



# CBP ONE – A BLESSING OR A TRAP?

AMNESTY  
INTERNATIONAL



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# CONTENTS

<b>1. EXECUTIVE SUMMARY</b>	<b>4</b>
<b>2. METHODOLOGY</b>	<b>7</b>
<b>3. SEEKING ASYLUM IN THE UNITED STATES</b>	<b>9</b>
3.1 MIGRATION TO THE UNITED STATES	9
3.2 US MIGRATION AND ASYLUM POLICIES	10
3.2.1 “METERING”	10
3.2.2 MIGRANT PROTECTION PROTOCOLS – “REMAIN IN MEXICO” POLICY	11
3.2.3 TITLE 42 PUBLIC HEALTH ORDER	11
3.2.4 CIRCUMVENTION OF LAWFUL PATHWAYS FINAL RULE – THE “ASYLUM BAN”	11
3.2.5 CBP ONE MOBILE APPLICATION	14
<b>4. MANDATORY USE OF CBP ONE TO SEEK ASYLUM VIOLATES THE UNITED STATES’ AND MEXICO’S INTERNATIONAL HUMAN RIGHTS AND REFUGEE LAW OBLIGATIONS</b>	<b>20</b>
4.1 INTERNATIONAL PROTECTION AND THE PRINCIPLE OF <i>NON-REFOULEMENT</i>	20
4.2 THE UNITED STATES	21
4.3 MEXICO	23
<b>5. CHALLENGES IN USING THE CBP ONE MOBILE APPLICATION TO SEEK ASYLUM</b>	<b>26</b>
5.1 REGISTERING IN THE CBP ONE APPLICATION	27
5.2 RANDOM ALLOCATION OF APPOINTMENTS – “A LOTTERY SYSTEM”	30
5.3 WAIT TIMES FOR APPOINTMENTS	31
5.4 TECHNOLOGICAL ISSUES AND FLAWS	33
5.5 MISINFORMATION AND LACK OF KNOWLEDGE OF THE CBP ONE APPLICATION	37
5.6 INABILITY TO USE THE CBP ONE APPLICATION	40
5.6.1 EXCEPTIONS TO THE CIRCUMVENTION OF LAWFUL PATHWAYS FINAL RULE	42
<b>6. TECHNOLOGICAL CONSIDERATIONS AND PRIVACY AND SURVEILLANCE CONCERNS</b>	<b>45</b>
<b>7. SITUATION IN MEXICO WHILE WAITING FOR CBP ONE APPOINTMENTS</b>	<b>48</b>
7.1 EXTORTION	49
7.2 KIDNAPPINGS	53
7.3 DISAPPEARANCES	55
7.4 SCAMS AND FRAUD	56
7.5 SEXUAL AND GENDER-BASED VIOLENCE	56
7.6 LIVING CONDITIONS	57
7.6.1 HEALTHCARE	58
7.6.2 EDUCATION	59
7.6.3 EMPLOYMENT	59
7.7 DISCRIMINATION	60
7.8 ACCOUNTABILITY AND ACCESS TO JUSTICE	61
<b>8. IMPACTS ON ASYLUM SEEKERS</b>	<b>62</b>
<b>9. CONCLUSIONS AND RECOMMENDATIONS</b>	<b>65</b>
9.1 RECOMMENDATIONS	66
9.1.1 TO THE UNITED STATES	66
9.1.2 TO MEXICO	67

