

## **Illegal Pushbacks by the United States of People Seeking Refugee Protection**

### **Human Rights First's Submission to the Office of the High Commissioner for Human Rights (OHCHR) Special Rapporteur on the Human Rights of Migrants pursuant to Human Rights Council Resolution 43/6**

This submission principally focuses on illegal policies and practices implemented by the United States during the administration of President Trump to pushback, block, deter, expel, and punish asylum seekers and separate asylum-seeking families in violation of U.S. international treaty obligations. While the Biden Administration has made clear it intends to end some of these policies, as of February 1, 2021 – the deadline for this submission – it has not yet stated how long it plans to take to fully end these policies, nor whether it will continue some of these illegal policies. This document draws on Human Rights First's experience representing, researching, and advocating for refugees seeking humanitarian protections in the United States. Human Rights First will supplement its submission to update the Special Rapporteur on shifts in policies and practices and any continuing areas of concern. Due to submission length constraints, this discussion does not comprehensively cover all unlawful pushback policies implemented by the U.S. government in detail.

#### **I. U.S. POLICIES BLOCK, DETER AND PUNISH ASYLUM SEEKERS AT THE SOUTHERN U.S. BORDER**

##### ***Use of COVID-19 as Pretext to Eliminate Refugee Protections***

The United States has used the COVID-19 pandemic as a pretext to summarily expel asylum seekers to danger in Mexico and the countries where they fled persecution while denying them access to the U.S. asylum system or preliminary protection screenings,<sup>1</sup> as required by U.S. law and treaty obligations. In March 2020, the U.S. Department of Homeland Security (DHS) issued an interim final rule,<sup>2</sup> which relies on orders<sup>3</sup> from the U.S. Centers for Disease Control and Prevention (CDC) – issued under pressure from senior Trump Administration officials and over objections of senior CDC medical experts<sup>4</sup> – to implement the expulsion policy. People expelled to Mexico under the CDC order are stranded in brutal conditions, made worse by the pandemic, and many have suffered violent attacks. Human Rights First's reports detail examples of individuals expelled to these dangers and to the countries from which they had fled persecution,<sup>5</sup> including prominent opponents of the Ortega regime expelled to Nicaragua, directly into the hands of the police, after attempting to request asylum in the United States.<sup>6</sup>

Leading U.S. public health experts have repeatedly made clear that these restrictions on asylum lack any public health justification.<sup>7</sup> At the same time the Trump Administration effectively eliminated humanitarian protections at the border, more than 100 million pedestrians and passengers crossed the U.S.-Mexico border at ports of entry in 2020, underscoring the discriminatory nature of the provisions targeting asylum seekers.<sup>8</sup> As of early February 2021, these restrictions remain in place. The U.N. Refugee Agency (UNHCR) has made clear that measures like the CDC order violate international law, stating that “imposing a blanket measure to preclude the admission of refugees or asylum-seekers . . . without measures to protect against refoulement, would be discriminatory and would not meet international standards.”<sup>9</sup> In January 2021, UNCHR further condemned the “expulsions and pushbacks of refugees and asylum-seekers at Europe's land and sea borders,” which, like expulsions under the CDC order, are “violent,” “systematic,” and fail to screen people for international protection needs.<sup>10</sup>

### ***Migrant Protection Protocols***

Through the Migrant Protection Protocols (MPP), commonly known as “Remain in Mexico,”<sup>11</sup> DHS forcibly returned over 70,000 migrants and asylum seekers to Mexico between January 2019 and January 2021, requiring them to wait for U.S. immigration court proceedings in notoriously dangerous parts of Mexico,<sup>12</sup> including tens of thousands sent to the border state of Tamaulipas, which the U.S. State Department designated a Level Four security threat due to the prevalence of kidnapping, homicide, and other violent crime.<sup>13</sup> These returns violate U.S. obligations not to *refoul* asylum seekers to persecution and torture. Though the Biden Administration suspended new MPP enrollments on January 20, 2021, the policy continues to strand thousands of asylum seekers in Mexico—most of whom have been waiting for more than a year.<sup>14</sup> As of early February 2021, thousands of individuals with pending MPP cases still await information as to when they will be permitted to continue their asylum proceedings in the United States.

