

# FATALLY FLAWED

“Remain in Mexico” Policy Should  
Never Be Revived



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Asylum seekers returned under the court-ordered reimplementa-  
tion of Remain in Mexico to Ciudad Juárez, December 2021

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## Introduction

On August 8, 2022, the Department of Homeland Security (DHS) [announced](#) the end of the Trump-era “Remain in Mexico” (RMX) policy. The announcement came after a federal district court, following a [Supreme Court](#) ruling in June 2022, lifted an injunction that had blocked the Biden administration’s termination of the policy and had compelled its reimplementation.

While the district court order was in effect, thousands more asylum seekers were returned by DHS to dangerous regions of Mexico. There they were forced to wait for immigration court hearings despite being almost entirely cut off from lawyers who could represent them in their requests for refugee protection. In December 2021, DHS stated that in reimplementing RMX it had taken steps to “[enhance\[\] protections](#)” and “[protect\[\] individuals’ rights to a full and fair hearing.](#)”

But the RMX policy—and others like it that would force asylum seekers to wait outside the United States for their cases to be heard—simply cannot be implemented lawfully, safely, fairly, or humanely. During the court-ordered reimplementation of RMX (or RMX 2.0), asylum seekers reported horrific kidnappings, rapes, and other violent attacks after DHS returned them to Mexico. RMX hearings also remained a due process farce. Only a tiny percentage of the individuals whose cases were decided under RMX 2.0 managed to find attorneys to represent them. A vanishingly small number of the mainly Cubans, Nicaraguans, and Venezuelans subjected to the policy were granted asylum—just [63](#) people out of more than 1,600 completed cases.

The Biden administration rightly [honored](#) its election [pledge](#) to end this fatally flawed policy and correctly [terminated](#) the policy after the initial legal challenge. Congress created the asylum system within the borders of the United States specifically to adjudicate the cases of asylum seekers [arriving at or after crossing the border](#). RMX violates U.S. law and international treaty obligations, denies refugee protections to people fleeing persecution and torture, and results in widespread human rights violations against people returned to Mexico. In August 2022, the U.N. Committee on the Elimination of Racial Discrimination [called](#) on the United States to “redouble efforts to swiftly end” RMX, noting its “disparate impact . . . on migrants of African descent and of Hispanic/Latino origin.” As DHS Secretary Alejandro Mayorkas concluded, RMX “has [endemic flaws](#),” “imposes unjustifiable human costs,” and has “[inherent problems](#) . . . that no amount of resources can sufficiently fix.” RMX should never be resurrected by a future administration, adopted in law by Congress, or again forced by the courts into use.

DHS has stopped placing new individuals in RMX and begun to slowly transit some people into the United States to pursue their cases in safety. But it has not yet announced a plan to assist the remaining individuals who were left behind during the initial RMX winddown, nor addressed how it will ensure due process for asylum seekers ordered removed under RMX 2.0 who also did not receive full and fair hearings.

This slow winddown process comes as state politicians aligned with the former Trump administration are, yet again, seeking to force the return of RMX. After the [Supreme Court](#) rejected their initial case, they

amended their lawsuit to challenge the memoranda DHS issued to [re-terminate](#) the policy. In early September 2022, the same district court that ordered the Biden administration to restart RMX will consider this latest cynical ploy to force the policy's continuation—an attempt to again block asylum seekers from safety and subject them to the horrifying human rights abuses detailed in this report.

At the same time, the similarly harmful Title 42 policy remains in effect. A court order blocking its termination has resulted in the continued shutdown of normal asylum processing at ports of entry and continued expulsions to highly dangerous places, which at the moment overwhelmingly [target](#) asylum seekers and migrants from El Salvador, Guatemala, Honduras, and Mexico.

Working closely with many other organizations, Human Rights First has monitored and reported on the Remain in Mexico policy since its inception in January 2019, conducting in-depth research and issuing a series of reports in [February 2019](#), [August 2019](#), [October 2019](#), [December 2019](#), [January 2020](#), [May 2020](#), [December 2020](#), [December 2021](#), and [January 2022](#). This report is based on in-person interviews Human Rights First conducted with attorneys and RMX enrollees in Tijuana in April and September 2022; remote interviews held between April and September 2022 with attorneys and asylum seekers returned to Mexico under RMX 2.0; a review of anonymized notes from nearly 2,700 interviews conducted by pro bono law firms and non-governmental organizations providing legal information to individuals placed in RMX 2.0 (representing approximately one quarter of all people enrolled in RMX during the Biden administration); government data, media accounts, and other human rights reports.

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## Key Findings

- **The court-ordered reimplementaion of RMX under the Biden administration confirms that the policy is fatally flawed and cannot be carried out humanely, safely, or legally.** Despite steps by DHS to “[enhance\[\] protections](#),” people returned to Mexico under RMX 2.0 continue to be kidnapped, raped, and assaulted. The endemic due process barriers of RMX have not been resolved by DHS’s steps to “[protect\[\] individuals’ rights to a full and fair hearing](#).” The vast majority of individuals in RMX 2.0 were unable to find lawyers to assist them under this policy plagued by security and due process impediments. Less than four percent of completed RMX 2.0 cases have resulted in asylum or other relief being granted by the immigration courts, according to government [data](#). RMX was, and has remained, an unmitigated human rights and refugee protection disaster.
- **The devastating toll of violent attacks on people subjected to RMX continued to mount under the court-ordered reimplementaion of the policy.** Recent kidnappings, rapes, and other violent assaults on people *after* DHS returned them to Mexico under RMX 2.0 include: a Nicaraguan woman kidnapped and sexually assaulted; a Venezuelan asylum seeker beaten and shot at; a teenage girl sexually assaulted; and two Nicaraguans kidnapped by a cartel and forced to watch as cartel members put a gun in another man’s mouth and threatened to kill him. These attacks add to the at least [1,544](#) publicly reported cases of kidnappings, murder, torture, rape and other violent attacks against people returned to Mexico under RMX that Human Rights First tracked during the Trump administration. Given how few individuals in RMX have been interviewed by human rights investigators, journalists, and other researchers, the number of reported attacks is surely a severe undercount of the true scale of the harms inflicted on people forced to wait in danger in Mexico under RMX.



- RMX—and other policies that return asylum seekers to Mexico—cannot be implemented safely, in part, because corrupt Mexican authorities continue to be responsible for and accomplices to brutal attacks on migrants and asylum seekers in Mexico.** Recent horrific kidnappings, rapes, torture, and other violent attacks by Mexican police, immigration officers, and other government officials, including in collusion with cartels, on migrants and asylum seekers after being returned to, or while passing through, Mexico include: an LGBTQ Cuban man sexually assaulted and tortured with electric shock by Mexican police after he was sent to Mexico under RMX; Venezuelan, Nicaraguan and Cuban asylum seekers beaten, threatened, and/or extorted by Mexican officials after DHS returned them to Mexico; and a Nicaraguan woman trying to reach the U.S. border who was raped, beaten, and left naked on the side of the road by Mexican police.
- Human Rights First’s review of 2,688 interviews conducted by pro bono legal staff between January and August 2022 with people initially placed in RMX<sup>1</sup> reveals staggering violence by cartels and corrupt officials—further underscoring the danger of returning asylum seekers to Mexico.** Forty-one percent of the interviewed asylum seekers and migrants (1,109 people) initially enrolled in RMX 2.0 reported attacks in Mexico, including kidnapping, rape, torture, and other violent assaults. Kidnappings made up 36 percent (401 reports) of these attacks. Mexican police, immigration agents, National Guard officers, and other government officials were identified as responsible for or complicit in 36 percent of the violent attacks reported (399 reports). In addition, more than 60 individuals reported highly invasive strip searches, groping, and other inappropriate conduct by Mexican officials during stops by police and migration officials. In addition, 47 percent (1,263 individuals) reported that Mexican police, immigration agents, National Guard officers, or other Mexican government officials had robbed or extorted them.
- Black and Indigenous migrants and asylum seekers continue to be targeted for kidnappings and brutal assaults in Mexico because of their race and/or Indigenous identity.** Recent attacks include an Afro-Colombian man stabbed in front of his brother; an Afro-Indigenous Nicaraguan woman kidnapped and robbed by Mexican officials; an Afro-Cuban woman sexually assaulted and robbed by Mexican police; and an Indigenous man of the Puruhá people from Ecuador who was assaulted and robbed in front of Mexican police who did not intervene to assist him.
- Just as during the Trump administration, RMX immigration court hearings remain a due process farce, with asylum seekers overwhelmingly unable to obtain legal counsel and denied refugee protections.** Only five percent of people sent to Mexico under RMX 2.0 have a lawyer. According to analysis by the Syracuse University [Transactional Records Access Clearinghouse](#), this is an even lower representation rate than the eight percent representation rate during the Trump administration’s implementation of RMX. Unsurprisingly, very few people in RMX 2.0 have been granted asylum protection. As of June 30, 2022, only [63](#) asylum seekers in RMX 2.0 had been granted relief—less than four percent of completed cases. This abysmal asylum grant rate is nearly identical to the [4.1 percent](#) grant rate for completed RMX 1.0 cases. [Seventy-five percent](#) of completed RMX 2.0 cases ended with *in absentia* removal orders, virtually unchanged from the [72 percent](#) *in absentia* removal order rate for completed RMX cases during the Trump

<sup>1</sup> Nearly [38 percent](#) of individuals initially subjected to RMX 2.0 were disenrolled from the policy and not returned to Mexico. It was not possible to systematically determine from the interview notes reviewed by Human Rights First whether individuals who reported violent attacks were returned to Mexico under RMX or disenrolled before return.



administration. The gauntlet of grave dangers and terrible conditions inherent to RMX, rather than the merits of asylum seekers' requests for protection, continued to determine the outcome of these cases.