# GLOSSARY

WORD	DESCRIPTION
ASYLUM SEEKER	An asylum seeker is someone who has left their country seeking protection but has yet to be recognized as a refugee. During the time that their asylum claim is being examined, the asylum seeker must not be forced to return to their country of origin. Under international law, being a refugee is a fact-based status, and arises before the official, legal granting of asylum.
CBP	US Customs and Border Protection (CBP) is a law enforcement agency of the Department of Homeland Security (DHS), operating in the border area and ports of entry of the United States. The US Border Patrol is part of CBP.
CBP ONE MOBILE APPLICATION	CBP One is a mobile application that serves as a single portal to a variety of CBP services, including scheduling an appointment for migrants and asylum seekers to present themselves at a port-of-entry.
CDC	US Centers for Disease Control and Prevention
CIRCUMVENTION OF LAWFUL PATHWAYS FINAL RULE	Issued on 11 May 2023, under the Final Rule, asylum seekers who cross the southwest land border or adjacent coastal borders without authorization after traveling through another country, and without having (1) availed themselves of an existing lawful process, (2) presented at a port-of-entry at a pre-scheduled time using the CBP One app, or (3) been denied asylum in a third country through which they traveled, are presumed ineligible for asylum unless they meet certain limited exceptions.
CNB	Mexican National Search Commission ( <i>Comisión Nacional de Búsqueda</i> )
COMAR	Mexican Commission for Refugee Assistance ( <i>Comisión Mexicana de Ayuda a Refugiados</i> ) is the agency of the Mexican Government responsible for processing refugee status determinations.
DHS	US Department of Homeland Security
EXTERNALIZATION	A range of migration management policies that focus on shifting the responsibility of providing international protection to refugees and asylum seekers to other countries, or on enlisting source or transit countries in tightening control over their borders. Externalization policies share the objective of preventing or punishing irregular border crossings by refugees, asylum seekers and migrants, often mobilizing and leveraging international financial aid.
FACIAL RECOGNITION	A computer vision technique – that is, a method of visually identifying objects, people and terrain in computer systems – used to identify the faces of humans. This happens using a reference facial image (for example a picture gathered from CCTV footage), together with an algorithm previously trained to map, identify, and compare images served to it via other databases (for example, drivers' license registries, social media profiles, etc). Facial recognition technology (FRT) for identification (also known as 1:n facial recognition) is a technology of mass surveillance by design, and as such is a violation of the right to privacy. Facial recognition for authentication (commonly known as 1:1 facial recognition) uses a different process, in which two images are directly compared, and usually involves

WORD	DESCRIPTION
	the person in question, for example when an image of a person is directly compared to their passport photo, or when one uses one's face to unlock a phone.
<b>GPS TECHNOLOGIES</b>	Global Positioning System – a navigational system used to identify the longitudinal and latitudinal position of people, objects and places across the planet.
<b>INM</b>	Mexican National Institute of Migration ( <i>Instituto Nacional de Migración</i> )
<b>IOM</b>	International Organization for Migration
<b>IRREGULAR ENTRY</b>	Crossing into a country without a migration status that complies with requirements of domestic immigration legislation and rules. The term “irregular” refers only to a person's entry or stay.
<b>MIGRANTS</b>	Migrants are people who move from one country to another, either temporarily or permanently, for a variety of reasons.
<b>PORT-OF-ENTRY</b>	Ports-of-entry are official customs border entry points into the USA, where travelers show their identification and travel documents and request entry.
<b>REFOULEMENT</b>	Forcible return of an individual to a country where they would be at risk of serious human rights violations (such as persecution or torture). International law prohibits the return of refugees and asylum seekers to the country they fled without appropriate evaluation of the risk of return – this is known as the principle of <i>non-refoulement</i> . Chain refoulement occurs when one country forcibly sends someone to another country that subsequently sends them to a third country where they risk serious harm; this is also prohibited under international law.
<b>REFUGEE</b>	Refugees are defined in the 1951 Convention Relating to the Status of Refugees as individuals who cannot return to their countries of origin because they have a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion. The Cartagena Declaration (adopted by most Latin American countries including Mexico) expands the definition to include individuals fleeing from generalized violence, internal conflicts and massive violations of human rights. Their own government cannot or will not protect them and so they are forced to seek international protection. Asylum procedures are designed to determine whether someone meets the legal definition of a refugee. When a country recognizes an asylum seeker as a refugee, it gives them international protection as a substitute for the protection of their home country.
<b>TITLE 8</b>	The section of the US Code titled “Title 8: Aliens and Nationality” contains all of the US' immigration and asylum laws.
<b>TITLE 42 ORDER</b>	Public health policy issued by the US Centers for Disease Control and Prevention (CDC) under Title 42 (public health code) originally on March 2020 (later replaced by similar orders on October 2020 and August 2021) that allowed the US to immediately expel migrants and asylum seekers crossing its borders during the Covid-19 pandemic to their home country or most recent transit country, without granting them access to the US asylum system.
<b>UNACCOMPANIED CHILDREN</b>	Under US law, unaccompanied children are defined as children under the age of 18 who arrive at the US border without lawful immigration status or a parent or legal guardian, or who do not have a parent or legal guardian in the US available to provide care and custody.
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>USCIS</b>	US Citizenship and Immigration Services

