



Because of COVID-19 restrictions, Gianna was stopped in Ciudad Juárez before she could apply for asylum.

## **Protection Denied:**

Humanitarian Consequences at the U.S. Southern Border One Year Into the Biden Administration



# Executive Summary

“The hopes we have in the new government is what we have been waiting on for a long time, only now, with the new president, they are much greater. But [Biden] needs to see that we are still here. We haven’t gone anywhere and our wait continues.” - **Yolani, Honduran asylum seeker placed in MPP and awaiting proceedings in Nogales, Sonora.**<sup>1</sup>

On February 2, 2021, less than two weeks after taking office, the Biden administration issued a series of presidential actions regarding immigration, including an executive order to provide safe and orderly processing of asylum seekers at the United States border.<sup>2</sup> The executive order promised to restore and strengthen the U.S. asylum system through safe, orderly, and humane reception and processing of asylum seekers at the border, noting that immigrants have made the U.S. stronger and better for generations

and that policies enacted under the Trump administration contravened U.S. values and caused needless suffering.

**One year into the Biden administration, however, some of the most severe Trump-era policies that have decimated access to asylum — commonly known as “Title 42” and “Remain in Mexico” — remain in force.** These measures effectively “externalize” asylum beyond U.S. borders, making U.S. territory unreachable to foreign nationals who do not have permission to enter — even if they are exercising their human right to seek asylum — and require Mexico and other countries to carry increasingly challenging burdens to meet humanitarian needs. Rather than welcoming with dignity, asylum seekers’ rights continue to be violated by the U.S. Moreover, these draconian and inhumane U.S. border policies have arguably increased

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1 Save Asylum: Migrant March to End the Wait. January 19, 2021. <https://www.saveasylum.org/januaryaction.html>

2 The White House: Executive Order on Creating a Comprehensive Regional Framework to Address the Root Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border. Feb 2, 2021.

insecurity in northern Mexico, at least in the short-term, by pushing asylum seekers into border territories where they are specifically targeted by organized crime and other corrupt actors.<sup>3</sup> The devastating murder of a Haitian man next to the refugee encampment in Tijuana on January 1, 2022, is unfortunately just one of the many documented cases of aggravated violence against migrants across border towns in Mexico.<sup>4</sup>

The International Rescue Committee (IRC) has provided responsive humanitarian services to migrants at the U.S.-Mexico border since 2019 as part of our broader response in the region. The IRC has also strongly advocated for the restoration of access to the asylum system at the U.S. southern border including through rescission of Title 42 and termination of Remain in Mexico.<sup>5</sup>

This report provides an update on continued externalization of asylum and the resulting humanitarian impacts at the U.S.-Mexico border. The first year of the Biden administration

has demonstrated the real dangers of border externalization — both to vulnerable migrants in need of protection and to the humanitarian organizations working to protect their rights and meet their basic needs.

### **This report urges the Biden administration to:**

**End Title 42.** The Centers for Disease Control and Prevention should immediately revoke the Title 42 expulsions order and the related Interim Final Rule. DHS should follow recommendations by public health experts<sup>6</sup> on the safe processing of asylum seekers at the border in coordination with civil society in northern Mexico and southern US border communities.

**End MPP once and for all.** The Biden administration must not expand MPP as it has done under its recent reinvigoration of the policy. Instead, the administration should proceed with steps to terminate MPP — a discretionary policy that violates the U.S. constitution, U.S. law, and U.S.

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3 Human Rights First: Delivered to Danger. February 19, 2021. <https://www.humanrightsfirst.org/campaign/remain-mexico>

4 Telemundo 20: Investigan la muerte de un Haitiano en Tijuana. 3 de enero, 2022.

5 Safety for All. IRC Nov. 2020; Disorder by Design. IRC 2019

6 Public Health Experts Urge U.S. Officials to Withdraw Order Enabling Mass Expulsion of Asylum Seekers. May 18, 2020. <https://www.publichealth.columbia.edu/public-health-now/news/public-health-experts-urge-us-officials-withdraw-order-enabling-mass-expulsion-asylum-seekers>





Vicky and her family weren't allowed to claim asylum because of Title 42.

treaty obligations. In keeping with the Department of Justice's request that the Supreme Court consider *Texas v. Biden*, the Biden Administration should publicly acknowledge that MPP is unconstitutional and illegal and should proceed with implementing its second termination memo, dated October 29, 2021.

