

DECLARATION OF JULIA NEUSNER

I, Julia Neusner, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Legal Fellow in the Refugee Protection Program at Human Rights First. I make this declaration based on my personal knowledge and my interviews with refugees and migrants who have entered or attempted to enter the United States along the U.S.-Mexico border.
2. This declaration addresses three overarching issues. First, under Title 42 asylum seekers are being expelled to Mexico where they are targeted by criminal organizations for kidnappings, extortion, or other attacks. By expelling them, often at night, the U.S. government is putting vulnerable people directly in harm's way. Second, DHS is conducting expulsions in a manner that increases the likelihood that they will get sick, specifically by flying them from one part of the border to another for expulsion without testing or basic COVID protocols (so-called "lateral flights"). Third, asylum seekers blocked from seeking safety in the United States are living in encampments in unsafe conditions, where they lack access to adequate health care and become even more obvious targets for gangs and criminal elements.

My Research and Expertise

3. I have worked for Human Rights First since September 2020. Human Rights First is a national non-profit, non-partisan organization that provides pro bono legal services to asylum seekers and advocates for the United States government to uphold its human rights obligations abroad and at home, including its duties to refugees and asylum seekers under U.S. law and international treaties. I received a Juris Doctor from Stanford Law School and a master's degree in international policy from Stanford University in June 2020.
4. During the past year I have led Human Rights First's research on the effects of the Title 42 expulsion policy, interviewing hundreds of asylum seekers returned to Mexico or turned away at ports of entry. I conducted field research in migrant shelters and tent encampments in Tijuana for three weeks in March and April 2021 and in Ciudad Juárez for one week in June 2021. I also remotely interviewed hundreds of asylum seekers located in Mexican cities including Piedras Negras, Monterrey, Reynosa, Matamoros, Nuevo Laredo, and others. I have also interviewed numerous individuals working with asylum seekers, including Mexican immigration officials, migrant shelter staff, pastors and members of religious orders assisting asylum seekers, non-profit legal and social service providers, and private immigration attorneys. Based on these investigations, I co-authored four human rights reports.¹

¹ 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->

Asylum Seekers Expelled to Mexico Face a Perilous Security Situation

5. Asylum seekers sent by DHS to Mexico under Title 42 are exposed to violent attacks and exploitation. During the time asylum seekers are forced to wait in Mexico for the opportunity to request U.S. protection, they have been and are targeted based on characteristics that mark them as foreign nationals in Mexico, including their accent and/or primary language and physical appearance, as well as on account of race, gender identity, and sexual orientation, among other characteristics.
6. Many asylum seekers and service providers told me that criminal organizations specifically target migrants returned to Mexico by DHS for kidnappings, extortion, and other attacks—often with the participation or complicity of Mexican police and/or other Mexican security forces. DHS sometimes expels families in the middle of the night without their shoelaces, a practice which clearly marks the families as expelled migrants and makes them even more vulnerable to kidnapping by cartels.² More than ten asylum seekers told me they were kidnapped after DHS expelled them to unfamiliar cities far from where they'd entered the U.S. Some were kidnapped within minutes of being expelled.
7. My colleagues at Human Rights First and I track publicly reported cases of violent attacks against asylum seekers blocked or expelled to Mexico under Title 42. This tally is based on direct interviews my colleagues and I conduct with asylum seekers and/or their attorneys, incidents reported by other human rights groups and service providers (including Al Otro Lado, Human Rights Watch, Amnesty International, and Doctors Without Borders), as well as published media accounts.
8. As of June 17, 2021, Human Rights First has tracked 3,250 kidnappings and other attacks, including rape, human trafficking, and violent armed assaults, against asylum seekers and migrants expelled to Mexico or blocked from crossing the U.S.-Mexico

expel; Human Rights First, Al Otro Lado, and Haitian Bridge Alliance, “Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger,” (April 2021) *available at* <https://www.humanrightsfirst.org/resource/failure-protect-biden-administration-continues-illegal-trump-policy-block-and-expel-asylum>; Human Rights First: “Update: Grave Dangers Continue for Asylum Seekers Blocked In, Expelled to Mexico by Biden Administration,” (June 2021) *available at* <https://www.humanrightsfirst.org/resource/update-grave-dangers-continue-asylum-seekers-blocked-expelled-mexico-biden-administration>. Human Rights First and Hope Border Institute, “Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome.” (July 2021) *available at* <https://www.humanrightsfirst.org/sites/default/files/DisorderlyandInhumane.pdf>.