# 1. EXECUTIVE SUMMARY

This report examines the human rights issues associated with the right to seek international protection in the United States, particularly the use of the CBP One mobile application. On 11 May 2023, the Biden Administration introduced the Circumvention of Lawful Pathways Final Rule (also known as the Asylum Ban). The Final Rule imposes a rebuttable presumption of ineligibility for asylum upon individuals who enter the United States from Mexico at the southern land border or adjacent coastal borders “without authorization”. The rebuttable presumption does not apply to asylum seekers who are able to meet one of three exceptions:

- They were provided authorization to travel to the United States pursuant to a DHS-approved parole process;
- They used the CBP One mobile application to schedule a time and place to present at a port of entry, or they presented at a port of entry without using the CBP One application and established that it was not possible to access or use the application due to a language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle; or,
- They applied for and were denied asylum in a third country en route to the United States.

This investigation focuses on the human rights concerns associated with the use of CBP One – a mobile application launched by US Customs and Border Protection (CBP) on 28 October 2020. Following the termination of Title 42 and in accordance with the Final Rule, people seeking asylum are now required to use the CBP One application to schedule a time to arrive at participating ports of entry along the US-Mexico border in order to present their asylum claims, unless they are able to demonstrate “by a preponderance of the evidence that it was not possible to access or use the CBP One app due to language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle”. Asylum seekers who arrive at ports of entry without having previously scheduled an appointment through CBP One and who are unable to prove that it was not possible to access or use the application, or who do not meet one of the two other exceptions in the Final Rule, will be presumed to be ineligible for asylum.

The CBP One application is only available in English, Spanish and Haitian Creole. 1,450 daily appointments are offered at eight ports of entry: Brownsville-Matamoros, Calexico-Mexicali, Eagle Pass-Piedras Negras, El Paso (Paso del Norte)-Ciudad Juárez, Hidalgo-Reynosa, Laredo-Nuevo Laredo, Nogales and San Ysidro-Tijuana. In order to request and schedule appointments via CBP One, individuals must be located in central or northern Mexico. Asylum seekers have up to 12 hours a day (from 11 a.m. CST/GMT-6 to 11 p.m. CST/GMT-6) to sign into CBP One and request an appointment. Requests for appointments are considered the day immediately following the request which means that individuals must log into the application and request an appointment each day until they are allocated an appointment. The application does not allocate appointments in order of registration. Instead, 70% of available appointments are allocated randomly to individuals who requested an appointment the previous day and 30% are allocated to people requesting appointments with the oldest accounts who have been waiting the longest.

## **Challenges in using the CBP One mobile application to seek asylum**

As part of this research, Amnesty International conducted interviews with hundreds of asylum

seekers, service providers and local and international organizations across various locations in Mexico and the US about their experiences using the CBP One application and circumstances while waiting in Mexico for CBP One appointments. The organization found that people seeking asylum experience challenges using the application due to an onerous registration process, technological errors and flaws, and lack of knowledge about the application and how it works. Given that CBP One does not assign appointments based on the order of registration, but essentially operates as a lottery system, individuals using it have vastly different experiences. Some receive appointments relatively quickly, while others end of waiting for months. Moreover, some asylum seekers are unable to use the application for financial, literacy and language proficiency reasons, among others.