**Immediately expand capacity to process asylum seekers at ports of entry.**

CBP should immediately expand capacity to process asylum seekers at all ports of entry along the southern border. Ports of entry do have capacity — as demonstrated during the “Consortium process” described below. There is no excuse for the administration to cease this practice, simply because NGO referrals have ended. Instead, ports of entry should be staffed adequately to ensure all asylum seekers arriving at the border are adequately processed. This should be prioritized.



A group of 30 Guatemalan migrants traveled all the way to the U.S.-Mexico border fence. Now they wait.

**Fund border shelters to bring humanitarian reception to scale.**

Border shelters have provided dignified welcome to asylum seekers for decades and have significantly enhanced coordination and best practices in recent years and despite challenges posed by COVID-19. Reception at border shelters can and should serve as a gateway to a fair and humane asylum process, beginning with immediate humanitarian services and a legal orientation that ensures asylum seekers understand the next steps in their process and how to connect with legal and social service providers in their destination locations. Civil society has the expertise and the infrastructure to help the administration achieve its goals of safe, regular, and humane migration processes that respect the right to seek asylum; it is on the administration to flex this partnership and live up to its promises.

# Access to Asylum One Year into the Biden Administration

**“As we’re coming to one year of the [Biden] administration we’re unfortunately finding ourselves in the situation of again having to be defensive and fight really hard against some of the policies that continue to be implemented or newly reinstated.”** – Kate Clark, Jewish Family Service of San Diego (JFS), operator of San Diego Rapid Response Network (SDRRN) Migrant Shelter Services

## Migrant Protection Protocols (MPP) 2.0

On January 20, 2021, shortly after taking office, the Biden administration issued a memo to pause new MPP enrollments for the first 100 days of the administration.<sup>7</sup> In February, the Department of Homeland Security (DHS) partnered with the U.N. Refugee Agency (UNHCR) to allow certain individuals who had been enrolled in MPP and forced to remain in Mexico to access U.S. territory. From February to August 2021, about 13,000 individuals entered the U.S. to continue their asylum proceedings.<sup>8</sup>

DHS Secretary Alejandro Mayorkas issued a memorandum terminating the MPP Program on June 1, 2021, highlighting the dangers to migrants posed by MPP and inherent violations of domestic and international law.<sup>9</sup> The states of Texas and Missouri challenged the January and June memos and a federal court ruled that DHS must reinstate MPP. The Supreme Court later refused to stay the lower court’s mandate, coming as a major blow to the thousands of asylum seekers still awaiting processing into the U.S. under the MPP rollback process and left to linger in what seems like an indefinite

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7 Memorandum from David Pekoske, Acting Sec’y of Homeland Sec., Suspension of Enrollment in the Migrant Protection Protocols Program (Jan. 20, 2021).

8 WOLA: Weekly U.S.-Mexico Border Update: Supreme Court Fails to Block Judge’s Demand to Reinstate ‘Remain in Mexico’. August 27, 2021.

9 Department of Homeland Security: Termination of Migrant Protection Protocols Program. June 1, 2021. [https://www.dhs.gov/sites/default/files/publications/21\\_0601\\_termination\\_of\\_mpp\\_program.pdf](https://www.dhs.gov/sites/default/files/publications/21_0601_termination_of_mpp_program.pdf)

state of limbo, along with those newly placed in MPP.<sup>10</sup>

Guidance regarding the court-ordered reimplementations of MPP was released by DHS on December 3, 2021. While DHS announced changes to “address humanitarian concerns,” shockingly it expanded the applicability to intentionally include “nationals of any country in the Western Hemisphere other than Mexico.”<sup>11</sup>

