 people to Matamoros,¹⁸ making it the location with the second largest population to be subjected to the Remain in Mexico program.¹⁹

C. Seeking Safety from a Life-Threatening Situation

In the Rio Grande Valley, the Remain in Mexico program sparked a humanitarian crisis that is rapidly worsening. This crisis was foreseeable. Indeed, given what we know about Matamoros, it was practically inevitable. Matamoros does not have the infrastructure to receive thousands of people. It has few shelters,²⁰ let alone housing that is appropriate to keep safe people at-risk of kidnapping, trafficking, and abuse.²¹ The city has inadequate water and medical services.²²

Disturbingly, the U.S. State Department lists the area as a “Level 4,” the highest travel advisory warning, due to the prevalence of kidnapping and other violent crimes.²³ Advocates and service providers, such as TCRP, Team Brownsville, Angry Tías and Abuelas, Project Dignity, Lawyers for Good Government, and others, must disregard the risks to our lives to represent asylum-seekers there. Migrants waiting in Matamoros must constantly navigate these dangers.

In Matamoros, we support our partners who run a *pro bono* legal clinic to help asylum seekers prepare their refugee applications for the port court. To-date, approximately 1,100 asylum-seekers have signed up for the legal clinic. Of those, more than half reported that, since the U.S. government forcibly transferred them, they have been kidnapped, assaulted, extorted, raped or experienced other types of violent crime.²⁴ The following are just three examples of what asylum-seekers forced into the Remain in Mexico program have suffered in Matamoros:

The U.S. government forcibly transferred an El Salvadoran mother and her four-year-old son to Matamoros in the evening and released them at 1 am. Suddenly homeless, they walked to the refugee tents. Less than 1 hour after they were

concerns about the “unsupported claims” upon which the administration has used to justify the Remain in Mexico Program. Brief for Former U.S. Government Officials Amici Curiae in Support of Appellees and Affirmance at 13, *Innovation Law Lab v. McAleenan*, 394 F.Supp.3d 1168 (S.D. Cal. 2019) (No. 19-15716).

¹⁸ *Id.*

¹⁹ TRAC Immigration, <https://trac.syr.edu/phptools/immigration/mpp/>.

²⁰ Doctors Without Borders, *US Migration Policy Endangers Lives of Asylum Seekers in Tamaulipas State* (Sept. 06, 2019), <https://www.msf.org/us-migration-policy-endangers-lives-asylum-seekers-tamaulipas-state-mexico>.

²¹ In the 2019 Trafficking in Persons Report, the State Department found that groups most vulnerable to trafficking were “women, children, indigenous persons, persons with mental and physical disabilities, migrants, and LGBTI individuals.” U.S. STATE DEPARTMENT, *TRAFFICKING IN PERSONS REPORT: MEXICO 236* (2019).

²² *Id.*

²³ State Department, *Mexico Travel Advisory*, (Apr. 9, 2019),

<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html>.

²⁴ Human Rights First has documented similar stories and frequencies of kidnapping, torture, and rape in multiple locations where people are subjected to the Remain in Mexico Policy and similar refusals to remove people from the Remain in Mexico program after they are victimized. HUMAN RIGHTS FIRST, *ORDERS FROM ABOVE: MASSIVE HUMAN RIGHTS ABUSES UNDER THE TRUMP ADMINISTRATION RETURN TO MEXICO POLICY 8* (Oct. 2019).



released, an organized criminal group kidnapped them. For the next eight days, the mother and child were tortured, deprived of food, water, and sleep, sexually abused, and threatened with dismemberment and death.

While in Mexico trying to flee to the United States, a young Nicaraguan man was kidnapped. He was released. Yet, when the U.S. government forcibly returned him to Matamoros, he was kidnapped from the refugee tents two days later. He was tortured. When he was released, the hospital had to stitch together the crisscross of cuts on his arms.

A family from Honduras and their two daughters – ages seven and nine – were forcibly transferred to Matamoros. There, the girls were targeted by a pedophile and sexually abused. The parents reported the person to the Mexican authorities. The Mexican authorities detained the person for twenty-four hours, then released him. Unprotected by the authorities, the girls continue to be at-risk of abuse.

U.S. officials denied each of these individual’s *non-refoulement* interviews, despite the risk to their lives. Each developed serious health issues. Yet, the U.S. government refuses to remove them from Matamoros.