### **Technological considerations and privacy and surveillance concerns**

As part of this investigation, Amnesty International performed an analysis of the CBP One Android application with a view to identifying any privacy or security concerns. The application's use of facial recognition, GPS tracking and cloud storage to collect data on asylum seekers prior to their entry into the United States raise serious privacy and non-discrimination concerns. Asylum seekers often lacked understanding of CBP One's privacy policy but agreed to it anyways because it was the only way for them to be able to use the application. Considering that use of CBP One is one of the limited exceptions to not being ineligible for asylum under the Final Rule, it is arguable whether use of the application is truly voluntary. Concerns also extend to the undisclosed sharing of data with third-party services like Google's Firebase and the potential for discriminatory outcomes in facial recognition processes, as evidenced by documented demographic biases. The CBP One application risks violating international human rights standards, particularly regarding privacy and non-discrimination, and reinforce border regimes that disproportionately affect marginalized groups, potentially leading to wrongful identification and denial of asylum rights.

### **Situation in Mexico while waiting for CBP One appointments**

The requirement to use the CBP One application to seek asylum in the United States and the fact that it is only possible to apply for appointments from central to northern Mexico means that asylum seekers must now wait in Mexico for undetermined amounts of time while they apply for CBP One appointments. Amnesty International found that asylum seekers traveling through Mexico are often extorted, kidnapped and experience discrimination and sexual and gender-based violence by both state and non-state actors. The majority stay in shelters or informal encampments with inadequate living conditions. People seeking asylum struggle to access healthcare, education and employment opportunities. The majority of asylum seekers do not have any sort of migratory document issued to them by the Mexican Government which places them at even greater risk. There is no certainty as to when people seeking asylum will receive a CBP One appointment which ends up leaving them exposed to violence and hardship for potentially long periods of time. Asylum seekers who already have CBP One appointments seem to have even worse experiences because people take advantage of the fact that they are desperate to make it to their appointment.

Increasing wait times for CBP One appointments and uncertainty about when people seeking asylum will be given an appointment, compounded by the dangerous and difficult situation in Mexico and Mexican authorities blocking access to ports of entry has forced many asylum seekers to make the difficult decision to cross into the United States without a CBP One appointment.

### **Mandatory use of CBP One to seek asylum violates the United States' and Mexico's international human rights and refugee law obligations**

All individuals have the universal human right to seek and enjoy asylum from persecution and serious human rights violations. All individuals also have the right not to be returned to places where their life or freedom may be endangered or where they would be at risk of torture or cruel, inhuman or degrading treatment or punishment, regardless of their migration status. The United States has both domestic and international obligations to provide access to territory and to individualized and fair assessments of all requests for protection by asylum seekers looking for

safety at the border, in a way that does not discriminate based on migration status, including the manner of entry. Amnesty International considers that the Circumvention of Lawful Pathways Final Rule and the mandatory use of the CBP One application are the newest iteration of migration and asylum policies implemented by the US government at the US-Mexico border which drastically limit access to asylum in violation of international human rights and refugee law. While the organization recognizes that innovations such as electronic entry management systems could potentially provide for safe transit and more orderly border access, programs like CBP One cannot be used as the exclusive manner of entry into the United States to seek international protection. The organization considers that the CBP One mobile application must not be used to create obstacles, but instead should be one of a variety of means to access the right to seek asylum.

Mexico has both domestic and international obligations to ensure the right of individuals to seek asylum. By acquiescing to the use of the CBP One application in Mexico and by enforcing its use by preventing access to US ports of entry on Mexican soil by individuals without CBP One appointments, Mexico is violating international human rights and refugee law. Mexico must also protect the rights of who are in transit to the United States. Amnesty International considers that Mexico is failing to protect, respect and fulfil the rights of people seeking asylum, including by failing to hold state and non-state actors accountable for the acts of violence committed against them.