Human Rights First has documented more than 1,314 public reports of rape, torture, kidnapping, murder, and other violent assaults perpetrated against those returned to Mexico under MPP, including 318 kidnappings or attempted kidnappings of children.<sup>15</sup> Many asylum seekers have been deliberately attacked for their migration status or on account of the same protected characteristics that led them to flee their home countries. These attacks are at times perpetrated by or with the complicity of Mexican police, migration authorities and other officials. Reported attacks include a Cuban asylum seeker who was beaten and raped by police in Ciudad Juárez, a Honduran asylum seeker who was kidnapped and sex trafficked, and an Afro-Cuban asylum-seeking couple that were kidnapped and held for days in a room covered in blood where migrants with missing body parts moaned on the floor.<sup>16</sup>

The fear screening process for removal from MPP is both legally deficient and farcical. DHS screens only those in MPP who affirmatively request a fear interview, and applies an illegally heightened standard that is extremely difficult to meet during a preliminary screening and substantially higher than the standard required by U.S. law for fear screenings conducted during expedited removal proceedings.<sup>17</sup> Many individuals who reported being kidnapped or raped in Mexico have failed to pass these MPP fear screenings.<sup>18</sup> During the pandemic, DHS has refused altogether to provide fear screening interviews to nearly all individuals requesting them at U.S. ports of entry.<sup>19</sup> With practically no humanitarian support from the U.S. or Mexican governments, many individuals in MPP lack access to sufficient food, healthcare, or housing, surviving in desperate conditions worsened by the pandemic.<sup>20</sup> Many asylum seekers forcibly returned under MPP have been separated from their spouses and children, often for longer than a year and now indefinitely, including in cases where DHS paroled some family members into the U.S. while stranding others in Mexico under MPP.<sup>21</sup> The horrific dangers asylum seekers face in MPP have resulted in children presenting at ports of entry or crossing into the United States alone, also leading to family separations.<sup>22</sup>

MPP presents nearly insurmountable obstacles to the fair adjudication of requests for refugee protection. Out of the nearly 70,000 people returned to Mexico, only 523 have received refugee protections while in MPP.<sup>23</sup> This is, in part, the result of the barriers to legal representation MPP creates: less than 4% of people in MPP have an attorney.<sup>24</sup> In addition, the grave dangers refugees face while waiting in Mexico lead many to abandon their claims or miss court. As a result, large numbers of individuals in MPP have been ordered removed *in absentia*.<sup>25</sup>

### ***Asylum Turn-backs via so-called “Metering”***

DHS has at times intentionally reduced the number of asylum seekers processed at land ports of entry since at least 2016, turning them back to Mexico and forcing them to wait, often for months, in dangerous regions of Mexico to request U.S. asylum protection.<sup>26</sup> DHS fully instituted this so-called “metering” policy across the southern border in June 2018.<sup>27</sup> By August 2019, asylum waitlists along the U.S.-Mexico border had topped

25,000 with wait times exceeding seven months.<sup>28</sup> Asylum seekers turned away at U.S. ports of entry, including Mexican asylum seekers, have been subjected to violence and exploitation.<sup>29</sup> Forced to wait in highly dangerous parts of Mexico, some have risked their lives to cross the border between ports of entry.<sup>30</sup> Human Rights First's reports detail many examples of asylum seekers turned away at U.S. ports of entry and pushed back to danger. They include a Honduran family with three children who was kidnapped after having been turned away from the border three times, a woman raped in Mexico after three attempts to seek protection in the U.S., and a Guatemalan woman who was kidnapped after border agents turned her back.<sup>31</sup> The Biden Administration has not yet announced whether it will rescind this unlawful policy.

### ***Unsafe Third Country "Asylum Cooperative Agreements"***

The Trump Administration finalized Asylum Cooperative Agreements (ACAs) with Guatemala, El Salvador, and Honduras and issued an interim final rule to send individuals seeking U.S. asylum to those countries without providing them an opportunity to apply for humanitarian protection in the United States.<sup>32</sup> These Central American countries lack meaningful asylum processes and humanitarian protection infrastructure and are not safe for refugees.<sup>33</sup> For example, the U.S. Department of State characterized Honduras' asylum system as "nascent" and marked by "significant delays."<sup>34</sup> Refugees are particularly vulnerable to violence in these countries due to their status as migrants or as women, children, LGBTQ+ people, or members of other marginalized groups.<sup>35</sup> U.S. government human rights reports find Guatemala to be "among the most dangerous countries in the world," that Honduras is particularly dangerous for migrants, including refugees, who are vulnerable to abuse and trafficking, and that violence in El Salvador is akin to the "deadliest war zones around the world."<sup>36</sup>