This expansion will only cause greater harm to Haitians — who are acutely vulnerable after last year’s natural disasters and political unrest — as well as other Black migrants from the Americas. The program was reinitiated

in El Paso and Ciudad Juarez on December 6, 2021 and in San Diego and Tijuana on January 3, 2022.<sup>12</sup>

## **Title 42**

**“With Title 42, expulsions happen at every hour, every day.”** - Tania Guerrero from CLINIC’s Estamos Unidos Project in Ciudad Juarez, MX

The most severe border externalization policy — by the number of impacted people — is the Order Suspending the Introduction of Certain Persons from Countries Where a Communicable Disease Exists, commonly referred to

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10 The federal district court in *Texas v. Biden* found (1) that the memo did not meet procedural requirements for actions taken by an administrative agency and (2) that U.S. immigration law requires implementation of MPP until DHS has the capacity to detain all migrants. When first implemented, MPP was a novel interpretation of U.S. immigration law, one that was quickly brought under fire for violating migrants’ due process rights and for running afoul of the U.S.’s non-refoulement obligations. Importantly, prior litigation regarding the legality of MPP was never resolved on the merits. Moreover, the district court injunction, now reinforced by the United States Court of Appeals for the Fifth Circuit, has instructed the administration to re-implement this legally dubious and morally bankrupt policy in “good faith” until (1) it is lawfully terminated under the APA and (2) the federal government has capacity to detain all migrants subject to mandatory detention. Relevantly, the Court of Appeals has refused to assess the merits of the Biden Administration’s second memo.

11 DHS, “Guidance regarding the Court-Ordered Reimplementation of the Migrant Protection Protocols,” December 2, 2021. While the previous iteration of MPP did not designate specific nationalities, in practice it applied almost exclusively to nationals of Honduras, Guatemala, Cuba, El Salvador, Ecuador, Venezuela, and Nicaragua, with a smaller number of individuals from Peru, Brazil, and Colombia enrolled. TRAC Immigration, MPP (Remain in Mexico) Deportation Proceedings—All Cases, <https://trac.syr.edu/phptools/immigration/mpp/>

12 Department of Homeland Security: Guidance Regarding the Court-Ordered Reimplementation of the Migrant Protection Protocols. December 2, 2021. [https://www.dhs.gov/sites/default/files/publications/21\\_1202\\_plcy\\_mpp-policy-guidance\\_508.pdf](https://www.dhs.gov/sites/default/files/publications/21_1202_plcy_mpp-policy-guidance_508.pdf)





Vicky and her husband, who recently arrived in Ciudad Juárez from Mexico, ask about the services available to refugees.



Migrants from Central America look at a map as they talk about where in the United States they want to go.

as “Title 42.” Implemented in March 2020 by the Trump administration, Title 42 continues to block asylum seekers from accessing U.S. territory. Over 1.4 million expulsions have taken place under Title 42 from March 2020 to December 2021.<sup>13</sup> Expulsions more than doubled in the first 10 months of the Biden administration in comparison to the 10-month period of expulsions under the Trump administration.<sup>14</sup>

Health professionals have explicitly and repeatedly challenged the use of Title 42, citing the lack of

epidemiological evidence for banning certain individuals from entering the U.S. while allowing other travelers entrance.<sup>15</sup> Contrary to its stated purpose, Title 42 effectively increases the risk of exposure and spread of COVID-19 by subjecting people to crowded conditions for days without access to testing.<sup>16</sup> Furthermore, as stated by U.N. High Commissioner for Refugees Filippo Grandi, the summary expulsion of individuals without screening for protection needs may constitute refoulement.<sup>17</sup>

13 U.S. Customs and Border Protection: Southwest Land Border Encounters, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

14 Ibid

15 Physicians for Human Rights: Neither Safety nor Health: How Title 42 Expulsions Harm Health and Violate Rights. July 28, 2021. <https://phr.org/our-work/resources/neither-safety-nor-health/#ednref21>

16 Human Rights First: “Illegal and Inhumane”: Biden Administration continues embrace of Title 42 Policy as Attacks on People Seeking Refuge Mount. <https://www.humanrightsfirst.org/resource/illegal-and-inhumane-biden-administration-continues-embrace-trump-title-42-policy-attacks>