Taking into consideration the opinions of people seeking asylum, shelters and organizations, as well as the United States' and Mexico's human rights obligations under international law, Amnesty International makes a series of recommendations to the Governments of the United States and Mexico. The organization calls on the Government of the United States to guarantee the right of individuals to seek asylum, including by immediately rescinding the Circumvention of Lawful Pathways Final Rule and abandoning the mandatory use of the CBP One mobile application; guarantee the right of *non-refoulement* of persons in need of international protection; invest in systems to process asylum seekers at the border without delay or detention, including increasing the number of daily CBP One appointments across all ports of entry; immediately cease the deployment of facial recognition technologies for identification (1:n) of asylum seekers; and, increase funding available to humanitarian and community-based organizations that provide shelter and services to asylum seekers on both sides of the US-Mexico border. Amnesty International calls on the Government of Mexico to stop collaborating with the United States in the implementation of policies that violate the human rights of migrants and asylum seekers; guarantee the right of individuals to seek asylum, including by ensuring that asylum seekers are able to access US ports of entry; Immediately implement measures to ensure the safety and security of asylum seekers transiting through Mexico; and, immediately investigate the allegations of violence, extortion, kidnappings, sexual and gender-based violence and disappearances of asylum seekers and when applicable criminal sanctions.



# 2. METHODOLOGY

This report examines the human rights issues associated with the right to seek international protection in the United States. The report builds upon a policy briefing published by Amnesty International in May 2023 which determined that the use of CBP One as the exclusive manner of entry into the US to seek asylum violates international human rights law.<sup>1</sup> It also builds on the findings of a delegation of human rights organizations led by the Haitian Bridge Alliance and which included Amnesty International, that visited the US-Mexico border to observe the end of Title 42 in May 2023.<sup>2</sup>

To produce this report, in October and November 2023, Amnesty International visited Matamoros, Monterrey, Piedras Negras, Reynosa and Tijuana in Mexico, and Brownsville and San Diego in the US. During these research trips, the organization interviewed people seeking asylum, met with services providers, local and international organizations, and visited shelters and camps where asylum seekers stay while waiting for their CBP One appointments, and where they are released into the United States.

As part of this research, Amnesty International interviewed 55 individuals and 66 families who, based on the size of their families or groups they were travelling with, represent the experiences of approximately 356 asylum seekers<sup>3</sup> (almost half of whom were women), from the following nationalities: Afghanistan, Angola, Brazil, China, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Peru and Venezuela.<sup>4</sup> Of those interviewed, 79 had a CBP One appointment, while 249 did not, and 28 had entered the US without an appointment. Interviews with people seeking asylum were conducted in-person in October and November 2023.

Amnesty International also interviewed more than 10 local and international organizations in Mexico and the US including AI Otro Lado (AOL), American Friends Service Community, Asylum Access Mexico, Haitian Bridge Alliance, Sidewalk School and the Transgender Law Center, as well as well-known activist and advocate Tom Cartwright. The organization also visited and spoke with those running migrant shelters, including Borderline Crisis Center, Casa Arcoiris, Casa Indi, Casa Monarca, Casa Nicolás, CIM Matamoros, Central Elementary, Frontera Digna, Ictus Hidi, Iglesia Embajadores de Jesús, Kaleo Internacional, Nueva Betania, Pumarejo, Senda de Vida I, Senda de Vida II and Villa Haitiana. Amnesty International also visited and spoke with those providing welcome and reception in the United States, including Good Neighbor Settlement House, Team Brownsville, Haitian Bridge Alliance and AI Otro Lado. Interviews were conducted in-person and

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<sup>1</sup> Amnesty International, *United States of America: Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (AMR 51/6754/2023), 7 May 2023, [amnesty.org/en/documents/amr51/6754/2023/en/](https://www.amnesty.org/en/documents/amr51/6754/2023/en/).

<sup>2</sup> Haitian Bridge Alliance et al, *Lives at Risk: Barriers and Harms as Biden Asylum Ban Takes Effect*, May 2023, [humanrightsfirst.org/wp-content/uploads/2023/05/Barriers-and-Harms-As-Biden-Asylum-Ban-Takes-Effect31.pdf](https://www.humanrightsfirst.org/wp-content/uploads/2023/05/Barriers-and-Harms-As-Biden-Asylum-Ban-Takes-Effect31.pdf).