- Flawed RMX fear screening process continued to return asylum seekers to harm.** As UNHCR [stated](#) in response to the court-ordered reimplementation of RMX, “the announced adjustments to the policy are not sufficient to address [UNHCR’s] fundamental concerns” about the safety of asylum seekers returned to Mexico. Indeed, migrants and asylum seekers enrolled in RMX 2.0—[78 percent](#) of whom were from Cuba, Nicaragua, and Venezuela—continue to be returned to grave danger in Mexico, including individuals who had previously suffered harmed there. For example, DHS returned to Mexico a Nicaraguan man who had been kidnapped and beaten by Mexican police after finding that he did not meet the heightened RMX fear screening standard. Indeed, recent DHS [data](#) show that only 18.6 percent of people who received RMX fear screenings were found to have a fear of return to Mexico, despite extensive documentation of the grave harms faced by returned asylum seekers forced to wait in Mexico. This low rate is strikingly similar to RMX fear screenings conducted during the Trump administration in which only [14 percent](#) of individuals were found to have a fear of return to Mexico.
- The designation of migrant shelters by the U.S. and Mexican governments for RMX has not ensured the safety or humane treatment of people returned to Mexico.** Providing shelter to people subjected to RMX was a key element of the Biden administration’s [pledge](#) to “reimplement[ RMX] in a way that enhances protection for individuals enrolled in the program.” But the reimplementation of RMX makes clear that safe housing cannot be assured to individuals returned to Mexico given continued reports of violence and abuse at, and just outside, the migrant shelters designated to house RMX returnees. Some examples include: a gay Nicaraguan asylum seeker abducted and sexually assaulted by shelter security guards; a Cuban man beaten and threatened at gunpoint by a shelter security guard; and Nicaraguan and Venezuelan asylum seekers beaten and robbed when they left shelters required COVID-19 tests to attend their RMX hearings. Many returned asylum seekers reported [horrendous conditions](#) in shelters, including filthy facilities, insufficient food, lack of access to medical care, forced labor, and harsh rules on cell phone and computer use that [interfered](#) with their ability to search for attorneys and prepare their cases.

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## Recommendations

The Biden administration, U.S. agencies, and Congress should take steps to ensure that the victims of the RMX policy are swiftly brought to U.S. safety and that RMX and similar policies are never resurrected by a future administration, adopted in law by Congress, or again forced by the courts into use.

### *To the Biden Administration*

- Forcefully defend—in public and in court—the rightful decision to terminate the RMX policy and acknowledge that the government does not have legal authority under U.S. immigration laws and treaty commitments to implement any policy, including RMX, that turns away asylum seekers to danger and/or to remain outside the United States while their asylum cases are decided.
- Coordinate with and provide logistical and financial support to critical service providers offering shelter, legal services, and humanitarian aid to ensure that all asylum seekers who were subjected to RMX are treated



humanely and able to quickly and safely transit to destination locations and continue the asylum process. Relying on law firm pro bono resources, as valuable as they are, is an insufficient response.

- Take all legally available steps to ensure that the Title 42 policy, which inflicts similarly grave harms, is brought to a final end, including the issuance of official rulemaking to rescind the Title 42 order, and work with Congress to ensure this dangerous and counterproductive Trump-era policy is not enacted into law.

***To the Department of Homeland Security***

- Swiftly transit all individuals who were returned to Mexico under the court-ordered reimplementing of RMX into the United States and resume efforts to bring other individuals and families who had not been brought to safety under the initial RMX 1.0 wind down.
- Expand the wind down of RMX to include those who were unfairly denied protection under farcical RMX proceedings, many of whom remain in life-threatening danger.
- Do not subject asylum seekers transited into the United States following RMX disenrollment to immigration detention or other punitive and invasive electronic monitoring.
- Take all legally permissible steps to expand asylum processing at the U.S.-Mexico border, including through existing exceptions provided under the Title 42 order.

***To the Department of Justice***

- Immediately halt the due process deficient immigration court hearings conducted under RMX (unless the asylum seeker or their attorney affirmatively requests to continue with proceedings) and transfer these cases to non-RMX dockets in the asylum seeker's destination community.
- Vigorously defend against any attempt to use the federal courts to force the government to halt the termination of or reimplement RMX, appealing and seeking stays in any and all negative decisions to the U.S. Supreme Court, if necessary.
- Enhance the administration's litigation position on RMX and acknowledge that the Immigration and Nationality Act (INA) does not grant the federal executive the authority to implement a policy forcing asylum seekers to wait outside the United States for adjudication of their asylum claims.
- Take all available steps to expedite the challenge to the court order currently in place that is illegally enjoining the termination of the Title 42 order, and appeal any and all negative decisions to the U.S. Supreme Court, if necessary.

***To the U.S. Congress***

- Do not adopt any provisions that would authorize policies—including Title 42 or RMX—that would turn away or leave asylum seekers stranded in danger and subvert longstanding U.S. laws and binding treaty obligations.



- Support the re-introduction and passage of an updated Refugee Protection Act that would confirm that the INA does not authorize RMX, Title 42, or other policies that violate U.S. obligations towards asylum seekers.
- Examine potential structural improvements to manage humanitarian protection, such as a new or reconfigured and elevated U.S. [agency](#) with a humanitarian protection mission, expertise, and capacities.

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## An Unmitigated Human Rights Disaster

First implemented by the Trump administration in January 2019, the RMX policy has fueled tremendous suffering, confusion, and chaos. Under RMX, DHS forced asylum seekers to wait in dangerous Mexican border cities while their U.S. immigration court cases were pending—a drastic divergence from longstanding U.S. asylum law and processes, which had always conducted asylum adjudications from safety within the United States.

RMX resulted in massive human rights violations against migrants and asylum seekers forcibly returned to areas of Mexico designated by the [U.S. Department of State](#) as Level 3 “Reconsider Travel” and Level 4 “Do Not Travel” threats—the latter being the same level designated to Afghanistan, Iran, Libya, and Syria. During the two years that the Trump administration implemented RMX, Human Rights First tracked at least [1,544](#) publicly reported cases of kidnappings, murder, torture, rape and other violent attacks against people returned to Mexico. These attacks are surely just the tip of the iceberg, as few people were able to speak with journalists, human rights monitors, or attorneys. The reported attacks included the murder of a [19-year-old Cuban asylum seeker](#), a Honduran asylum seeker [tortured](#) by kidnappers as his wife and three-year-old child listened, a Cuban asylum seekers separated from her partner by DHS and [raped](#) after being returned alone to Mexico, and [8- and 11-year old sisters](#) from El Salvador left alone after their father was attacked and left for dead on the side of road. Unsurprisingly, given these dangers and severe limitations on seeking safety through ports of entry the number of people attempting to cross the border outside of ports of entry “began to spike after the implementation of” RMX forced asylum seekers to wait in danger in Mexico, according to the [CATO Institute](#).

In addition to these deadly dangers, RMX was a due process [charade](#) that imposed major [impediments](#) to access to counsel, legal information, and the ability of asylum seekers to attend and participate in their own immigration hearings. Of the nearly 70,000 individuals and families placed in RMX 1.0 under the Trump administration, only [523](#) people—less than one percent of completed cases—were granted relief. Just to attend their U.S. immigration court appointments, asylum seekers were [forced](#) to risk kidnapping and violence. Many were [abducted](#) while traveling through border regions to attend hearings or directly outside U.S. ports of entry before or after hearings. [Cartels extorted](#) returned asylum seekers based on the date of their next RMX hearing, effectively imposing a [tax](#) on the time the U.S. government forced them to wait in Mexico under the policy. For asylum seekers subjected to this process, the dangers, impediments to legal counsel, and abhorrent conditions forced many to [give up](#) on their requests for U.S. asylum protection. Immigration judges issued *in absentia* removal orders in [72 percent](#) of completed RMX 1.0 cases when asylum seekers missed their hearings.