The Trump administration has stripped legal pathways to safety, driving more people to cross the border illegally. As policies to bar asylum-seekers stranded many in Mexico, desperate people make desperate choices. I have counseled asylum-seekers with incredibly strong claims—struggling to survive the horrible realities of Matamoros—who ask themselves every day whether crossing the border is worth it. These are law-abiding people who cannot wait for months in an area like Matamoros for one simple reason: If they do, they will likely die.

II. Arbitrary Life-and-Death Decisions in Violation of the Agency’s Policies, Civil Rights Statutes, and the Constitution

A. Conditions in Matamoros

First, I want to share the conditions in Matamoros. Nobody can better capture the experiences of the people we represent than the people themselves. Here is one of our client’s experiences in the words he wanted to share with Congress members:

“After spending seven days in a freezing cold cell, sleeping on the concrete floor, with the lights on 24 hours a day, I was boarded on a bus along with other migrants. When we descended from the bus, a Mexican official informed us that we were in Matamoros, Mexico, and that the United States had placed us in the MPP or Remain in Mexico program. That was the first time I had heard of the program or my placement in it.

During my 100 days in Matamoros, I have been extorted and assaulted physically and verbally due to my migrant status and sexual orientation. I live in constant



fear of organized crime, by a group who call themselves the “Gulf Cartel” I have been sleeping on the street, surviving the heat of the day and cold of the night. I have explained the abuses I have suffered to two U.S. asylum officials. Both informed me that, while they had compassion for my situation, they were not authorized to allow me to seek safety in the United States.

How has MPP affected me? It has made me feel abused, dejected, humiliated, abandoned, confused, disoriented, mistreated, and fearful.”

– A.E.C.L., an LGBTQ Guatemalan asylum-seeker in the Remain in Mexico Program in Matamoros²⁵

Asylum-seekers in Matamoros survive incredibly difficult situations without adequate shelter, food, medical attention, or other basic necessities. The general list of life-threatening conditions can feel endless to those of us who witness the bravery and resilience of people in Matamoros:

- After being forced out of the United States, asylum-seekers are delivered into Matamoros with little other than the clothing on their backs;
- Many survive homeless, either in the plaza in one of the hundreds of thin and flimsy tents or in informal arrangements to sleep in a crowded private room;
- Food aid in Matamoros is mostly provided by Team Brownsville, a volunteer group that feeds hundreds of people a day. Children show signs of severe malnutrition;
- Children have no access to education;
- In the city, there are few medical services for these migrants, although Doctors Without Borders and local doctors work tirelessly. Many asylum-seekers have already experienced severe trauma, conditions often exacerbated in the tents where they survive. There simply are not enough doctors to treat them;
- There is inadequate water and sanitation, placing people at-risk of preventable diseases; and
- Asylum-seekers are kidnapped, assaulted, tortured, and extorted while they wait for their day in court.

These examples are the norm, not the exception. The government’s decision to send someone to Matamoros is a life-and-death decision for the almost 10,000 people sent there—a number we believe will be much higher now.²⁶

²⁵ We have not provided our clients’ names due to concerns for their safety.

²⁶ TRAC Immigration, <https://trac.syr.edu/phptools/immigration/mpp/> (based on the charging document issued by DHS, data shows 10,646 people subjected to have their case heard in the “MPP court” in Brownsville across from Matamoros as of September 2019).



One of many children without adequate clothing
© Texas Civil Rights Project 2019



Asylum-seekers trying to get food aid in Matamoros
© Texas Civil Rights Project 2019

B. The Unlawful Placement of Particularly Vulnerable Groups in Matamoros

On December 20, 2018, then-DHS Secretary Nielsen announced the Remain in Mexico policy, a policy to be implemented consistent with “domestic and international legal obligations.”²⁷

Several guidance documents lay out the core implementation features of the Remain in Mexico program, including which migrants are “amenable” to be forcibly returned to Mexico.²⁸ Representatives of DHS stated that immigration officers may exercise their discretion to forcibly return only those migrants determined “amenable” to the Remain in Mexico program.²⁹ However, as representatives stated, DHS determined that certain groups of people were categorically ineligible to be placed in the Remain in Mexico program, including unaccompanied children or migrants with “known physical or mental health issues.”³⁰ These people were *not* “amenable” to the Remain in Mexico program.³¹ Additionally, in July 2019, the agency sent a letter to Representative Grijalva to “reiterate DHS’s commitment to the responsible implementation of this program as it applies to all populations, including LGBTQ asylum seekers and other vulnerable populations.”³² On the ground in Matamoros, the reality has starkly contrasted with the agency’s stated policy.