<sup>3</sup> The individuals interviewed by Amnesty International told the organization they planned on seeking asylum in the United States.

<sup>4</sup> Amnesty International interviewed 107 Venezuelans, 71 Haitians, 54 Hondurans, 39 Mexicans, 16 El Salvadorans, 15 Guatemalans, 13 Cubans, 10 Colombians, 8 Peruvians, 6 Afghans, 4 Chinese, 4 Brazilians, 4 Ecuadorians, 3 Nicaraguans and 2 Angolans.

virtually from August to November 2023.

Amnesty International performed an analysis of the CBP One Android application with a view to identifying any privacy or security concerns. This analysis was limited to a static decompilation of the code.<sup>5</sup> A dynamic analysis of CBP One was not performed, as many of the important aspects of the operation of the application are performed server-side –such as appointment allocation, facial recognition, etc.–, and are not possible to analyze by reverse engineering techniques. There were also legal and ethical concerns around performing such analysis.

Researchers reviewed reports published by international and non-governmental organizations on the CBP One mobile application and the Circumvention of Lawful Pathways Final Rule, government documents and statistics from the US and Mexico and legal documents.

Amnesty International requested meetings with US government agencies and relevant Ports of Entry. The organization met with CBP and DHS.<sup>6</sup> Amnesty International provided US and Mexican government agencies with an opportunity to respond to the findings of this research and the responses that were received were incorporated into this report.

Amnesty International would like to express its utmost thanks to the asylum seekers who spoke to the organization as part of this research. At the time of the interviews many were in difficult and dangerous situations yet took the time to entrust their testimonies to the organization. Amnesty International would also like to thank the migrant shelters that allowed the organization to visit and interview asylum seekers, as well as the local and international organizations that met with Amnesty virtually and in person. Amnesty International commends them for their important work in protecting the human rights of asylum seekers in Mexico and the United States.

Various individuals and organizations spoke to Amnesty International on the condition of anonymity. Their names have not been included in this report. In some cases, pseudonyms have been used to refer to some of the individuals interviewed, which is indicated using quotation marks (“”) around their name.

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<sup>5</sup> Decompilation is the reconstruction of source code (human intelligible) from compiled machine code (the automatically produced code that runs on a machine, that is not very meaningful to humans). Dynamic analysis involves observing the behavior of the application by interacting with it in a real or realistic way. In the case of the CBP One application, this would be logging in with real credentials, and booking an appointment.

<sup>6</sup> Online meeting with CBP, 14 March 2024; Online meeting with DHS, 20 March 2024; Online meeting with CBP 1 April 2024.

# 3. SEEKING ASYLUM IN THE UNITED STATES

## 3.1 MIGRATION TO THE UNITED STATES

According to the United Nations High Commissioner for Refugees (UNHCR), at the end of June 2023, 110 million people worldwide were forcibly displaced from their homes due to persecution, conflict, violence, human rights violations, and events seriously disturbing public order.<sup>7</sup> By mid-2023, the Americas hosted 22.1 million forcibly displaced individuals.<sup>8</sup> UNHCR projects that this number will reach 25 million in 2024.<sup>9</sup>

In 2023, over 2.5 million asylum seekers and migrants entered the United States at the US-Mexico border.<sup>10</sup> The United States was the world's largest recipient of new asylum claims as of June 2023, with 540,600 new individual claims submitted.<sup>11</sup> The majority of asylum claims were made by individuals from Latin America and the Caribbean, notably Venezuela, Cuba, Nicaragua, Colombia, Honduras and Haiti.<sup>12</sup>