In July 2021, the Biden administration [fulfilled](#) its election [pledge](#) and terminated the RMX policy. After a legal challenge by Trump-administration aligned state attorneys general, DHS re-terminated the policy with an October 2021 [memorandum](#) concluding that people returned to Mexico under RMX “were subject to extreme



violence and insecurity at the hands of transnational criminal organizations.” Following the policy’s termination, an American Immigration Council’s analysis of DHS border crossing data found “[no evidence](#)” that the decision impacted the total number of border crossings.

However, in August 2021, a federal district court issued an [order](#) that directed DHS to implement RMX in “good faith” pending resolution of the case. From early December 2021, when the court-ordered reimplementation of RMX began, through the end of July 2022, DHS returned more than 7,000 additional individuals to danger in Mexico under RMX 2.0 to the Mexican cities of Tijuana, Ciudad Juárez, Nuevo Laredo, and Matamoros. Seventy-eight percent of those DHS initially enrolled in RMX 2.0 were from Cuba, Nicaragua, and Venezuela, according to government [data](#). DHS stated that it took steps to “[enhance\[\] protections](#)” and “[protect\[\] individuals’ rights to a full and fair hearing](#)” for RMX 2.0. But, like its predecessor, RMX 2.0 was a human rights disaster that was bound to continue to return asylum seekers to grave dangers and subject them to due process deficient immigration court hearings. As RMX was reimplemented under court order, the security situation in Mexico deteriorated in 2022. In July and August 2022, the U.S. State Department warned of confrontations between cartels and Mexican authorities in the border region, including the city of [Tijuana](#) and the state of [Sonora](#), and [withdrew](#) some U.S. personnel and family members following gunfire targeting the U.S. consulate in Nuevo Laredo in March 2022.

As Secretary Mayorkas determined in re-terminating RMX, “no amount of resources can sufficiently fix” its “[inherent problems](#).”

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### RMX Forced Reimplementation Confirms Policies Forcing Asylum Seekers to Wait in Mexico Cannot Be Carried Out Safely

In its October 2021 [memorandum](#) re-terminating RMX, DHS concluded that “significant evidence indicates that individuals were subject to extreme violence and insecurity at the hands of transnational criminal organizations that profited from putting migrants in harms’ way while awaiting their court hearings in Mexico.” Indeed, Human Rights First tracked more than [1,500](#) reports of murder, kidnapping, torture, rape and other violent attacks against people the Trump administration subjected to RMX. Under court order to re-implement RMX, the Biden administration [pledged](#) to “reimplement[] [RMX] in a way that enhances protection for individuals enrolled in the program.” The administration, for example, arranged housing options in migrant shelters in Mexico and “[secure transportation](#) to and from ports of entry” and shelters for RMX 2.0 returnees. Despite these additional measures, people sent to Mexico under RMX 2.0 continued to be kidnapped, tortured, sexually assaulted, beaten, and subjected to other violent attacks, including in designated shelters and transport. Powerful cartels that exercise control throughout the border region and corrupt officials in Mexico continued to target migrants and asylum seekers returned to Mexico under RMX for attack. RMX—and policies like it that force asylum seekers to wait in danger in Mexico—cannot be implemented safely.

Some recent examples of reports of individuals attacked *after* being returned to Mexico under the court-ordered implementation of RMX 2.0 include:

- **In April 2022, kidnappers abducted and held for ransom three men that DHS had returned under RMX 2.0 to Nuevo Laredo, Mexico, as city officials transported them to a migrant shelter.** A DHS spokesperson told [Reuters](#) that the incident highlighted the “endemic flaws” of RMX.





- **A taxi driver kidnapped and sexually assaulted a Nicaraguan woman and another migrant after she was returned by DHS to Mexico under RMX 2.0.** The woman reported the attack in an April 2022 interview conducted by a volunteer attorney.
- **A cartel in Monterrey kidnapped two Colombian men near the shelter where they were taken after DHS returned them to Mexico through RMX 2.0.** The men missed their RMX hearings while in captivity, and the immigration court ordered them removed *in absentia*. As of September 2022, the men have been unable to reopen their cases, according to their attorney Abdiel Echevarria-Caban, with the Refugee and Immigrant Center for Education and Legal Services (RAICES).
- **Three men whom DHS returned to Mexico under RMX 2.0 were kidnapped and remained missing as of March 2022.** The men, who had left a migrant shelter in Mexico to withdraw money, missed their RMX hearings and were ordered removed *in absentia*, according to South Texas Pro Bono Asylum Representation Project ([ProBAR](#)).
- **A teenager whom DHS returned to Mexico under RMX 2.0 was sexually assaulted in Matamoros while waiting for her U.S. immigration court hearing,** according to an August 2022 [TIME](#) article. Commenting on DHS's slow efforts to winddown RMX, the woman's attorney, Priscilla Orta of Lawyers for Good Government noted: "This is not a game . . . What if another person is hurt, assaulted, beaten, dies, while they're waiting?"
- **In June 2022, a Honduran asylum seeker was stabbed and robbed in Tijuana after DHS returned him there under RMX 2.0.** Another asylum seeker staying in the same shelter who saw the man return with a large gash in his side after the attack reported the incident to Human Rights First.
- **In January 2022, a Venezuelan asylum seeker was beaten and robbed in Ciudad Juárez after being returned to Mexico by DHS through RMX 2.0.** He told Human Rights First that he was attacked while returning to the designated RMX shelter after obtaining a COVID-19 test to be able to attend his U.S. immigration court hearing.
- **Two Nicaraguan men returned under RMX 2.0 to Nuevo Laredo then transported to the allegedly safer city of Monterrey were kidnapped in Monterrey and witnessed members of an organized criminal group threaten to kill a man while holding a gun in his mouth.** The pair, who later arrived to the Nogales border with four other Nicaraguans subjected to RMX 2.0 who had also been victims of violence in Monterrey, reported their abduction to Kino Border Initiative in August 2022.
- **In May 2022, a Nicaraguan asylum seeker was assaulted and robbed near the Tijuana shelter where he was taken after DHS returned him to Mexico under RMX 2.0.** The man told Human Rights First that when he was returning from work during daylight hours, assailants pushed him to the ground, and stole his identification documents and the money he had just been paid. Though he reported the assault to Mexican police and recalled the incident to a U.S. asylum officer in a fear screening after his subsequent RMX hearing, DHS again returned the man to Tijuana, where he remained as of September 2022.
- **A Nicaraguan man was twice attacked in Mexico after DHS returned him through RMX 2.0.** He reported in a January 2022 interview with a pro bono attorney that three men hit him with a large object, knocking him unconscious. In a separate incident, two men robbed the man at knifepoint when he left a migrant shelter to take a COVID-19 test, which DHS had required of RMX returnees to attend U.S. immigration court hearings.



- **A Venezuelan man was attacked after being returned to Mexico under RMX 2.0 by a group of men who beat and robbed him, and shot at him as he ran away.** Human Rights First reviewed notes from the April 2022 interview by a volunteer attorney in which the man reported the incident.
- **In late March 2022, a Nicaraguan man was robbed at gunpoint in Ciudad Juárez after DHS returned him there under RMX 2.0.** A legal interviewer documented in notes reviewed by Human Rights First that he was attacked while leaving a grocery store where he was picking up a money order.
- **In late April 2022, several men beat and robbed a Venezuelan asylum seeker in Tijuana after DHS returned him there under RMX 2.0.** He reported the attack to a Human Rights First researcher in Tijuana, where he remained, as of September 2022.

There is no way to safely return migrants and asylum seekers to Mexico to await their U.S. immigration court hearings due to the widespread complicity of Mexican police and other government officials in violent crimes and cartel activity targeting migrants and asylum seekers. Some people returned to Mexico under RMX recently attacked and threatened by Mexican police and other officials include:

- **In April 2022, Mexican police sexually assaulted and tortured an LGBTQ Cuban man after DHS had returned him to Mexico under RMX 2.0.** The man reported in an interview with a pro bono lawyer reviewed by Human Rights First that the officer forced him to perform a sexual act on the officer, then gave him an electric shock while threatening him not to tell anyone. In a separate incident, Mexican police officers held a gun to the Cuban man's back, threatening to blackmail him, photographed his identification documents, and destroyed his cell phone.
- **In February 2022, Mexican police detained and brutalized a Nicaraguan man whom DHS returned to Mexico under RMX 2.0 after he did not pass a non-*refoulement* interview.** An officer falsely claimed the Mexican migration documents (*forma migratoria múltiple* or FMM<sup>2</sup>) provided to the man on return to Mexico were fraudulent, called Nicaraguans “a plague,” handcuffed him, and forced him into a police car. As he was exiting the car, an officer slammed the door on his fingers, causing them to bleed. The officer also hit the man in the face with his elbow, dislocating his nose. Notes from an interview with the man reviewed by Human Rights First state that the officers threatened that he would “face the consequences,” if he reported the incident.
- **Mexican immigration officials and police officers beat and threatened a Venezuelan man after he was returned by DHS to Mexico through RMX 2.0.** He reported in an April 2022 interview with pro bono legal staff that the officials said they would “find him and do something worse,” if he attempted to report the incident to Mexican authorities.