UNHCR expressed "serious concerns" about the ACAs, describing them as "an approach at variance with international law that could result in the transfer of highly vulnerable individuals to countries where they may face life-threatening dangers."<sup>37</sup> From November 2019 to March 2020, the U.S. government removed over 900 individuals to Guatemala under an ACA, many of whom feared essentially the same persecution in Guatemala that they had faced in their home countries.<sup>38</sup> As of February 1, 2021, no asylum seeker returned to Guatemala has been granted refugee protection.<sup>39</sup>

### ***Other Bars to Asylum at the Southern Border***

The Trump Administration issued a series of policies to bar refugees seeking protection at the southern U.S. border from asylum protection.

- On November 9, 2018, President Trump issued a presidential proclamation which, together with a DHS and U.S. Department of Justice (DOJ) interim final rule that took effect the same day, barred asylum for individuals who enter the United States between ports of entry.<sup>40</sup> The policy is currently enjoined by a federal court order.<sup>41</sup> UNHCR confirmed that this policy violates Refugee Convention prohibitions against penalizing asylum seekers for improper entry or presence.<sup>42</sup>
- A July 16, 2019 interim final rule<sup>43</sup> ("third-country transit ban") barred asylum for almost all refugees who traveled through another country on their way to seek protection at the U.S.-Mexico border and elevated the preliminary fear screening standard. As a result, refugees from Cameroon, Cuba, Honduras, Nicaragua, Venezuela, and many other countries – many of whom were forced to wait in extreme danger in Mexico under the "Migrant Protection Protocols" – were denied asylum and many asylum seekers were blocked from accessing the U.S. asylum system and deported after failing fear screening interviews, including those subject to the Prompt Asylum Claim Review (PACR), discussed below.<sup>44</sup> A federal court vacated the interim rule,<sup>45</sup> but DHS published a final rule restoring the transit ban on January 19, 2021.<sup>46</sup> The transit ban separates families, leaving spouses and children stranded in danger and unable to reunite with family already in the United States. As a result, many families face permanent separation, including a

Cameroonian refugee tortured by the military whose wife and child are in hiding in Cameroon.<sup>47</sup>

- In October 2019, the Trump Administration implemented the Humanitarian Asylum Review Process (HARP) and PACR,<sup>48</sup> programs designed to rapidly deport Mexican and Central American asylum seekers by making preliminary fear screenings more difficult to pass. Individuals subject to these programs have been screened while detained in abysmal border facilities,<sup>49</sup> under illegally heightened fear screening standards, and with severely limited access to attorneys.<sup>50</sup> As of February 2020, more than 3,700 individuals had been placed into HARP and PACR.<sup>51</sup> Only 18 percent of individuals in PACR and 30 percent in HARP received positive credible fear determinations, compared to 40 percent nationwide (excluding HARP and PACR) during the same period.<sup>52</sup>
- On December 11, 2020, the Trump Administration finalized the so-called “Death to Asylum” rule that would effectively incorporate the asylum bans discussed above and expand the third-country transit ban to *all* asylum seekers (not just those who initially sought protection at the southern border).<sup>53</sup> The rule, which was enjoined by a federal court before taking effect, would also heighten the standard governing initial fear screenings and significantly narrow the grounds for asylum.<sup>54</sup>
- On December 23, 2020, DHS and DOJ published a final rule that uses baseless public health claims to bar refugees from asylum and withholding of removal protections who arrive from or transit through a country where COVID-19 or potentially other contagious diseases are prevalent.<sup>55</sup> The rule would also apply during and heighten the standard used in preliminary fear screenings and permit DHS to remove individuals who establish a fear of torture to third countries even if they would be at risk of persecution there. On January 20, 2021, the Biden Administration paused the rule’s implementation for 60 days.

## II. U.S. ASYLUM PUSHBACK POLICIES VIOLATE INTERNATIONAL TREATY OBLIGATIONS

### **Non-Refoulement Violations**

U.S. border pushback policies and regulations gutting refugee protections violate U.S. *non-refoulement* obligations under Article 33 of the 1951 Convention relating to the Status of Refugees (binding on the United States through its accession to the 1967 Protocol relating to the Status of Refugees), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and customary international law, to refrain from returning people to countries where they would be at risk of persecution, torture or other serious harm.