²⁷ Department of Homeland Security, *Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration* (Dec. 20, 2018), <https://www.dhs.gov/news/2018/12/20/secretary-nielsen-announces-historic-action-confront-illegal-immigration>.

²⁸ Office of Field Operations, San Diego Field Office, *Guiding Principles for Migrant Protection Protocols*, (Jan. 28, 2018), <https://www.cbp.gov/sites/default/files/assets/documents/2019Jan/MPP%20Guiding%20Principles%201-28-19.pdf>

²⁹ *Innovation Law Lab v. McAleenan*, Brief for Appellants, 2019 WL 2290420 *13 (N.D. Cal. 2019).

³⁰ *Id.*

³¹ *Id.*

³² Letter from James W. McCament, Deputy Under Secretary of Office of Strategy, Policy, and Plans of the Department of Homeland Security, to the Honorable Raul M. Grijalva (July 19, 2019).



In August 2019, I began to meet and be contacted about people with apparent disabilities who the U.S. government had subjected to Remain in Mexico and forcibly sent to Matamoros.

In September 2019, I met B.G.P., a deaf and non-verbal woman who the government had forcibly transferred to Matamoros with her mother, minor sister, and young child. CBP officials had already violated many of B.G.P.'s civil rights. Officials never provided her a translator or any other aid so she could effectively communicate with the government agents. One day, CBP officers arrived at the detention cell that they had placed her in at around four in the morning and tried to force her on the bus. They did not tell her that she would be sent to Mexico. Although B.G.P.'s mother pleaded that her daughter would face danger and discrimination, the officers told the mother to lie back down and refused to provide a *non-refoulement* interview. Luckily, medical staff intervened and persuaded officers to return B.G.P. and her young child to the cell with her mother and sister. Two days later, without warning or explanation, officers again came in the early morning to take B.G.P. and her whole family to Matamoros.

Once in Matamoros, B.G.P. and her family struggled with homelessness, food insecurity, lack of medical care, and discrimination. They were followed by men to the place they stayed and the men left only when neighbors intervened on their behalf.

In September 2019, another advocate introduced us to B.G.P. She tried to present B.G.P. to the port officials for a re-determination of her placement in the Remain in Mexico program. Port officials agreed that the placement was an error. Nevertheless, the agent refused to re-process B.G.P. The officer first stated B.G.P. would have to travel back to where she had originally entered, regardless of the fact that the State Department warns against any travel there. Then, the officer said that the processing facility was full. After the advocate explained that the officer had discretion to parole the family in, the officer just refused, without giving a reason or alternative.

On B.G.P.'s behalf, we again presented her to ask for parole or, alternatively, a *non-refoulement* interview. We were not permitted to be present for the interview. B.G.P.'s mother said that, before the interview started, the officers told the group of people there for interviews that they would be sent back to Mexico no matter what. In the interview, the agency again violated its own regulations, refusing to provide an interpreter or other aid for B.G.P. After just an hour-and-a-half, B.G.P. and her family were sent back to Mexico. B.G.P.'s mother cried all night.

We next drafted a legal complaint, which we included with a demand letter to the agency. Only then was the family paroled into the United States. Even after agents admitted DHS broke its own policy, it took over a month and the threat of legal action for the agency to fix their violation of their policy. Our organization is small. We cannot represent the many people with disabilities who should not be placed in the program, so these violations are widespread and on-going.

Since then, TCRP staff and our partners have met many other particularly vulnerable people whom the U.S. government has sent back to Mexico. Here are some examples:



- Two children with Down syndrome were sent to Matamoros. The government has paroled one of these children. While in Mexico, the other child was kidnapped, held for ransom, and released. The government still has not paroled that child;
- A child with a recently amputated leg was not given medical treatment, but sent back to Matamoros. The child is now hiding in a shelter that forbids visits, even from lawyers, due to safety risks;
- A two-year-old child has severe epilepsy. As their medication is not available in Matamoros, the child suffered seizures that drastically impacted their brain;
- A forcibly removed person with cancer now cannot find treatment in Matamoros;
- A 38-week pregnant woman was forcibly given medicine to stop her contractions so the government could remove her to Mexico. She gave birth to her child in a tent and, after, suffered severe post-partum depression that went untreated; and
- At least twelve LGBTQ people were sent to Matamoros, where many face physical and verbal abuse, such as death threats and threats of “corrective” rape. After multiple *non-refoulement* interviews, only one transgender individual was paroled.