<sup>2</sup> The FMM is a Mexican migration document that can be used to confer temporary legal status and work authorization for certain noncitizens in Mexico. Under an agreement with the United States government, Mexican migration authorities were supposed to provide FMMs to individuals returned to Mexico through RMX. FMMs for people subjected to RMX are typically [valid](#) until the individual's next RMX hearing. Many individuals in RMX 1.0 encountered significant [challenges](#) renewing FMMs due to RMX hearings cancellations during the pandemic and when they were unable to attend RMX hearings because they had been kidnapped or had other emergencies. Individuals in RMX 1.0 also reported that Mexican migration agents extorted them to renew FMMs and detained individuals in RMX even when presented a valid FMM.



- **Armed municipal police officers demanded weekly protection money from an Afro-Cuban woman who was returned to Mexico under RMX 2.0.** In an April 2022 interview reviewed by Human Rights First the woman said that the officers threatened that she would not be safe if she did not pay the officers 500 pesos (\$25 USD) a week for their “protection.” The interviewer noted that as a Black woman with a distinct Cuban accent, the woman “sticks out and is easily targeted as a vulnerable migrant” in Mexico.
- **Mexican police officers beat a Venezuelan man at the migrant shelter where he was taken after DHS returned him to Mexico under RMX 2.0.** He reported the incident in a February 2022 interview to a pro bono legal office.

These violent attacks are the predictable consequence of sending people subjected to RMX to some of the most dangerous border cities in the world, including Ciudad Juárez, Nuevo Laredo, and Tijuana.

As of August 2022, the U.S. State Department continued to [designate](#) the Mexican border state of Tamaulipas, where Nuevo Laredo is located, at a Level Four “Do Not Travel” threat level as “[o]rganized crime activity – including gun battles, murder, armed robbery, carjacking, kidnapping, forced disappearances, extortion, and sexual assault – is common along the northern border.” Kidnappings and other violent crimes against migrants in Nuevo Laredo are common and [well-documented](#). DHS was temporarily forced to pause RMX returns to Nuevo Laredo after the city erupted in [violence](#) in March 2022, as organized criminal groups exchanged gunfire and set tractor trailers ablaze around the city, prompting the U.S. consulate in Nuevo Laredo to temporarily [close](#). A lead official in the U.S. embassy in Mexico City [warned](#) in an email to a U.S. State Department official that “heavily armed members of criminal groups often patrol areas of the state and operate with impunity,” and that “migrants could be caught in the middle” of cartel violence in the region.

The states of Baja California, where Tijuana is located, and Chihuahua, which includes Ciudad Juárez, remain designated as Level Three “Reconsider Travel” threats by the U.S. State Department “due to crime and kidnapping” as “[v]iolent crime and gang activity are common.” In August 2022, violence [surged](#) in Tijuana and Ciudad Juárez, as criminal organizations carried out shootings and widespread arson, killing at least [11 people](#) in Ciudad Juárez. In Tijuana, a car was set [ablaze](#) in front of the migrant shelter Espacio Migrante and the Refugee Health Alliance clinic. Civil society organizations in the city [implored](#) the U.S. and Mexican governments to “facilitate the entry of asylum seekers placed under [RMX] as soon as possible,” noting “Tijuana is not a safe city, much less for people who are in a context of mobility.”

In addition to the grave dangers faced by asylum seekers and migrants, U.S. humanitarian, faith, and legal workers who assist people in dangerous programs like RMX and Title 42 are also at risk under these policies. For example, in June 2022, cartel members [kidnapped](#) Pastor Lorenzo Ortiz, who has long provided humanitarian aid to migrants in Nuevo Laredo and operates some of the city’s few migrant shelters. In August 2022, an AI Otro Lado staff member was robbed at gunpoint in Tijuana in the plaza outside the San Ysidro port of entry while accompanying asylum seekers told by U.S. Customs and Border Protection (CBP) to appear at the port at 6 a.m. to be processed under an exception to Title 42.



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## Interviews of People Subjected to RMX 2.0 Confirm Mexico Not Safe for Asylum Seekers

Migrants and asylum seekers in Mexico are seen as vulnerable prey and targeted for attack by corrupt officials, cartels, and other criminal groups due to their status as migrants as well as their race, Indigenous identity, gender, and sexual orientation. This pervasive violence, including many attacks carried out by or involving Mexican authorities, makes it impossible for asylum seekers to safely wait in Mexico for U.S. immigration proceedings to decide their requests for refugee protection.

Human Rights First reviewed notes from 2,688 anonymized pro bono interviews<sup>3</sup> conducted by volunteers from private law firms and non-profit agencies between January and August 2022 with individuals who DHS had initially enrolled in RMX 2.0.<sup>4</sup> These interviews represent nearly one quarter of the total number of people who were [enrolled](#) in RMX during its court-ordered reimplementation under the Biden administration. Analysis of these interview notes confirms that migrants and asylum seekers in Mexico face widespread, targeted, and life-threatening violence in Mexico.

- **Among the nearly 2,700 interviews of migrants and asylum seekers placed in RMX 2.0 that Human Rights First reviewed, 41 percent (1,109 people) reported violent attacks in Mexico, including kidnapping, rape, assault, and other violence.** These attacks—by cartels as well as corrupt Mexican officials—occurred as the individuals traveled to the border and/or after being returned by DHS to Mexico under RMX.
- **Of these 1,109 reported violent attacks on individuals enrolled in RMX 2.0, 36 percent (399 reports) involved Mexican police, immigration agents, National Guard officers, and other government officials who carried out or colluded in the attack.**
- **Kidnappings made up 36 percent (401 reports) of the 1,109 violent attacks on individuals enrolled in RMX 2.0.**

Attacks by police, immigration officers, and other Mexican government officials on individuals who were initially enrolled in RMX 2.0 included kidnappings, rape, assaults, and other violence. Examples in the interviews reviewed by Human Rights First of reported attacks by Mexican government authorities against RMX enrollees include:

- **A Mexican police officer raped a bisexual Nicaraguan woman and forced her to perform oral sex.** The officer had pulled her from a bus, brought her to a ranch, and forced her to undress. After raping the

<sup>3</sup> Human Rights First reviewed two sets of anonymized notes from interviews of individuals who had been enrolled in RMX, which omitted names and other identifying information but included details of the harms they had suffered in Mexico. The first set of notes contained 2,641 interviews conducted between January 4 and August 8, 2022 by volunteer lawyers from private law firms and non-profit organizations for individuals subjected to RMX. The other set comprised notes from 47 anonymized interviews conducted between March 16 and August 4, 2022 by volunteer attorneys from a private law firm for individuals placed in RMX at the Laredo port of entry.

<sup>4</sup> Many of the interviews in the information Human Rights First reviewed were conducted while the individual was in DHS custody upon initial placement in RMX. The attorneys who conducted these interviews were generally unable to follow up to determine whether the individual was subsequently returned to Mexico or removed from RMX due to a positive fear screening (also referred to as a *nonrefoulement* interview) or found to be exempt from RMX pursuant to DHS [guidance](#) on “vulnerabilities.”



woman, the officer hit her in the face, stole her passport and abandoned her, naked, on the side of the road, according to a June 2022 interview with pro bono legal staff.

- **Mexican police and immigration officials sexually abused and repeatedly extorted a gay Cuban man and his spouse.** He told a legal staff member in May 2022 that police turned the couple over to the *Cártel de Jalisco Nueva Generación* (Jalisco New Generation Cartel), which held them captive and extorted their families for ransom.
- **A Cuban woman was anally raped by a Mexican police officer.** In a July 2022 interview with pro bono legal staff, she reported that the officers who stopped and assaulted her had forcibly removed a religious pendant she was wearing and, referring to the police, said that they were “God.”
- **Two Mexican police officers abducted an LGBTQ Venezuelan woman, forced her to perform oral sex, and physically assaulted her.** One of the officers stated that he would “change” the woman, who identifies as bisexual, from being gay, according to notes from a June 2022 interview with pro bono legal screeners. The officers had offered her a ride but instead drove her to a park where they assaulted her.
- **Mexican police officers beat a gay Nicaraguan man and robbed him before turning him over, blindfolded and bound, to a cartel that held him captive.** In a June 2022 interview with pro bono legal staff, the man reported that the kidnappers repeatedly beat him, denied him food for three days, forced him to have sex with women, and harassed him for being gay.
- **A Cuban woman was kidnapped by Mexican police who stripped her and forced her to repeatedly perform oral sex on multiple police officers over the course of three days.** She told pro bono legal interviewers in June 2022 that she managed to escape with two other women who helped to untie her.
- **A Colombian woman stopped by Mexican police was strip searched, groped all over her body including her intimate parts, and forced to suck on an officer’s thumb to “see if [she] would be good at this” while other migrant women were raped.** The woman reported in an August 2022 interview with pro bono legal staff that the officer said that “pretty Colombians” like her would be sold into prostitution.
- **Mexican police robbed a gay Venezuelan man, harassed him, groped his genitals and buttocks, and threatened to “burn your ass so you won’t be a fag,”** according to March 2022 interview notes reviewed by Human Rights First. The officers turned the man over to a cartel, who held him captive in a locked room for two days until he managed to escape.
- **Uniformed Mexican immigration officers raped and beat a Nicaraguan man, kicking him in the stomach and testicles, and demanded that he give them money.** The officers threatened to kill the man’s family if he reported the incident, according to a March 2022 interview.
- **A Nicaraguan man was raped by Mexican police officers and witnessed as the officers raped two Nicaraguan women and cut off two fingers of one of women whose family could not pay the ransom they demanded.** The man reported to a pro bono legal staffer in July 2022 that the three were held captive for five days until his family paid a \$4,000 ransom.