² “Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger,” p. 28.

border since January 2021.³ This tally includes incidents published in media, interviews of asylum seekers by Human Rights First, information from attorneys and humanitarian services providers at the border, as well as more than 2,700 reported incidents of violent attacks against migrants and asylum seekers stranded in Mexico that were received through an ongoing electronic survey conducted by the organization Al Otro Lado and reviewed by Human Rights First.

9. For example, a Honduran woman I interviewed in a Juárez shelter told me that she and her seven-year-old daughter were kidnapped immediately after DHS expelled them to Juárez via a lateral expulsion flight from the Rio Grande Valley in April 2021. Mexican migration officials at the State Population Council (COESPO) of Chihuahua had told the woman that shelters were full and that the family had to find housing on their own. Immediately after mother and child left the COESPO office, armed men kidnapped them and held them captive for two months in a house where they were forced to sleep on the floor with dozens of other kidnapping victims and deprived of sufficient food and clean drinking water, with nothing but potatoes and eggs to eat. They managed to escape while being transported to another location. As of June 2021, the family remained in danger in a Juárez migrant shelter, experiencing nightmares and difficulty sleeping due to the trauma they suffered.⁴

10. I interviewed at least 20 asylum seekers who had requested U.S. protection after having been kidnapped in Mexico who reported that DHS expelled them without asking if they feared returning to Mexico. DHS expelled a Salvadoran woman and her two children in June 2021 immediately after the family had escaped from kidnappers who had forcibly held them for 10 days, extorted the woman's sister for thousands of dollars, and fired shots at the family as they ran away. The woman told me that U.S. immigration officers mocked her as she begged them not to return the family to Ciudad Juárez just hours after they crossed the border to ask for protection in the United States. On their return, Mexican immigration officers took her cell phone. As of June 2021, the woman's sister was still receiving threatening messages from the kidnappers and the family was terrified to leave the Juárez shelter where we spoke.⁵

11. Another Guatemalan family with two young children reported having been kidnapped immediately after DHS expelled them to Nogales by armed men who demanded a \$15,000 ransom for their release. Border Patrol agents had transferred the family 17 hours by bus from where they had entered Texas to request asylum. When their

³ Human Rights First, "Human Rights First Tracker of Reported Attacks During the Biden Administration Against Asylum Seekers and Migrants Who Are Stranded in and/or Expelled to Mexico" (last updated 6/17/2021) *available at* <https://www.humanrightsfirst.org/sites/default/files/AttacksonAsylumSeekersStrandedinMexicoDuringBidenAdministration.6.17.21.pdf>

⁴ Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome," *supra* note 1 at 3.

⁵ *Id.* at 4.

captors released them, they put them on a bus to Tijuana, where the traumatized family was still waiting in fear when I interviewed them in April 2021.⁶