Under the agency’s own policies, none of these people should have been forcibly removed to Mexico in the first place. Yet, many spent and continue to spend months in dangerous conditions in Matamoros. I know that advocates filed complaints with DHS’ Office of Civil Rights and Civil Liberties about similar cases. There are not enough lawyers willing to risk their lives to screen people in Matamoros, so there are likely many more people with similar health and safety issues that we have not yet met. The agency says it categorically excludes particularly vulnerable groups; the reality shows otherwise, revealing an arbitrary and capricious system.

C. The Refusals to Remove People Who Have Become Vulnerable

Due to the conditions in Matamoros, many people who may not initially be considered categorically excluded from the Remain in Mexico policy become too vulnerable to remain in Matamoros. Over the past months, there has been no story more emblematic for us than this one:

A toddler was subjected to Remain in Mexico with her family. While unaccompanied children should be categorically excluded, the government routinely sends families back who have small infants or toddlers. This toddler was already so malnourished that she looked like an infant.

On November 13, 2019, after spending time in Matamoros, she developed signs that showed she likely had sepsis. As her joints swelled and she became listless, her family rushed her to get her treatment, contacting our partner with an office in Matamoros. With supplies too limited to treat the child, a volunteer emergency room doctor went with the family and our partner to the bridge to confirm to U.S. officials that the child had a serious medical condition and needed to instantly be taken to a hospital in the United States.

Federal officers kept the family standing on the bridge for around three-and-a-half hours in the freezing rain. They refused to permit the family to wait in the



processing center. They refused to let the family stand in an area on the bridge where they would not be in the rain. The two officers refused to even allow the family to move the child close to the heater that was behind the agents.

Stuck on the bridge, in freezing and rainy conditions, our partner reached out to us for help. TCRP instantly responded, amplifying their situation through our social media to allies. Soon, the agents let the family in. The child was hospitalized and is in serious condition.³³

We have seen other threats as well. For example, parents are now threatened by the Mexican government with family separations paralleling those that our government carried out.³⁴ The uncertainty and fear that asylum-seekers face in these moments can cause further emotional trauma. We see new risks develop every day that make people vulnerable to severe health issues.

In our experience, people can rapidly develop serious health issues in Matamoros. When someone becomes too vulnerable to remain in Matamoros, agents are too slow to respond to the sudden, severe medical or safety needs of the person. I have seen how our clients have become severely at-risk because port-of-entry officials are uncoordinated at best and, at worst, try to mislead advocates about what is necessary to parole people into the United States.

D. Unethical and Discriminatory Treatment by DHS Officials at the Border

Throughout the past month, myself and our partners have witnessed various unethical and discriminatory behaviors by CBP officials, such as incidences where CBP officials:

- Threatened to report as terrorists those asylum-seekers who petitioned for a *non-refoulement* interview;
- Told asylum-seekers that the asylum-seekers could complete the *non-refoulement interview* but, regardless of the outcome, the officers would still send them back to Mexico³⁵;
- Used homophobic slurs to refer to LGBTQ asylum-seekers;
- Forced an indigenous young woman to translate for official government interviews all-day without providing her food, breaks, or pay;
- Tried for 5 hours to pressure an indigenous family to conduct a *non-refoulement* interview in Spanish, a language that they do not speak. Officers kept threatening that,

³³ This story was reported on by local news. See Valerie Gonzalez, *Sick Honduran Toddler Admitted into US After Hours-Long Wait*, KRGV (Nov. 14, 2019), <https://www.krgv.com/news/honduran-child-treated-after-emergency-arises-while-waiting-on-int-l-bridge>.

³⁴ Reynaldo Leños, *Mexican Official Tries to Move Asylum-Seekers Stuck in Tent Camps*, NPR (Nov. 09, 2019), <https://www.npr.org/2019/11/09/777686672/mexican-official-tries-to-move-asylum-seekers-stuck-in-tent-camps>.

³⁵ BuzzFeed has stated it recently obtained a report in which a DHS investigation found that CBP officers sometimes interfered with USCIS officer's ability to determine whether an asylum-seeker should be excluded or removed from the Remain in Mexico program on the basis of fear of persecution or torture. Hamed Aleaziz, *US Border Officials Pressured Asylum Officers to Deny Entry to Immigrants Seeking Protection, A Report Finds*, BUZZFEED (Nov. 14, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/dhs-asylum-report-mpp-immigration-remain-mexico>.



if the family did not do the interview in Spanish, then the family would be forcibly returned to Mexico without receiving a *non-refoulement* interview.