- **Mexican police officers robbed and sexually assaulted a Colombian woman, forcing her to perform oral sex on them.** She told pro bono legal staff in July 2022 that the officers had pulled over the taxi in which the woman was riding and pulled her out of it. After assaulting her, they threatened to kidnap and sell her to human traffickers her, if she reported them.
- **Mexican police extorted a Nicaraguan lesbian woman and her girlfriend and threatened to deport them unless they performed oral sex on the officers.** When the couple refused, the officers drew their guns and kicked the Nicaraguan woman's girlfriend, according to a July 2022 interview reviewed by Human Rights First.
- **A Venezuelan man was kidnapped by a criminal group that later sexually assaulted him, as Mexican police officers observed the abduction.** He reported the incident to pro bono legal screeners in a July 2022 interview.
- **A Nicaraguan woman was repeatedly raped after Mexican police officers took her to a warehouse where she was kept as a hostage for two weeks.** The woman told pro bono legal staff in July 2022 that hundreds of other migrants were held captive in the same facility.
- **Mexican police threatened to kill a Venezuelan man because he had attempted to cross the border into the United States without paying a criminal organization that controls border crossings and with which the officers were apparently working.** In a July 2022 interview, he reported to pro bono legal staff that the officers also robbed him of what money he had with him.
- **A Nicaraguan man reported in a July 2022 interview with pro bono legal staff that Mexican federal police robbed him and turned him over to a cartel that held him captive and extorted his family for ransom.**

Instances of sexual abuse by Mexican police in the form of invasive body searches were also commonly reported by migrants and asylum seekers enrolled in RMX 2.0. Some said that Mexican police stopped the buses and other vehicles in which they were traveling, ordered passengers out, forced them to strip, and robbed them. **Sixty-six individuals reported in the interview notes of RMX 2.0 enrollees reviewed by Human Rights First that Mexican police and other government officials had strip searched, molested, or groped them.** These include:

- Mexican police forced a Nicaraguan woman to strip naked in front of a large group of male passengers and officers, and repeatedly groped her genitals as they searched her. The officers, who were attempting to extort the woman, claimed she was hiding money on her body, according to a February 2022 interview conducted by pro bono legal staff.
- A Mexican police officer violently groped and sexually assaulted a lesbian woman from Nicaragua after she could not pay the extortion he demanded. The woman reported to pro bono interviewers in March 2022 that the attack left her with lasting pain.
- Mexican police robbed, groped, and physically assaulted a Nicaraguan woman after pulling her from the bus she was riding. The officers stole the woman's telephone and touched her breasts and genitals while searching for money. When she resisted, an officer pushed her against a car, injuring her leg, according to a February 2022 interview.



- A Venezuelan man reported in a July 2022 interview that Mexican police stopped the bus he was traveling on, ordered Nicaraguans and Venezuelans to exit the bus, and strip searched them. The officers tore some individuals' identity documents, stole money, and forced those taken from the bus to do squats while undressed.
- Mexican police removed a Cuban woman from the van she was riding in to reach the U.S.-Mexico border, robbed her, and "aggressively" molested her, purporting to search for money, according to March 2022 interview notes.
- A Peruvian woman was robbed by men in blue uniforms, whom she believed to be Mexican police officers. One of the men, who threatened to rape her, touched her breasts repeatedly, according to a June 2022 interview.
- Mexican police took a Colombian man and his wife to an abandoned house, threatened to kill them, and groped his wife's vagina and his anus, according to a July 2022 interview.

Mexican government officials systemically rob and extort migrants and asylum seekers seeking U.S. protection, threatening them with deportation, detention, or physical abuse. **Of the nearly 2,700 interviews of individuals placed in RMX that were reviewed by Human Rights First, 47 percent (1,263 individuals) reported that Mexican police, immigration agents, National Guard officers, or other Mexican government officials had robbed or extorted them.** The true number is likely even higher, as many of those interviewed who experienced even more severe violence may have omitted mention of these apparently routine extortions by government officials, as often occurs with survivors of trauma. Many asylum seekers also reported that authorities threatened to deport them if they failed to pay bribes demanded at airports and at police roadside checkpoints throughout Mexico. Some said that Mexican police officers ordered them to exit public buses, extorted them, and left them to continue on foot through harsh, desert terrain. Many reported that Mexican police and other government officials seized or destroyed travel documents, including passports. Without documents, migrants in Mexico are unable to board buses and are at further risk of exploitation by smugglers as well as detention and deportation by Mexican authorities.

Black and Indigenous asylum seekers reported to pro bono legal staff interviewing individuals initially enrolled in RMX 2.0 that they had been targeted for brutal attacks in Mexico, including by Mexican police and other authorities, because of their race and/or Indigenous identity. They include:

- **In May 2022, two armed men robbed and stabbed an Afro-Colombian man at a hostel in Ciudad Juárez.** The man's brother, who witnessed the attack, managed to flee the hostel. At the time of his interview with pro bono legal staff days later, he was unaware of his brother's whereabouts or condition.
- **An Afro-Indigenous woman from Nicaragua was kidnapped in Monterrey and repeatedly robbed by Mexican officials.** She reported in an April 2022 interview with pro bono legal staff that she had been targeted in Mexico because of her physical appearance.
- **Mexican authorities repeatedly hit an Afro-Cuban man after pulling him off a bus just outside of Ciudad Juárez, injuring his hands, as he tried to protect himself.** The man told pro bono legal staff in January 2022 that the officials repeatedly referenced his race while questioning him.



- **In March 2022, Mexican police failed to intervene to assist an Indigenous man of the Puruhá people from Ecuador, as they observed him being assaulted and robbed by a group of six men in Ciudad Juárez.** The man, who was wearing traditional clothing of his people at the time and speaks limited Spanish, reported the incident to pro bono legal staff.
- **Mexican police forced an Afro-Nicaraguan woman and her younger sister from a bus, robbed them, took them to an abandoned warehouse, forced them to undress, took pictures of them while naked, and molested them, while using anti-Black racial slurs.** The woman reported the attack in an interview with pro bono legal staff in July 2022.
- **An Afro-Cuban woman was sexually assaulted and robbed by Mexican police officers.** She reported to pro bono legal staff in June 2022 that she was targeted because of her race and nationality.
- **An Afro-Venezuelan man was repeatedly assaulted and robbed by Mexican officials because of his race and nationality.** Migration official, who detained him for five days, kicked and assaulted him, dislocating his arm. He reported to pro bono legal staff in July 2022 that the officers who attacked him referred to him as “Black” and a “damn Venezuelan.” Mexican police also assaulted and robbed the man.
- **An Indigenous man from Ecuador was extorted and humiliated by Mexican police and cartel members.** According to notes from an April 2022 interview, Mexican police extorted the man, threatened to deport him, and mocked his long hair, “calling him a woman.” In a separate incident cartel members extorted him and insulted him using a derogatory term for Indigenous people and told him to “go back to your country.”
- **An Afro-Nicaraguan man reported that Mexican police targeted and extorted him and other Black migrants.** He told pro bono legal staff in March 2022 that during these incidents police officers had ordered “all black guys” to exit the buses he had been riding.
- **An LGBTQ Afro-Cuban man was kidnapped with three other Black migrants, while other non-Black migrants were not abducted.** The man told pro bono legal staff in April 2022 that individuals who were dressed like Mexican police officers also assaulted and robbed him.
- **An Afro-Cuban man was assaulted, kidnapped, and extorted by armed cartel members who targeted him because of his race and nationality.** According to notes from a June 2022 interview, the assailants called him a “damn immigrant” and referred to him as “you black people.”
- **An Indigenous man from Ecuador was detained and robbed by Mexican police who referred to him with derogatory slurs against his Indigenous identity and nationality,** according to a July 2022 interview.