12. I interviewed many asylum seekers who were kidnapped or attacked in Mexico while waiting for U.S. asylum processing to resume. A Honduran woman fleeing death threats by a gang that murdered her partner was kidnapped in Mexico and trafficked for sexual exploitation for three months before she managed to escape in April 2021 and reunite with her 12-year-old daughter, who had been staying with another family member in Mexico. I spoke with the woman by phone while she was hiding in a Tijuana shelter, traumatized, depressed, and terrified that her traffickers would find her again. Though she has contacted multiple legal services organizations for help, she and her daughter have been unable to access the Title 42 exemption process and remain in danger in Mexico as of August 2021.
13. Several asylum seekers told me that Mexican police refused to investigate kidnappings and attacks against them or were complicit in their perpetration. A Honduran mother with three young boys recalled being kidnapped by Mexican police in Reynosa at the end of March 2021. Police ordered her and other families onto a bus, then sold the busload of people to a cartel, who held them captive until her family paid ransom. Badly shaken, she and her children crossed the U.S. border to seek asylum. DHS expelled them back to Mexico.⁷ Another Salvadoran mother told me that Mexican police kidnapped, tortured, and robbed her 16-year-old son in Piedras Negras in April 2021 while the family was waiting to request U.S. asylum.
14. Asylum seekers fleeing gender-based violence risk being discovered by their persecutors in Mexico. I interviewed several women escaping abusive ex-partners who had located them in Tijuana. In April 2021, I spoke with a Guatemalan Indigenous woman who was raped in the street in Tijuana after DHS expelled her there with her three young children in February 2021. The family had crossed the border at Mexicali to seek asylum after fleeing abuse and threats by the woman's ex-partner. I also interviewed a Salvadoran mother and children who had entered the United States seeking protection in March 2021 after the woman's ex-partner had tried to kill her. DHS expelled them to Tijuana, where the woman received threatening WhatsApp messages from her abusive ex-partner, who knew which shelter she was staying at and told her he had eyes on her in Tijuana.⁸

⁶ Julia Neusner, "Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue," (May 2021) available at <https://www.humanrightsfirst.org/blog/kidnapped-raped-and-robbed-dangerous-title-42-expulsions-mexico-continue>.

⁷ "Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger," *supra* note 1.

⁸ "Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue," *supra* note 6.

15. Mexican asylum seekers are particularly vulnerable, trapped in the very country they are trying to flee. Multiple Mexican asylum seekers have reported that they were fleeing the country after brutal murders of their family members. A Mexican grandmother fled to the border with her nine young grandchildren and their mothers after gang members had murdered the woman's two sons on the doorstep of the family home and threatened the rest of the family. They had also shot her two-year-old granddaughter, who had been standing outside with her father. The bullet passed through the child's body and out her arm. Another Mexican grandmother told me a cartel had killed her husband, daughter, and son. They took over her house, forcing her to flee with her two grandchildren before they had time to gather anything for the trip. When I met the families in a Tijuana shelter in April 2021, they had been waiting for more than a month for asylum processing to resume, terrified their persecutors would find them there.⁹ In a shelter in Ciudad Juárez, I interviewed a grandmother from Michoacán fleeing with her surviving family members who had hid in her home helpless as masked men abducted her husband and adult son, who were found the next day shot to death. Several family members fleeing with her reported that they continue to receive death threats, but as of late June 2021, the family could not seek asylum in the United States due to Title 42.¹⁰

DHS Endangers Migrants By Moving Them from One Border Location to Another for Expulsion

16. At various points in 2021, DHS has transferred migrants via plane from one sector of the border to another, and then expelled them at the second location, in a program known as "lateral transfers." In April 2021, I interviewed more than 50 families with young children in a shelter who had been expelled to Tijuana via lateral transfer flights after having entered the United States in the Rio Grande Valley or other parts of the border.¹¹ The families recalled nearly identical experiences in DHS custody. They recalled being detained with their children for days in extremely cold, crowded holding cells after border patrol agents seized all but one layer of their clothing. Many had to sleep on the floor. All reported that DHS did not separate sick detainees from the group, provided minimal or no medical care, and failed to test anyone for COVID-19. The families were transferred in packed vans to the airport, then flown 1,500 miles to San Diego, where they were again packed into vans and expelled to Tijuana. Some told me that other families they'd met in the holding cells were released into the United States.

⁹ "Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue."

¹⁰ Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome," *supra* note 1 at 4.