I have witnessed the psychological toll that this behavior has taken on asylum-seekers. For example, although B.G.P.'s family was unlawfully placed in the program, their treatment by CBP officers at the port of entry caused both B.G.P.'s minor sister and mother to suffer severe panic attacks that required hospitalization. Other asylum-seekers have despaired, considering giving up their strong asylum claims, afraid that they would face retaliation by CBP officials.

E. Abuses Against Lawyers Assisting Asylum Seekers

For the past three months, TCRP lawyers and our partners have tried to save lives by advocating for the most vulnerable people in Matamoros. I spoke with our partners about how they have been treated as they endeavored to serve asylum-seekers subjected to Remain in Mexico. They shared that federal officials at the Brownsville-Matamoros port of entry have:

- Told lawyers that CBP processing facilities were too full to process their client after having sworn in court shortly beforehand that the facilities were empty;
- Told lawyers that a supervisor was not present when the supervisor was clearly visible;
- Mised lawyers that an asylum-seeker needed to go before an immigration judge and refused to correct their erroneous opinion that a judge was necessary to permit them into the processing center;
- Ordered lawyers to leave before the lawyers could return paperwork to their clients and then become visibly hostile when lawyers asked how to return the paperwork; and
- Grabbed a lawyer by their backpack and shoved them.

As lawyers, civility is at the core of our profession, even as we zealously advocate for our clients. To protect the rights of those people whom the government has forcibly transferred, myself and my colleagues enter into some of the most dangerous areas on this continent: The State Department has issued a Level 4 Travel advisory to Tamaulipas, an advisory that is given for countries like Afghanistan, Syria, and Yemen. One of our partners has been threatened three times in Matamoros and continues to receive threats via phone and email. Lawyers rapidly left Matamoros at least three times due to safety concerns. Some partners developed "extraction" protocols to manage the risks, such as carrying safety whistles and taking pictures of volunteers before entering to have in case someone is kidnapped. To do our jobs and to keep safe, we need to be able to rely on the honesty and civility of federal employees.

Sadly, the reality is this: Most of our partner lawyers told me that they had been worried about their safety at various times due to the actions of federal officials. The concern that federal employees will harm us or lie to us makes an already difficult job that much tougher, deterring people from joining the already small group of lawyers willing to enter Matamoros.



III. Recommendations

As advocates on the ground for more than thirty years, TCRP's expertise spans decades of administrations and policies. In the Rio Grande Valley, never before have we seen such cruel policies. Organizations and volunteers were already expending tremendous effort to respond to the attacks on asylum; now, we spread ourselves even further to make sure asylum-seekers have at least some services and legal advice. As one of our partners said, this work is "soul-crushing."

I have seen the resilience of the people in Matamoros. An overwhelming sense of community permeates the refugee tent encampment. People watch out for each other. Single mothers group their tents so they can help each other with the children. They sleep in rotations so that someone is awake to notice if anything is happening. As a person, I am horrified that all I can say to them is to hold on and stay safe, a statement that feels empty when I know how often people are kidnapped, abused, and tortured.

The Remain in Mexico Policy is not a cornerstone of a reformed immigration system. Instead, this policy shatters the right to asylum, creating a chaotic, capricious, and unconstitutional crisis. This humanitarian crisis threatens the lives of tens of thousands of people who are attempting to seek safety in safety and sets a horrific precedent on the international stage.

In light of the above, we recommend that Congress take the following steps:

1. Conduct searching oversight about the degradations of asylum due to Remain to Mexico, such as the conditions in Mexico, the failure to exclude particularly vulnerable groups, the lack of due process or open access to port courts, and the impact of the transit ban. Efforts could include further committee hearings, a select investigative committee, congressional visits to Mexico and the port courts, oversight letters, resolutions of inquiry, and requests for inspections by the Inspectors General.
2. Visit Matamoros and other areas where people subjected to RIM are forcibly transferred and request meetings with port of entry Directors to discuss administrative processes for discretionary removals from Mexico.
3. Adopt formal expressions of censure or condemnation for officials overseeing the Remain in Mexico policy for failing to follow the vulnerable group protections.
4. Foster transparency by making public all policies and guidance related to the program. Publish data on the use of discretionary removals by region and disaggregated by gender identity, age, country of origin, and vulnerabilities.
5. Provide emergency, life-saving aid to asylum-seekers, including funds for USAID programs and legal representation.
6. Pass legislation to end the Remain in Mexico policy.