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### Asylum Seekers and Migrants in RMX Subjected to Danger, Abuse in Shelters

During the implementation of RMX by the Trump administration, squalid [tent encampments](#) emerged at the border, as thousands of people were returned to Mexico without access to shelter or other support. Providing shelter options to people subjected to RMX was a key element of the Biden administration’s [pledge](#) to “reimplement[] [RMX] in a way that enhances protection for individuals enrolled in the program.” However,





given the fatal flaws of the policy, the steps taken by the Biden administration have not ensured safe housing for people returned under RMX 2.0.

People returned to under-resourced shelters in Mexico under RMX continue to endure horrendous living conditions and abuse. Some RMX returnees were not provided any shelter, including a group of Nicaraguan asylum seekers who told Kino Border Initiative in August 2022 that they had to spend several nights sleeping outside because shelters in the border town to which they were returned lacked capacity. Other returned asylum seekers reported violence and abuse at, or just outside of, the migrant shelters designated to house RMX 2.0 returnees, including:

- **Security guards at a Ciudad Juárez shelter abducted and sexually assaulted a gay Nicaraguan man sent to the shelter after DHS returned him to Mexico under RMX in March 2022.** In an April 2022 interview reviewed by Human Rights First, the man reported that shelter guards abducted him from a supermarket where he had gone to receive a money order from his mother, took him to another location, and sexually assaulted him. Guards at the shelter had on other occasions refused to allow the man to leave the shelter facility to work, taunting him that the job he had was “for a man and not for a woman” and had repeatedly stolen money that he had received from relatives. DHS initially returned the man to Mexico under RMX after determining that he did not have a fear of return there after a *non-refoulement* interview.
- **A Cuban man returned to Mexico under RMX 2.0 was beaten by a security guard and threatened at gunpoint after he complained about insufficient food at the shelter.** The man also reported in a January 2022 interview reviewed by Human Rights First that he suspected guards at the shelter colluded with people who robbed him when he left the shelter to obtain a COVID-19 test in order to be able to attend a U.S. immigration court hearing.
- **A Nicaraguan man returned to Mexico under RMX reported that security guards and Mexican police at the shelter he was taken to had psychologically abused him.** In a February 2022 interview reviewed by Human Rights First, the man said that shelter guards shook his bed and shined a light in his face as he tried to sleep and that Mexican police at the shelter their drew guns on him as he searched for a restroom. He also reported that after visiting an outside medical clinic for a visible skin condition, shelter guards refused to allow him to reenter shelter and left him on the street for hours, claiming he was “bringing an outside infection inside.”
- **A Nicaraguan and a Cuban woman in RMX separately reported that a woman they believed to be a cartel scout broke into the shelter where they were staying and threatened residents with a knife.** In April 2022 interviews reviewed by Human Rights First, the women said that a car was also circling outside the shelter, honking loudly as if to signal to the suspected cartel scout, in what the women believed was an effort to take “inventory” of the shelter’s residents for future targeting.
- **Shelter staff refused to contact authorities after two women who had been returned to Mexico under RMX disappeared after leaving the shelter where they had been staying in order to purchase medicine.** Shelter staff ignored other migrants’ pleas to call the police for help, and later punished a woman who, in violation of shelter rules, kept her cell phone through the night, waiting for an update from the missing women, according to [Buzzfeed News](#).



- **A gay environmental activist seeking asylum from Colombia who DHS returned to Mexico under RMX was forced to leave a migrant shelter in Monterrey due to homophobic harassment.** According to their attorney, Abdiel Echevarria-Caban of RAICES, the activist could not find alternative housing and ended up sleeping in the streets.
- **A man was assaulted and robbed outside the Tijuana shelter where he was brought when DHS returned him under RMX,** according to another RMX enrollee staying at the same shelter who reported the incident to Human Rights First and who saw the man arrive back at the shelter beaten and bloody after the attack.
- **A LGBTQ woman was beaten and forced to sleep on the floor at a shelter in Monterrey, where she was taken after DHS returned her to Mexico under RMX,** according to her attorney Abdiel Echevarria-Caban of RAICES.

People subjected to RMX also [reported](#) terrible conditions in the shelters designated by the U.S. and Mexican governments for RMX returnees, including filthy facilities, insufficient food, lack of access to medical care, forced labor, harsh rules restricting phone use and movement, and dangerous surroundings. For example:

- In February 2022, a Central American asylum seeker at the Leona Vicario government-run shelter housing people returned to Ciudad Juárez under RMX described the prison-like conditions as “a nightmare” with filthy bathrooms and bad, insufficient meals, according to [the Intercept](#). Shelter rules severely curtail residents’ freedom, restricting cell phone use, and only permitting residents to leave the shelter for two hours a week for limited reasons.
- Two men in RMX separately reported that in summer 2022, the murdered corpse of another shelter resident was left on the doorstep of the Tijuana shelter where they had been brought after DHS returned them to Mexico, according to their attorney Kirsten Zittlau.
- A man returned to Ciudad Juárez under RMX experienced what he believed to be a panic attack at the Leona Vicario shelter after a prior kidnapping in Mexico, but shelter staff [ignored](#) his pleas for medical attention for his severe pain until he defecated himself.
- At a Tijuana shelter housing many people returned under RMX, staff members abused residents, forced them to work, and charged them fees to receive supplies that had been donated to the shelter, according to a Nicaraguan asylum seeker in RMX whom Human Rights First interviewed in August 2022. Tasks the asylum seeker and other residents were forced to perform under threat of eviction included cleaning the personal residences of the shelter staff’s family members.
- A Nicaraguan asylum seeker with chronic pain due to a knee injury and Nicaraguan asylum seeker who suffers from gastritis were unable to obtain medical attention or medication at the Tijuana shelter where they were taken after DHS returned them under RMX, they told Human Rights First in April 2022.
- In summer 2022, gunfire hit a Tijuana shelter housing people returned to Mexico under RMX, forcing a Colombian asylum seeker and other shelter residents to lay on the ground to avoid being hit by stray bullets. The Colombian man told his attorney, Kirsten Zittlau, that when the gunfire subsided, shelter residents found two dead bodies outside the facility.



- An asylum seeker in RMX told her [lawyer](#) that staff at the Monterrey shelter where she was taken after DHS returned her to Mexico had mistreated residents, including by frequently confiscating cell phones and providing insufficient food. As a purported security measure, men were only allowed inside the shelter at night to sleep and had to spend the days outside.
- A Colombian asylum seeker reported that the Tijuana shelter to which he was taken after DHS returned him there under RMX in May 2022 was filthy and infested with rats, and that shelter staff forced residents to wake up before 5 a.m. to clean the facility. The man told Human Rights First that the shelter fed residents spoiled food that at one point made him very sick.
- A Nicaraguan asylum seeker fleeing political persecution heard gunshots on a daily basis outside Ciudad Juárez shelter where he was taken after DHS returned him to Mexico under RMX, he told [NBC News](#) in July 2022.

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### Flawed RMX Fear Interviews Returned People to Danger in Mexico

DHS [guidance](#) for RMX 2.0 states that DHS exempts from RMX any “individual who demonstrates a reasonable possibility of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion or a reasonable possibility of torture in Mexico.” But during the court-ordered reimplementation of RMX, DHS continued to return to danger individuals who had been kidnapped, tortured, and/or subjected to threats by cartels and government authorities in Mexico. These migrants and asylum seekers have been targeted due to their nationalities, race, Indigenous identity, sexual orientation, gender, and ties with family members in the United States. Despite having suffered prior grievous and targeted harms in Mexico, some individuals were returned to Mexico under RMX 2.0 after interviews conducted by DHS asylum officers that were supposed to identify and remove people with fears of return to Mexico from RMX (also referred to as *non-refoulement* interviews).

In response to the reimplementation of RMX, the UNHCR representative to the United States [stated](#) that “the announced adjustments to the policy are not sufficient to address [UNHCR’s] fundamental concerns” about the safety and due process rights of asylum seekers subjected to RMX. Indeed, continued reports of individuals sent back to Mexico who were previously kidnapped, assaulted, or threatened there confirm that RMX *non-refoulement* screenings remain fundamentally flawed. These recent dangerous returns result in people at risk of harm being illegally refouled to Mexico, including:

- **DHS determined that a Nicaraguan man, who had been previously kidnapped and beaten by Mexican police, did not have a fear of return to Mexico and returned him there under RMX 2.0.** The man reported in an April 2022 interview reviewed by Human Rights First that prior to the RMX *non-refoulement* interview Mexican police officers in collusion with an organized criminal group had kidnapped him and that officers had punched and kicked him while he was on the ground. After being returned to Mexico, Mexican police officers detained the man without cause and stole money they had just observed him withdraw from a bank.
- **In May 2022, DHS found that a Colombian asylum seeker, who had been kidnapped by a taxi driver and delivered to a house in Tijuana with other captive migrants where a uniformed police officer demanded a ransom for his freedom, did not have a fear of Mexico and returned him to Tijuana under RMX 2.0.** The



man told Human Rights First that he managed to escape by jumping out of a moving taxi as the driver took him to his hotel to retrieve cash to pay the ransom.