### **Penalizing Asylum Seekers**

U.S. pushback policies also violate Article 31 of the 1951 Refugee Convention prohibiting states from penalizing refugees based on their manner of entry to a country where they are seeking international protection. DHS and the U.S. Commission on International Religious Freedom have previously acknowledged that the referral of asylum seekers for criminal prosecution may violate U.S. treaty obligations.<sup>56</sup>

<b>Policy</b>	<b>Bar to Asylum and/or Elevated Screening Standard</b>	<b>Refoulement to Home Country</b>	<b>Refoulement to Third Country</b>	<b>Risk of Chain Refoulement</b>
CDC Order Expulsions	Permits U.S. immigration officers to summarily expel asylum seekers at the border to home countries or Mexico without access to U.S. asylum system or established mechanisms for screening for fear of persecution or torture	Asylum seekers summarily expelled to Brazil, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, and elsewhere <sup>57</sup>	Individuals expelled to Mexico have been violently attacked on return	Risk of chain refoulement by Mexican officials, <sup>58</sup> particularly of asylum seekers without migration status in Mexico
MPP <sup>59</sup>	Individuals returned to Mexico provided limited, or no, access to fear screening interviews that employ a heightened standards – substantially higher than that set by U.S. law for preliminary fear screenings	Grave dangers in Mexico and barriers to counsel prevent many asylum seekers from pursuing claims for protection and result in denial of protection to refugees	People returned to Mexico have been subjected to brutal violence, including kidnappings, rape, torture, and murder in Mexico	Risk of chain refoulement by Mexican officials even of individuals with temporary status during pendency of their MPP cases <sup>60</sup>
Turn-Backs	Blocks asylum seekers from requesting U.S. refugee protection at ports of entry and pushes them back into Mexico	Mexican asylum seekers turned back to the country they are fleeing / may be forced to register on asylum wait lists run by Mexican officials	Asylum seekers turned back to Mexico face targeted violence	Risk of chain refoulement by Mexican officials particularly of asylum seekers with no migration status in Mexico
ACA	Denies access to U.S. asylum system and transfers asylum seekers to third countries unless they establish a risk of persecution or torture under a heightened screening standard; individuals must affirmatively request such screening		Sends asylum seekers to highly dangerous countries, often in reach of persecutors	Risk of chain refoulement by officials in third countries which lack functional asylum systems
PACR / HARP	Fear screening interviews with elevated standard conducted in coercive conditions in border detention facilities with extremely limited access to counsel	Resulted in higher rates of negative credible fear determinations and expedited deportations to El Salvador, Guatemala, Mexico, and Honduras		



Policy	Bar to Asylum and/or Elevated Screening Standard	Refoulement to Home Country	Refoulement to Third Country	Risk of Chain Refoulement
Third-Country Transit Ban	Bars refugees who passed through third countries en route to the United States unless they meet narrow exceptions; applied during credible fear screenings, effectively raising screening standard	Individuals receiving negative fear determinations deported without access to U.S. asylum system; refugees denied asylum in merits determinations due to the bar		
“Death to Asylum” Rule (enjoined)	Would elevate preliminary fear screening standard and severely restrict refugee definition	Would bar most refugees from access to U.S. asylum system		
Public Health Ban (paused)	Would bar refugees from asylum protections on public health grounds and effectively elevate the screening standard for those subject to the bar, permitting only those who establish a heightened risk of torture access to the U.S. asylum system	Would bar many refugees from asylum and withholding of removal protection and deny access to the U.S. asylum system at the screening stage	Would allow removal of asylum seekers who establish risk of torture to third countries even if they face persecution there	Would risk of chain refoulement

***Human Rights First recommends that the Special Rapporteur:***

- Ensure the Special Rapporteur’s definition of “pushbacks” includes policies aimed at, *inter alia*, heightening preliminary screening standards with the aim of deporting asylum seekers at borders, blocking asylum seekers who transit third countries en route to a state of refuge from access to asylum procedures, turning away asylum seekers by intentionally limiting processing capacity and failing to provide adequate resources and staff for handling asylum requests, and using the COVID-19 pandemic as an excuse to block asylum seekers and expel them to countries where they are at risk of persecution or torture and/or chain *refoulement*.
- Condemn the use of the COVID-19 pandemic as a pretext to summarily block and expel asylum seekers without individual assessment or access to asylum procedures and urge States to heed recommendations of public health experts aimed at swiftly and safely processing asylum seekers requesting protection at or after crossing borders.<sup>61</sup>
- Encourage national, bilateral, and multilateral efforts to rescind policies intended to deny refugees access to asylum procedures and to provide redress for those harmed by illegal pushback policies.