17 UNHCR: News Comment by UN High Commissioner for Refugees Filippo Grandi on conditions and expulsions at US border. September 21, 2021. <https://www.unhcr.org/news/press/2021/9/614a27324/news-comment-un-high-commissioner-refugees-filippo-grandi-conditions-expulsions.html#>. The principle of non-refoulement prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill treatment

The CDC rule allows for a limited exception for vulnerable migrants.<sup>18</sup> However, discretion to make exceptions was seldom used in practice. Local service providers describe scores of cases where expulsions placed their clients in harm's way, despite their glaring vulnerabilities. One local organization represented two clients with cerebral palsy and mobility constraints that were expelled under Title 42 in March and April 2021, despite the clear physical vulnerability of the two individuals.

### **Lateral flights and local expulsions**

In March 2021, the Biden administration established the practice of detaining and then flying migrants to distant U.S. border regions before expelling them, following pushback from the Mexican state of Tamaulipas refusing to accept more expulsion. These “lateral flights,” which impacted hundreds of migrants daily, directly

contradict the administration's argument for maintaining Title 42 as a means to prevent the spread of COVID-19. In fact, the expulsions resulting from lateral flights put a strain on already overcrowded shelters — largely run by private and religious organizations — in Mexican border communities and increased the risk of spread of COVID-19.

Local service providers report that expulsions via lateral flights took place at all hours of the day and night. Based on IRC staff's observations, individuals expelled to Ciudad Juarez subsequent to a lateral flight were often left to wander in some of the most dangerous locations in northern Mexico without support or any understanding on how to access local services. From March to November 2021 approximately 33,000 family members were transported on lateral flights to be expelled in distant border cities.<sup>19</sup> In many cases, individuals had been separated from family members they traveled with.<sup>20</sup> One legal service provider spoke

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or other serious human rights violations (United Nations Office of the High Commissioner for Human Rights).

18 American Immigration Council: A Guide to Title 42 Expulsions at the Border. October 2021. [https://www.americanimmigrationcouncil.org/sites/default/files/research/title\\_42\\_expulsions\\_at\\_the\\_border.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/title_42_expulsions_at_the_border.pdf)

19 Witness at the Border post by Tom Cartwright on December 12, 2021. <https://static1.squarespace.com/static/5e221cacff87ba2d2833cf54/t/61ad049df3ab8f661555c60f/1638728861269/ICE+Air+Nov+2021THCPDF.pdf>

20 Human Rights First: “They Lied to Us”: Biden Administration Continues to Expel, Mistreat Families Seeking Asylum. May 13, 2021. <https://www.humanrightsfirst.org/blog/they-lied-us-biden-administration-continues-expel-mistreat-families-seeking-asylum>



to how the humanitarian impacts of lateral flights has only added to the already extremely dire situation created by “local expulsions” to the nearest Mexican border town.

**“There are single moms that I have seen at 6:00 o’clock in the morning at a bridge all by themselves [with their children], and not knowing what to do... There is a whole population that has been roaming, existing in the border, but there is no information. I don’t know how many people arrived, and I don’t know how many people are still alive.”** – Tania Guerrero, CLINIC

### **Huisha-Huisha and “consortium exceptions”**

In March 2021, pending litigation arguing that expulsions of families under Title 42 violates U.S. law led to the development of a process to refer certain families to CBP for consideration as “exceptions” to Title 42. The process became known as Huisha-Huisha referrals, and CBP allowed a set number of families to be

considered for the exception at various ports of entry.

Legal services providers collaborated in the Huisha-Huisha exception process in hopes that access for some particularly vulnerable clients was a step in the right direction. However, as weeks and months went on, the exceptions process became known among criminal actors along the northern Mexico border, who perceived U.S. immigration attorneys as gatekeepers of the U.S. border and therefore in direct competition with organized crime, traffickers, and smugglers.<sup>21</sup>

In mid-April 2021, DHS met with a group of international organizations working in Mexico to propose a new and expanded referral process. Following weeks of consultations with a group that became known as “the Consortium” of organizations, only two, including the IRC, agreed to implement the referrals — on the condition that the effort be time-bound to three months. The groups urged the government to rescind Title 42 within that time frame.