- **An Afro-Dominican man, who had been kidnapped and threatened at gunpoint in Tijuana after DHS returned him there under RMX 2.0, was found not to have a fear of return to Mexico in a subsequent non-*refoulement* interview,** according to his attorney Kirsten Zittlau.
- **In April 2022, DHS returned to Tijuana under RMX 2.0 a Nicaraguan man whom Mexican police had repeatedly beaten, threatened, and stalked.** On return to Mexico the man was separated from his cousin, whom DHS found to have a fear of return to Mexico based on the same attacks and removed from RMX, according to Shoshana Kushner, an attorney with Immigrant Defenders Law Center.
- **DHS returned a Nicaraguan woman to Mexico under RMX 2.0 even though Mexican cartel members had previously kidnapped, tied up, and robbed the woman,** as she recounted in an April 2022 interview reviewed by Human Rights First.
- **DHS returned a Nicaraguan asylum seeker to Mexico under RMX 2.0, who had been repeatedly beaten and robbed by Mexican police.** According to Kino Border Initiative, on one occasion police beat and robbed the man, and left him on the side of a highway, and in another incident robbed and threatened him in Monterrey.

DHS statistics confirm that few individuals have been found to have a fear of return to Mexico under RMX 2.0. According to DHS [data](#), only 18.6 percent of all individuals that received a non-*refoulement* interview decision were found to meet the heightened fear standard (2,224 of 11,949 interviews), despite the widespread and grave dangers to individuals returned to Mexico under RMX, as Human Rights First and other human rights monitors have extensively documented. This low rate is similar to RMX fear screenings conducted during the Trump administration, when only approximately [14 percent](#) of individuals were found to meet the even more heightened standard applied by DHS at that time.

As during the Trump administration, the manner in which RMX non-*refoulement* interviews are conducted remained fundamentally flawed. The Biden administration chose to use a heightened interview standard, instead of the credible fear standard set by Congress for the expedited removal process, for RMX non-*refoulement* interviews. The “reasonable possibility” [standard](#) applied in these preliminary interviews is equivalent to what asylum seekers must show to establish eligibility for asylum after a full immigration court hearing. Fear interviews conducted while individuals had been held—often for days—in often freezing CBP holding cells. Very few individuals managed to secure counsel for their fear interview. **An attorney or consultant was present during only 1 percent of RMX fear interview interviews** (114 of 8,738) between December 2021 and early August 2022, according to government [data](#).

Some asylum seekers were not questioned about their potential fear of return to Mexico, as required under DHS [guidance](#) on RMX 2.0, which provides that “all individuals encountered will be affirmatively asked questions by DHS personnel about their potential fear of return to Mexico.” Colombian and Nicaraguan asylum seekers told Human Rights First in September 2022 that they were never asked if they feared return to Mexico and were not given an opportunity to consult with a lawyer before DHS returned them to Tijuana under RMX 2.0. A Colombian man not questioned about whether he feared return to Mexico also reported that he was kept in a *hielera* (cold



holding cell) for days in Chula Vista, California, where abusive CBP officers forced him to sign forms in English that he did not understand without explaining them.

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### Despite Expanded Exceptions Criteria, Dangerous Returns of Vulnerable Individuals Continued

After additional negotiations with the Mexican government, the Biden administration reimplemented RMX with expanded exceptions “to protect particularly [vulnerable individuals](#) from being enrolled in the program.” These new vulnerability criteria [included](#) people “at increased risk of harm in Mexico due their sexual orientation or gender identity” and “those with particular vulnerabilities given their advanced age,” in addition to the existing exemption for persons with “a known mental or physical health issue.”

Despite the expanded DHS [policy](#) on vulnerabilities, LGBTQ persons, people with [serious health issues](#), and individuals with other vulnerabilities continued to be returned to Mexico. For example:

- A woman with [epilepsy](#), who was returned to Mexico under RMX 2.0 despite her serious health condition, suffered multiple seizures at a shelter in Mexico and was unable to obtain needed medication, according a researcher with the Women’s Refugee Commission.
- A Peruvian man with a tumor the size of a fist was returned to Mexico under RMX 2.0. The man was ultimately removed from RMX in July 2022 but remains detained in Otay Mesa detention center as of September 2022, according to his attorney Kirsten Zittlau.
- A Colombian man with severe hypothyroidism was placed in RMX 2.0 and returned to Mexico in June 2022 despite visible symptoms of his condition and was not removed from RMX until September 2022. According to his attorney Kirsten Zittlau, the man’s condition worsened in Mexico where he was unable to obtain treatment.
- A woman with “a history of mental health issues,” who had been placed in RMX 2.0, attempted suicide in Mexico while waiting on an asylum decision, according to [Axios](#). A DHS spokesperson said that the incident “highlight[ed] the endemic flaws that [DHS] Secretary Mayorkas identified with [RMX] in his termination memos.”
- As discussed above, many LGBTQ individuals subjected to RMX 2.0 were sent back to Mexico and attacked there *after* DHS returned them.

A significant number of individuals were removed from RMX under the vulnerability criteria. DHS [data and analysis](#) indicate that vulnerability exemptions account for approximately 65 percent of the 4,539 individuals, who were removed (or “disenrolled”) from RMX before being returned to Mexico between December 2021 and early August 2022.<sup>5</sup> Overall, nearly [38 percent](#) of individuals initially subjected to RMX 2.0 (4,539 out of

<sup>5</sup> For instance, between January and June 2022 pro bono legal staff who conducted interviews with 1,954 individuals placed in RMX 2.0 identified hundreds of individuals who qualified for exceptions under DHS policy, including 285 LGBTQ+ identified persons, 254 people with serious medical conditions that would disqualify them from placement in RMX, 77 people who had been separated from family members, 36 people with disabilities, and 9 elderly people.



11,970 people) were disenrolled from the policy prior to being returned to Mexico based on the vulnerability criteria, because they received a positive fear of Mexico screening determination, or based on other eligibility grounds.

However, an online [portal](#) created by DHS to allow individuals in RMX to request exceptions from the policy after being returned to Mexico was not effective, according to multiple attorneys and researchers. Many migrants and asylum seekers who were returned to Mexico under RMX 2.0 were unaware of the portal or did not know how to access it, according to Savitry Arvey, a researcher with the Women’s Refugee Commission, who interviewed women in RMX in Monterrey migrant shelters in May 2022. In addition, the form soliciting information from people seeking to be removed from RMX was initially only in English, making it extremely difficult for most individuals to navigate the process without the assistance of an attorney or other English-speaking advocate.

When exception requests were made through the online RMX portal, DHS took days or weeks to respond, failing to timely address urgent needs for protection. For example, in June 2022, Kirsten Zittlau, an attorney assisting RMX enrollees in Tijuana, used the online RMX portal to request a non-*refoulement* interview for a Colombian asylum seeker being pursued by a cartel in Mexico, but received no response from DHS for days. During that wait, Mexican police officers, who appeared to be working with the cartel that had threatened the man, appeared at the shelter where he was staying, forcing him to escape through a back door. A Cuban asylum seeker also in RMX, who told the officers that the Colombian man was not there, was detained and remains missing. Mexican police officers later returned to the shelter searching for the Colombian man. Zittlau was ultimately able to convince a CBP officer to process her client into the United States at a port of entry. She told Human Rights First that the online portal was not effective for urgent protection cases: “I’m sure my client would be dead. We would never have gotten a [*nonrefoulement* interview] through that process in time.”

Concerningly, multiple attorneys and asylum seekers also reported that individuals disenrolled through the portal were subsequently detained, some for months, in Immigration and Customs Enforcement detention centers.

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### RMX 2.0 Continued to Impose Severe Restrictions on Access to Legal Assistance, Due Process in U.S. Immigration Courts

RMX 2.0 continued to deny many asylum seekers due process and drastically restricted access to counsel, legal information, and the ability of asylum seekers to attend and participate in their own immigration court hearings. DHS acknowledged in its [memorandum](#) terminating RMX in October 2021 that “difficulties in accessing counsel . . . are endemic to the program’s design.” Access to counsel is crucial for asylum seekers to receive the refugee protections they qualify for and particularly for individuals subjected to RMX. During the Trump administration, asylum seekers subjected to RMX 1.0 who were represented by counsel were 12 times more [likely](#) to be granted protection than those who were unrepresented.

DHS stated that it would take steps to “[protect\[\] individuals’ rights to a full and fair hearing.](#)” But given the fatal flaws in RMX, including its logistical, security and ethical impediments, and limited existing legal representation resources, very few subjected to RMX 2.0—the vast majority of whom were from Cuba, Nicaragua, and



Venezuela countries from which many refugees are fleeing repressive regimes and deepening political and humanitarian crises—were able to secure legal counsel.