<sup>1</sup> See Camilo Montoya-Galvez, *Nearly 9,000 migrant children have been expelled under pandemic border policy, court documents say*, CBS News, September 2020, available at <https://www.cbsnews.com/news/8800-migrant-children-have-been-expelled-under->

[pandemic-border-policy-per-court-documents/](#); Dara Lind, *Leaked Border Patrol Memo Tells Agents to Send Migrants Back Immediately – Ignoring Asylum Law*, ProPublica, April 2, 2020, available at <https://www.propublica.org/article/leaked-border-patrol-memo-tells-agents-to-send-migrants-back-immediately-ignoring-asylum-law> (“For the first time since the enactment of the Refugee Act in 1980, people who come to the U.S. saying they fear persecution in their home countries are being turned away by Border Patrol agents with no chance to make a legal case for asylum.”).

<sup>2</sup> U.S. Department of Health and Human Services Centers for Disease Control and Prevention, *Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists*, March 20, 2020, available at <https://www.cdc.gov/coronavirus/downloads/10.13.2020-CDC-Order-Prohibiting-Introduction-of-Persons-FINAL-ALL-CLEAR-encrypted.pdf>.

<sup>3</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists*, October 13, 2020, available at <https://www.cdc.gov/coronavirus/downloads/10.13.2020-CDC-Order-Prohibiting-Introduction-of-Persons-FINAL-ALL-CLEAR-encrypted.pdf>.

<sup>4</sup> Jason Dearen and Garance Burke, *Pence ordered borders closed after CDC experts refused*, AP, October 3, 2020, available at <https://apnews.com/article/virus-outbreak-pandemics-public-health-new-york-health-4ef0c6c5263815a26f8aa17f6ea490ae>; Michelle Hackman, Andrew Restuccia, and Stephanie Armour, *CDC Officials Objected to Order Turning Away Migrants at Border*, The Wall Street Journal, October 3, 2020, available at <https://www.wsj.com/articles/cdc-officials-objected-to-order-turning-away-migrants-at-border-11601733601>.

<sup>5</sup> Human Rights First, *Pandemic as Pretext: Trump Administration Exploits COVID-19, Expels Asylum Seekers and Children to Escalating Danger*, May 2020, available at <https://www.humanrightsfirst.org/sites/default/files/PandemicAsPretextMay2020.pdf>; Human Rights First, *Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger*, December 2020, available at <https://www.humanrightsfirst.org/resource/humanitarian-disgrace-us-continues-illegally-block-expel-refugees-danger>.

<sup>6</sup> Kevin Sieff, *She fled detention and torture in Nicaragua for asylum in the United States. The government put her on a plane back home*, Washington Post, August 28, 2020, available at [https://www.washingtonpost.com/world/the\\_americas/nicaragua-asylum-us-border/2020/08/27/9aaba414-e561-11ea-970a-64c73a1c2392\\_story.html](https://www.washingtonpost.com/world/the_americas/nicaragua-asylum-us-border/2020/08/27/9aaba414-e561-11ea-970a-64c73a1c2392_story.html); This American Life, 721: The Walls Close In, October 23, 2020, available at <https://www.thisamericanlife.org/721/transcript>.

<sup>7</sup> *Letter to HHS Secretary Azar and CDC Director Redfield Signed by Leaders of Public Health Schools, Hospitals, and Other U.S. Institutions*, Columbia Mailman School of Public Health, May 18, 2020, available at <https://www.publichealth.columbia.edu/public-health-now/news/public-health-experts-urge-us-officials-withdraw-order-enabling-mass-expulsion-asylum-seekers>.

<sup>8</sup> U.S. Department of Transportation, Bureau of Transportation Statistics, *Border Crossing Entry Data*, Available at <https://data.bts.gov/Research-and-Statistics/Border-Crossing-Entry-Data/keg4-3bc2/data>.

<sup>9</sup> UNHCR, *Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response*, March 16, 2020, available at <https://www.refworld.org/docid/5e7132834.html>.

<sup>10</sup> UNHCR, *UNHCR warns asylum under attack at Europe’s borders, urges end to pushbacks and violence against refugees*, January 28, 2021, available at <https://www.unhcr.org/en-us/news/press/2021/1/601121344/unhcr-warns-asylum-under-attack-europes-borders-urges-end-pushbacks-violence.html>.