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21 Human Rights First: Remain in Mexico Restart Threatens Safety of Attorneys and Humanitarian Workers. November 2021. <https://www.humanrightsfirst.org/sites/default/files/MPPDangersLawyers-Factsheet.pdf>; Human Rights First: Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc. August 2021. [https://www.humanrightsfirst.org/sites/default/files/HumanRightsTravesty\\_FINAL.pdf](https://www.humanrightsfirst.org/sites/default/files/HumanRightsTravesty_FINAL.pdf)

From May to August 2021, the Consortium was responsible for referring to CBP vulnerable migrants that fit criteria provided by the U.S. Government, facilitating COVID-19 testing, and coordinating the migrants' presentation at the ports of entry for CBP processing.<sup>22</sup> The total number of individuals who entered the U.S. under the Consortium exception process from May to August 2021 was around 13,000.

Towards the end of the three-month period, DHS approached the Consortium with a request to continue the exceptions process. Based on the experienced and perceived security threats and the realization that rescission of Title 42 was not imminent, the Consortium took a firm stance not to participate.<sup>23</sup>

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22 The IRC operated in Nogales, Mexico, across from Nogales, AZ, in collaboration with local service providers. Nearly 2,000 women, men, children and members of the LGBTQ+ community were referred to CBP by the IRC; the overwhelming majority were approved for a Title 42 exception and paroled into the U.S.

23 On July 30th, the IRC released a statement renewing its call for the United States to end the use of the Title 42 public health rule that stops asylum seekers from finding safety from harm within U.S. borders. IRC Press Release, July 30, 2021, <https://www.rescue.org/press-release/irc-completes-participation-dhs-exceptions-process-renews-call-end-use-title-42-expel>

# Increasing insecurity in Northern Mexico

**“The U.S. Government is painfully aware that the conditions created by Title 42, metering, and MPP, policies which are designed to prevent people from accessing the process, create conditions of deprivation that are so severe that people are literally dying and or being actively hunted...”**

- Nicole Ramos, Al Otro Lado

Border externalization policies like Title 42 and MPP actively return asylum seekers to precarious situations including kidnapping, extortion and assault, as documented widely by civil society<sup>24</sup> and broadly acknowledged by the U.S. government, including by DHS Secretary Alejandro Mayorkas<sup>25</sup> and the State Department.<sup>26</sup> Human Rights First documented at least 1,544 cases of murder, rape, kidnapping and other violent assaults on migrants returned to Mexico under MPP between January 2019 and January 2021, including 341 cases of

children who were kidnapped or nearly kidnapped.<sup>27</sup>

**“Here in Tijuana, we’re in exactly the same conditions that people are fleeing from, everything from cartels and violence to gang presence.”** - Kathy Kruger, Casa del Migrante in Tijuana, B.C.

In 2021, Tijuana and Ciudad Juarez ranked within the top five municipalities in Mexico with the highest instances of homicide, femicide, kidnapping, domestic violence and human trafficking.<sup>28</sup>

## Black migrants in Mexico

Afro-Cubans, Garifuna, Haitians and Ugandans, amongst other Black migrants in Mexico, experience acute discrimination and violence along their journey and at the northern border. The recent murder of two Haitian men in two separate incidents in Tijuana is evidence of the vulnerability

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24 Asylum Denied: Remain in Mexico 2.0- WRC Tijuana/San Diego Trip, November 29-December 4, 2021.