Indeed, a smaller percentage of asylum seekers subjected to RMX 2.0 were able to find lawyers while stranded in Mexico than during the Trump administration, only a tiny number were granted asylum, and many of the migrants and asylum seekers subjected to RMX 2.0 continued to receive *in absentia* removal orders. For instance:

- **Representation Rates Declined Under RMX 2.0.** During the first six months of its reimplementation, only five percent of people sent to Mexico under RMX 2.0 were represented by lawyers, according to government data analyzed by the Syracuse University Transactional Records Access Clearinghouse (TRAC). This dismally low representation rate is even lower than during the Trump administration when eight percent of those subjected to RMX 1.0 were represented by attorneys, according to TRAC.
- **Abysmal Asylum Grant Rates Unchanged.** Very few people in RMX 2.0 have been granted asylum protection. As of June 30, 2022, immigration judges hearing RMX cases granted asylum to only 63 individuals out of 1,632 concluded RMX 2.0 cases, resulting in an asylum grant rate of less than 4 percent of completed cases—nearly identical to the 4.1 percent grant rate for completed RMX 1.0 cases during the Trump administration. By comparison, nearly 50 percent of all immigration court asylum decisions resulted in a grant of asylum or other relief in the same period between December 2021 and June 2022. The gauntlet of RMX, rather than the merits of asylum seekers' requests for protection, continued to determine the outcome of these cases.
- ***In Absentia* Removal Order Rates Remain High.** Seventy-five percent of completed RMX 2.0 cases ended with *in absentia* removal orders (1,222 of 1,632) after the individual missed a hearing. This troublingly high *in absentia* rate is virtually unchanged from the 72 percent *in absentia* removal order rate for completed RMX 1.0 cases under the Trump administration. Asylum seekers in RMX have reported being unable to appear for immigration court hearings because they had been kidnapped or attacked in Mexico at the time of their hearing, lacked financial resources to return to court, were experiencing serious medical issues, or had encountered other emergency situations. For example, a Venezuelan asylum seeker told Human Rights First a judge ordered him removed *in absentia* in July 2022 when he was forced to miss the hearing because he had fallen ill and was hospitalized in Tijuana for a week.

Unrepresented asylum seekers in RMX 2.0 who have been unable to fully prepare their asylum requests, including the requirement to translate all evidence into English, have been denied asylum. Savitry Arvey and Yael Schacher, [researchers](#) from the Women's Refugee Commission and Refugees International, reported that an immigration judge at the Laredo RMX immigration court in Texas denied asylum to two unrepresented Nicaraguan women subjected to RMX 2.0 because they failed to submit evidence translated into English. The judge told another Nicaraguan woman in RMX in May 2022, that if she did not submit evidence translated into English to support her asylum application, the judge would deny her asylum request at the next hearing scheduled three weeks later. Without access to U.S. immigration attorneys, most asylum seekers are unaware of and unable to begin preparing asylum applications and other necessary evidence until they are informed of these requirements in immigration court or by the few organizations providing legal information to people in RMX, according to Juan Manuel De la Rosa with the U.S. Committee for Refugees and Immigrants (USCRI).

Many individuals in RMX 2.0, as was the case during the policy's implementation during the Trump administration, have reported that they were unable to connect with U.S. immigration lawyers to represent them



in their requests for asylum. Few of the organizations included on the lists of free and low-cost legal service providers provided by DHS to asylum seekers have capacity to meet the enormous need for representation among the thousands of asylum seekers returned to Mexico under RMX. Indeed, the list provided for the Laredo port of entry, where nearly [800](#) people had been returned as of July 2022, had only a [single](#) legal services provider. Due to security threats and the policy's denial of due process, some organizations and attorneys that previously assisted people in RMX 1.0 did not represent people returned under RMX 2.0. For example:

- A cartel threatened attorney Taylor Levy as the cartel kidnapped a family in front of her in the course of her work assisting asylum seekers in RMX 1.0. She told Human Rights First, "I'm not going to subject myself again to the physically and emotionally draining work required to represent people in Remain in Mexico. I'm unwilling to put my life at risk to help the U.S. government revive this cruel and illegal program."
- The organization Al Otro Lado also refused involvement in RMX 2.0. Nicole Ramos, an attorney directing the organization's Border Rights Project, told Human Rights First, "we're not going to legitimize an illegal program that violates the most basic due process rights of asylum seekers and exposes them to unspeakable danger."

Some unscrupulous individuals are taking advantage of the vulnerability of asylum seekers forced to remain in Mexico under RMX. A Colombian man returned to Mexico under RMX 2.0 in the summer of 2022 and his girlfriend in the United States were threatened and extorted by individuals whom the man had been led to believe were legal services providers. The extortionists obtained the girlfriend's phone number and address by telling the man that they needed the details of the person who would receive him in the United States, according to attorney Kirsten Zittlau, who subsequently took on his case. Michael Salorio, an attorney with USCRI who represents asylum seekers returned to Tijuana under RMX 2.0 also reported that:

- In summer 2022, an asylum seeker returned to Tijuana under RMX 2.0 who responded to a text message from a person claiming to be a lawyer was robbed when the asylum seeker went to a meeting arranged with the supposed attorney.
- In spring 2022, an asylum seeker returned to Tijuana through RMX 2.0 paid \$300 to a Mexican public notary claiming to be a U.S. immigration lawyer, but the asylum application prepared so poorly that it could not be submitted to the court.
- In spring 2022, several other individuals who had been sent to Tijuana under RMX 2.0 paid people claiming to be U.S. lawyers who later disappeared with their money without providing legal services.

Other asylum seekers told Human Rights First that they had paid between two to eight thousand dollars to U.S. attorneys who did little to no work on their cases. A Nicaraguan asylum seeker returned to Tijuana under RMX reported to Human Rights First that he had been unable to recover any of the \$2,000 he paid to a U.S. lawyer who withdrew from his case after appearing at only one hearing and failed to help him prepare or file his asylum application.

The few attorneys able to attempt to provide some limited assistance to individuals in RMX 2.0 have encountered multiple obstacles to providing effective legal assistance. These problems include low-quality and inconsistent cell phone [service](#) in Mexico and restrictive shelter policies that limit residents' access to technology and constrain their ability to communicate with legal offices. In March 2022 [letters](#) to DHS, ProBAR and the Vera





Institute of Justice, organizations that had attempted to provide legal services for individuals in RMX, expressed concern about restrictions and conditions in shelters designated by the U.S. and Mexican governments for people forced to wait in Mexico under RMX 2.0 that impeded their access to legal services and information, including:

- Several shelters restricted cell phone use, which is often the only way for asylum seekers in RMX to search for and communicate with U.S. attorneys. One shelter permitted cell phone usage during limited hours and threatened to take cell phones away for “bad behavior.”
- Several shelters where people in RMX were returned lacked private meeting spaces, making it difficult for asylum seekers in RMX to have confidential meetings or calls with their legal counsel to discuss sensitive details needed to prepare their asylum cases effectively.
- Some shelters that held people in RMX lacked computers and Wi-Fi, creating a significant barrier to preparing asylum applications in English, gathering and translating evidence, writing declarations, and accessing legal information in preparation for RMX immigration court hearings. For example, Leona Vicario, a government-run shelter housing people returned through RMX to Ciudad Juárez has only one computer. Shelter staff controlled residents’ access to the computer allegedly based on their behavior. At least one shelter did not allow residents access to a printer to print evidence for their cases.

In Laredo and Brownsville, Texas, RMX 2.0 cases continued to be heard in soft-sided, temporary [tent court](#) facilities that created additional obstacles for asylum seekers to present their cases. Some individuals appearing in these courts were forced to undertake exhausting and stressful multi-hour travel through cartel-controlled territory from designated RMX shelters in Monterrey to attend RMX court hearings. For example, to attend 1:30 p.m. RMX tent court hearings in Laredo, people in RMX sent to Monterrey shelters had to board buses arranged by Mexican officials at [3 a.m.](#) to transport them to the border, according to Colleen Killbride an attorney with the National Immigrant Justice Center who spoke with people with RMX hearings in Laredo. The use of tent court facilities also interfered with asylum seekers’ ability to communicate and explain their requests for asylum. Immigration judges hearing RMX tent court hearings appear remotely via small video screens and asylum seekers were required to speak through [masks](#). Studies have shown that the use of video-conference hearings result in [higher denial rates](#), and their use also raises added concerns about unfair adverse [credibility](#) determinations when adjudicators cannot directly see or hear the applicant.

Attorneys representing asylum seekers trapped in Mexico under RMX have noted the toll of their attempts to provide them assistance. For example, Kirsten Zittlau, who has represented more than a dozen individuals returned to Tijuana under RMX 2.0, told Human Rights First in September 2022 that RMX cases “take[] everything out of you as an attorney. You’re so emotionally and physically spent. You’re just wondering every time you send a message to a client in Mexico, if they’re alive. . . . It’s emotionally and mentally devastating. I’ve heard several clients break down. . . . They’re having such intense breakdowns. That level of desperation I’ve never heard in my life. It takes such a toll on you.”



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## Mission Statement

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

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