<sup>11</sup> Kirstjen M. Nielsen, Department of Homeland Security, *Policy Guidance for Implementation of the Migrant Protection Protocols*, January 25, 2019, available at [https://www.dhs.gov/sites/default/files/publications/19\\_0129\\_OPA\\_migrant-protection-protocols-policy-guidance.pdf](https://www.dhs.gov/sites/default/files/publications/19_0129_OPA_migrant-protection-protocols-policy-guidance.pdf).

<sup>12</sup> Transactional Records Access Clearinghouse, *Details on MPP (Remain in Mexico) Deportation Proceedings*, available at <https://trac.syr.edu/phptools/immigration/mpp/>.

<sup>13</sup> U.S. Department of State, *Mexico Travel Advisory*, available at <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html>.

<sup>14</sup> Human Rights First, *Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger*, December 2020, available at <https://www.humanrightsfirst.org/sites/default/files/HumanitarianDisgrace.12.16.2020.pdf>.

<sup>15</sup> Human Rights First, *Publicly reported cases of violent attacks on individuals returned to Mexico under the “Migrant Protection Protocols”*, December 15, 2020, available at <https://www.humanrightsfirst.org/sites/default/files/PubliclyReportedMPPAttacks12.15.2020FINAL.pdf>.

<sup>16</sup> Human Rights First, *Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger*, December 2020, available at <https://www.humanrightsfirst.org/sites/default/files/HumanitarianDisgrace.12.16.2020.pdf>.

<sup>17</sup> See UNHCR, *Amicus Brief – Wolf v. Innovation Law Lab*, January 2021, available at <https://www.refworld.org/docid/600edeb94.html>; National Citizenship and Immigration Services Council 119, *Amicus Brief – Wolf v. Innovation Law Lab*, January 2021, available at <https://www.pbwt.com/content/uploads/2021/01/Wolf-v-Innovation-Law-Lab-Brief-in-Support-of-Respondents.pdf>.

<sup>18</sup> *Id.*

<sup>19</sup> Human Rights First, *Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger*, December 2020, available at <https://www.humanrightsfirst.org/sites/default/files/HumanitarianDisgrace.12.16.2020.pdf>.

<sup>20</sup> Human Rights Watch, *“Like I’m Drowning”: Children and Families Sent to Harm by the US ‘Remain in Mexico’ Program*, January 6, 2021, available at <https://www.hrw.org/report/2021/01/06/im-drowning/children-and-families-sent-harm-us-remain-mexico-program>.

- <sup>21</sup> Dara Lind, “Women to One Side, Men to the Other”: How the Border Patrol’s New Powers and Old Carelessness Separated a Family, ProPublica, January 31, 2020, available at <https://www.propublica.org/article/women-to-one-side-men-to-the-other-how-the-border-patrol-new-powers-and-old-carelessness-separated-a-family>.
- <sup>22</sup> Kids in Need of Defense, *Forced Apart: How the “Remain in Mexico” Policy Places Children in Danger and Separates Families*, February 24, 2020, available at <https://supportkind.org/wp-content/uploads/2020/02/MPP-KIND-2.24updated-003.pdf>; Debbie Nathan, *Migrant children trapped in Mexico are leaving their families and crossing the border alone*, The Intercept, October 29, 2019, available at <https://theintercept.com/2019/10/29/mexico-migrant-unaccompanied-children-border-crossing/>.
- <sup>23</sup> U.S. Customs and Border Protection, *Migrant Protection Protocols FY 2020*, available at <https://www.cbp.gov/newsroom/stats/migrant-protection-protocols-fy-2020>.
- <sup>24</sup> Transactional Records Access Clearinghouse (TRAC), *Record Number of Asylum Cases in FY 2019*, available at <https://trac.syr.edu/immigration/reports/588/#:~:text=During%20FY%202019%2C%2084.7%20percent,up%20for%20every%20court%20hearing>.
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- <sup>26</sup> Human Rights First, *Refugee Blockade: The Trump Administration’s Obstruction of Asylum Claims at the Border*, December 11, 2018, available at <https://www.humanrightsfirst.org/resource/refugee-blockade-trump-administration-s-obstruction-asylum-claims-border-december-2018>.
- <sup>27</sup> Office of Inspector General, U.S. Department of Homeland Security, *CBP Has Taken Steps to Limit Processing of Undocumented Aliens at Ports of Entry*, OIG 21-02, October 27, 2020, available at <https://www.oig.dhs.gov/sites/default/files/assets/2020-10/OIG-21-02-Oct20.pdf>.
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