¹¹ See Kate Morrissey, "Biden expelling asylum-seeking families with young children to Tijuana after flights from Texas" San Diego Tribune (April 2021) *available at* <https://www.sandiegouniontribune.com/news/immigration/story/2021-04-09/biden-expelling-families-tijuana>

17. All families transferred from the Rio Grande Valley reported that DHS seized all their belongings, including clothing, medication, and food for their children, and did not return their belongings when they were expelled. Most reported receiving little or no food in DHS custody. I watched Mexican government vans deliver a group of about forty migrants to the shelter who had been transferred by flight from the Rio Grande Valley earlier that day. They exited the van with no belongings except a clear plastic bag containing their cell phones and documents. Their shoelaces had all been removed. The pastor running the shelter told me that the Mexican government had been delivering 50 to 100 asylum seekers expelled this way each day for weeks, and that many were arriving at the shelter weak and without having eaten for several days.¹²
18. A Honduran woman told me DHS expelled her while she was visibly limping due to an injured ankle along with her seven-year-old daughter to Ciudad Juárez via a lateral expulsion flight in April 2021, refusing to provide even ice to address the swelling.¹³ I also spoke to a Honduran grandmother with blindness who told me that in July 2021, DHS expelled her alone to Reynosa after separating her from her daughter and grandchildren, with whom she had entered the U.S. to ask for asylum protection after the family fled death threats by gangs in Honduras and was kidnapped for 15 days in Mexico. A pastor had to find another asylum seeker to take care of the grandmother, who requires 24-hour assistance due to her blindness.

Asylum Seekers Expelled to Mexico Are Living In Places Without Access to Adequate Health Care, and Where Criminal Elements Can Easily Prey on Them

19. Asylum seekers blocked from the U.S. border or expelled to Mexican border cities lack access to secure housing. In August 2021 I have spoken with asylum seekers and service providers who reported that shelter capacity is lacking in the Mexican cities of Tijuana, Ciudad Juárez, Piedras Negras, and Reynosa; and that many are forced to sleep in the streets or in other precarious conditions. Large tent encampments have emerged in Tijuana and Reynosa. I spoke with many asylum seekers with medical issues who endure challenging living conditions and lack access to the medical care they need. Without money, resources, or employment opportunities, many asylum seekers who have been expelled to Mexico do not have enough to eat.

¹² “‘They Lied to Us’: Biden Administration Continues to Expel, Mistreat Families Seeking Asylum.” Human Rights First (May 2021) *available at* <https://www.humanrightsfirst.org/blog/they-lied-us-biden-administration-continues-expel-mistreat-families-seeking-asylum>

¹³ Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome,” *supra* note 1.

20. In Tijuana, more than 2,000¹⁴ asylum seekers blocked from crossing the border or returned to Mexico by DHS under Title 42, including large numbers of children, are sheltering in a makeshift tent encampment immediately adjacent to the San Ysidro port of entry, which renders them an obvious and easy target for rape, kidnapping, human trafficking, robbery, assault, and extortion. The Mexican government does not provide regular police or private security to guard the camp. When I visited the camp in April 2021, there were no police officers in sight. A Honduran asylum seeker who was staying in the camp told me that in April 2021, Mexican men he believed to be gang members had approached him in the camp and asked him to transport drugs and threatened him with death if he refused.
21. Multiple asylum seekers staying in the camp told me that people they believed to be gang members had forcibly removed at least eight Central American men from their tents and forced them into cars. As of May 2021, the men who were taken had not returned to the camp.¹⁵ Some Mexican asylum seekers refused to leave their tents, frightened at the prospect that they might be seen by gang members patrolling the area. One father had been beaten nearly to death by gang members that were trying to recruit his sons in Michoacán. He told me, “the same gang that was after us back home operates here.” He and his sons were so afraid to go outside that they went to the bathroom in buckets inside their tent. A trans woman from Chiapas, Mexico crossed the border to seek U.S. asylum after she suffered abuse for her gender identity. U.S. immigration officers expelled her to Tijuana, and as of April 2021 she remained in the tent encampment, constantly afraid for her safety.¹⁶
22. More recently, I interviewed a Mexican woman by phone who, after being threatened with death in Michoacán, asked for U.S. asylum with her family at the San Ysidro port of entry in July 2021. After DHS turned the family away, they tried to sleep in the tent encampment near the port of entry. A man in the encampment charged her money to stay there, then a group of men assaulted the woman’s teenage daughter.
23. Another family from Michoacán had a similar experience in June 2021. After gang members tried to kill them, they asked for asylum at the San Ysidro port of entry and were turned away. A man in the tent encampment who had offered to help the family assaulted the mother. I also spoke to a Salvadoran man who was robbed of all his belongings in the Tijuana tent encampment in July 2021 after he had attempted to ask for asylum at the San Ysidro port of entry and DHS officers turned him away. Though both families from Michoacán and the Salvadoran man have contacted advocacy organizations for help, they have been unable to access exemption processes and all remain in danger in Mexico as of August 2021.