25 Department of Homeland Security: Migrant Protection Protocols (MPP) Termination Memo. <https://www.dhs.gov/publication/migrant-protection-protocols-termination-memo>

26 State Department report on Mexico and security threats.

27 Human Rights First: Delivered to Danger. <https://www.humanrightsfirst.org/campaign/remain-mexico>

28 Causa en Común: Analisis de los Datos Disponibles de Incidencia Delictiva. 22 de noviembre del 2021. <http://causaencomun.org.mx/beta/analisis-de-los-datos-disponibles-de-incidencia-delictiva-oc-tubre-2021/>



of this particular population and the lack of protection structures to avail themselves.<sup>29</sup> Haitian Bridge Alliance and Espacio Migrante documented extensive evidence of discrimination in Tijuana, particularly as it relates to accessing services during the COVID-19 pandemic.<sup>30</sup> Language barriers and racism make Black migrants in Mexico particularly vulnerable as they struggle to access resources, information and support.<sup>31</sup> In September 2021, the painful and egregious images of thousands of Haitians in Del Rio, Texas, brought important attention to Black migrants' experience in Mexico and in the U.S.

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29 La Jornada Baja California: Asesinan en Tijuana a un Migrante Haitiano. 16 de octubre, 2021. <https://jornadabc.com.mx/bajacalifornia/asesinan-tijuana-migrante-haitiano/>

Telemundo 20: Investigan la Muerte de un Haitiano en Tijuana. 3 de enero, 2022. <https://www.telemundo20.com/noticias/local/investigan-la-muerte-de-un-haitiano-en-tijuana/2172507/>

30 Espacio Migrante and Haitian Bridge Alliance: "It's Very Hard to have Rights" The Impact of COVID 19 on Refugee and Migrant Communities in Tijuana. December 2021.

31 InfoDigna has collaborated with partners to provide informational updates in Creole to respond to immediate changes in policies and practices. See: <https://www.infodigna.org/hc/es-mx/articles/1500009178082-Refijye-nan-Meksik>

# Border communities' capacity to welcome

In recent years, in response to an onslaught of harmful asylum policies and resulting humanitarian concerns, civil society in border communities — including the IRC — came together to form coalitions and increase collaboration with local government to welcome asylum-seekers and provide sanctuary.<sup>32</sup>

Local governments have been key partners in the provision of humanitarian reception at border shelters, for example by supporting COVID-19 testing or vaccination at shelters, reaching tens of thousands of newly arrived families. Brownsville's operation to welcome migrants proved that a city could support border shelters and further contribute to the creation of jobs; the city hires community members to operate a circuit that provides COVID-19 testing and food for migrants and facilitates communication with family members to coordinate travel arrangements. In Arizona, three different counties supported civil society to provide

safe and humane transportation for migrants from Nogales to Tucson.

Reception at border shelters is an opportunity to fulfill some of the key goals in the Biden Administration's Executive Orders — namely safe, orderly and humane migration that respects the right to seek protection. According to a report published in December 2020 by a dozen shelters, including the IRC's Welcome Center in Phoenix, AZ, the network had the capacity to receive 95 percent of individuals released from border custody at that time, despite the challenges posed by the first year of the COVID-19 pandemic.<sup>33</sup> Second, border shelters are an ideal venue to begin supporting asylum seekers' journey through the legal process. IRC provides individual legal orientations to each guest and connects them with destination-specific resources in their intended final destination—an approach highlighted by UNHCR as a best practice.

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32 The IRC participates in the California Welcoming Taskforce, the Arizona Welcoming Coalition, the Texas and New Mexico Frontera Welcoming Coalition and the national Welcome with Dignity Campaign, amongst others. These groups represent service providers on both sides of the border working together to communicate timely information and leverage scarce resources to provide humanitarian and legal services.

33 "Welcoming Asylum Seekers at US Border Shelters: Best Practices, Plans, and Needs to Address Increased Arrivals and COVID-19," December 2020.



Alma, a refugee from Guatemala, waits for her laundry to dry at a shelter in Ciudad Juárez.



An IRC staff member helps Maria, 7, pick out clothes at an IRC Welcome Center.