¹⁴ “Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger” *supra* note 1.

¹⁵ *Id.*

¹⁶ “Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue,” *supra* note 6.

24. In Reynosa, approximately 3000 migrants and asylum seekers are staying in a tent encampment in Plaza las Américas, the city's center plaza, where they endure horrendous living conditions and are vulnerable to violent crime.¹⁷ I interviewed more than 15 asylum seekers by phone in July and August 2021 who are currently staying in the Reynosa encampment, sleeping on the ground in tents or out in the open. All reported horrible living conditions in the encampment, including dirty, fly-infested toilets, excruciating heat, and destructive storms. An Afro-Honduran woman told me she developed a fungus on her feet after walking barefoot in the toilet area. Many reported that their children became sick with nausea and flu symptoms in the encampment. Several asylum seekers told me they or their children lost significant amounts of weight because they did not have enough to eat.
25. Asylum seekers living with health conditions in the Reynosa encampment are unable to obtain the care they need. I spoke to a Honduran woman who, after fleeing death threats by gang members who killed her brother, is now staying with her 12-year-old daughter in the Reynosa tent encampment. The mother, who has kidney disease, is experiencing severe abdominal pain, headaches, and back pain from sleeping on the ground. Her daughter is so depressed that she's stopped speaking and her hair is falling out. They have been unable to obtain healthcare. Though they have contacted advocates for help, as of August 2021 they remain in danger in Reynosa.
26. Another Honduran woman and her 9-year-old daughter were robbed of all their money and valuables in Reynosa immediately after the U.S. government expelled them there in July 2021. After sleeping on the ground in a tent for weeks, cysts in the woman's breasts became inflamed and painful. Her daughter became ill with stomach pain so severe she could not sit up.
27. I interviewed another Honduran woman who was kidnapped with her 9-year-old son and held captive in horrendous conditions for 10 days before the woman's sister managed to pay ransom. Unable to ask for U.S. protection at the port of entry due to Title 42, the traumatized family went to the Reynosa tent encampment, where they slept on the ground for months. The child became weak, tired, and malnourished. The mother, who had been diagnosed with an ovarian cyst, was in severe pain, but as of July 2021, neither could access medical care in Reynosa.
28. I interviewed many asylum seekers facing threats to their personal security in the tent encampment. At least one asylum seeker has been kidnapped directly from the encampment.¹⁸ In July 2021 a Honduran woman told me she was terrified to leave her

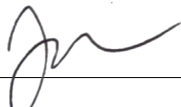
¹⁷ Sandra Sanchez, "Mexican officials order migrant shelter in Reynosa to evacuate or face bulldozing," Border Report (July 2021) *available at* <https://www.borderreport.com/hot-topics/immigration/mexican-officials-order-migrant-shelter-in-reynosa-to-evacuate-or-face-bulldozing/>

tent because of a man in the camp who was harassing her and had repeatedly threatened to assault her. Another Honduran woman told me that in July 2021, a group of men had repeatedly recorded photos and videos of her teenage daughters, who were terrified to leave their tents for fear of being kidnapped. Another Honduran woman fleeing domestic abuse with her 8-year-old son told me she was robbed of all her belongings in Mexico before asking for U.S. protection. DHS expelled her to Reynosa where, desperate to avoid the tent encampment, she accepted an offer to work and live with a local family. Her employer repeatedly abused her in August 2021, forcing her to stay in the encampment, where she and her son remain in danger.

I declare under penalty of perjury under the laws of the United States and New York that the foregoing is true and correct.

Executed on: August 10, 2021, in Brooklyn, New York, United States.

Signature:



Julia Neusner