**“We started as a community-based project and we still are. Our team is bolstered by 200-300 volunteers on site that are serving food, helping people take turns in the showers, giving out hygiene items and clothing... If we didn’t have such a deeply involved community, it would be a much heavier lift.”** - Beth Strano, IRC Welcome Center

**The IRC’s Welcome Center in Phoenix provides short-term humanitarian services to families and individuals released by CBP and ICE custody, including a safe place to rest before moving onward; food; clothing; showers; basic medical care including COVID tests and vaccines, access to local quarantine options and travel coordination. Each guest is also provided a legal orientation about next steps in their process. Since launching its shelter response**

**in March 2019, the IRC in Phoenix has served over 45,000 individuals; over 38,000 alone during calendar year 2021.**

### **The humanitarian dilemma: supporting migrants amidst policies that violate rights**

One year into the Biden administration and despite its promises, the U.S. is no closer to restoring access to asylum at the border. The re-launch of the MPP policy and failure to end Title 42 expulsions are evidence of the challenges in place and ahead for migrants. The past year has served as a cautionary tale for the humanitarian community. We must think critically about how, in some instances, harm reduction — helping a small number of beneficiaries access the U.S. — can actually cause harm — enabling the continuation of policies that harm hundreds of thousands.



**“Even if we don’t receive government funds to expand our shelter space we still exist as a shelter and as a service provider in a northern border city... and therefore our existence takes pressure off of the US and Mexico to have a more government-led initiative or to realize the total unfeasibility of the work that they’re doing.”** -

Joanna Williams, Kino Border Initiative (KBI) in Ambos Nogales

Based on reflections from IRC staff and other service providers, the main areas of concern for service providers are three-fold:

**1) Safety and Protection for Migrants:** Mexico’s northern border continues to experience high levels of violence<sup>34</sup> and migrants are particularly vulnerable to it.<sup>35</sup> The COVID19 pandemic has intensified the vulnerability of migrants, particularly Black migrants,<sup>36</sup> who face a range

of risks and discriminatory treatment. Engaging in practices that force asylum seekers to wait in danger poses ethical concerns for legal and humanitarian service providers.

**“We would go sometimes days, if not a week or more, without knowing where our client was, if they were still in the U.S. in the hielera or if they had been returned to Mexico, and we just had no idea where they were. That was incredibly challenging from a legal services perspective.”** - Kate Clark, JFS, operator of SDRRN Migrant Shelter Services

## **2) Externalization of Asylum:**

The U.S. fails to meet domestic and international legal obligations through the continuation of Title 42 and reinstatement of MPP, including failing to uphold the principle of non-refoulment and returning forcibly displaced migrants into harm’s way.

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34 Causa en Común: Analisis de los Datos Disponibles de Incidencia Delictiva. 22 de noviembre del 2021. <http://causaencomun.org.mx/beta/analisis-de-los-datos-disponibles-de-incidencia-delictiva-oc-tubre-2021/>

35 Human Rights First: Delivered to Danger. <https://www.humanrightsfirst.org/campaign/remain-mexico>

36 Espacio Migrante and Haitian Bridge Alliance: “It’s Very Hard to have Rights” The Impact of COVID 19 on Refugee and Migrant Communities in Tijuana. December 2021.

**“It was wonderful at the beginning, finally getting some people access to their legal right to seek asylum. It felt like ‘Finally some justice’[...] then it just became utterly overwhelming and snowballed, and I felt like I was running a Schindler’s list where I was the one making these horrible life or death decisions about basically who would live and die...”** - Taylor Levy, Pro Bono Immigration Attorney

### **3) Safety and Security for Staff:**

Every service provider interviewed by the IRC raised concerns about their safety and that of their colleagues when providing services in Mexico's northern border. Local grassroots and religious organizations on the border often do not have robust security measures to mitigate risks.

**“The danger is directed at migrants... when we intervene to protect them, or we offer people the opportunity to file police reports or we call the authorities, then it puts our staff at danger as a secondary threat..”** - Joanna Williams, KBI

The International Rescue Committee (IRC) helps people affected by humanitarian crises to survive, recover and rebuild their lives. We deliver lasting impact by providing health care, helping children learn, and empowering individuals and communities to become self-reliant, always with a focus on the unique needs of women and girls. Founded in 1933 at the call of Albert Einstein, we now work in over 40 crisis-affected countries as well as communities throughout Europe and the Americas.

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