Mexico is the last country of transit for thousands of people seeking asylum and migrants on their way to the United States. According to UNHCR, Mexico's southern border has seen a consistent increase in number of arrivals, which grew from around 650 individuals daily in previous months to 4,000 individuals per day during the first weeks of October 2023.<sup>13</sup> From January to September 2023, the National Institute for Migration (*Instituto Nacional de Migración* – INM) recorded almost 1.5 million asylum seekers and migrants from 191 countries in transit in Mexico.<sup>14</sup> In recent years, Mexico has also become a significant destination country for people in need of international protection in the Americas.<sup>15</sup> According to the Mexican Commission for Refugee Assistance (*Comisión Mexicana de Ayuda a Refugiados* – COMAR), 140,948 individuals claimed asylum in the country in 2023, placing Mexico in the top five countries with the highest number of new

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<sup>7</sup> Of the 110 million forcibly displaced individuals, there are approximately 36.4 million refugees, 62.5 million internally displaced persons, 6.1 million asylum seekers and 5.3 million other people in need of international protection. UNHCR, *Mid-Year Trends 2023*, 25 October 2023, [unhcr.org/mid-year-trends-report-2023](https://www.unhcr.org/mid-year-trends-report-2023), p. 2.

<sup>8</sup> UNHCR, *Americas Operational Update, October to December 2023*, 2023, [reporting.unhcr.org/americas-operational-update-7663](https://reporting.unhcr.org/americas-operational-update-7663), p. 2.

<sup>9</sup> UNHCR, "The Americas", [reporting.unhcr.org/operational/regions/americas](https://reporting.unhcr.org/operational/regions/americas).

<sup>10</sup> CBP, "Southwest Land Border Encounters", 22 March 2024, [cbp.gov/newsroom/stats/southwest-land-border-encounters](https://cbp.gov/newsroom/stats/southwest-land-border-encounters).

<sup>11</sup> UNHCR, *Mid-Year Trends 2023* (previously cited), p. 2; DHS, "Refugees and Asylees Annual Flow Report", [dhs.gov/ohss/topics/immigration/refugees-asylees-afr](https://dhs.gov/ohss/topics/immigration/refugees-asylees-afr).

<sup>12</sup> UNHCR, *Mid-Year Trends 2023* (previously cited), p. 24; UNHCR, *Global Trends – Forced Displacement in 2022*, 14 June 2023, [unhcr.org/global-trends-report-2022](https://www.unhcr.org/global-trends-report-2022), p. 30.

<sup>13</sup> UNHCR, *Fact Sheet: Mexico*, February 2024, [reporting.unhcr.org/mexico-factsheet-7428](https://reporting.unhcr.org/mexico-factsheet-7428), p. 2.

<sup>14</sup> INM, "Acuerdan INM y Ferromex acciones con los tres niveles de gobierno y CBP para la ruta del sistema ferroviario a fin de que las personas migrantes no arriesguen su vida a bordo", Comunicado 124/23, 22 September 2023, [gob.mx/inm/prensa/acuerdan-inm-y-ferromex-acciones-con-los-tres-niveles-de-gobierno-y-cbp-para-la-ruta-del-sistema-ferroviario-a-fin-de-que-las-personas-migrantes-no-arriesguen-su-vida-a-bordo](https://gob.mx/inm/prensa/acuerdan-inm-y-ferromex-acciones-con-los-tres-niveles-de-gobierno-y-cbp-para-la-ruta-del-sistema-ferroviario-a-fin-de-que-las-personas-migrantes-no-arriesguen-su-vida-a-bordo).

<sup>15</sup> UNHCR, "Mexico", [unhcr.org/countries/mexico](https://www.unhcr.org/countries/mexico).

asylum claims worldwide.<sup>16</sup> From January to April 2024, 30,230 individuals had claimed asylum.<sup>17</sup> The top nationalities were Haiti, Honduras and Cuba.<sup>18</sup> People seeking asylum in Mexico must lodge their claim at the state-level and remain in that Mexican state until it is resolved.<sup>19</sup> In recent years, the majority of claims have been presented in the state of Chiapas.<sup>20</sup> Amnesty International previously reported on the practice of the INM detaining migrants and asylum seekers who try to leave Chiapas and returning them to the city of Tapachula, Chiapas.<sup>21</sup>

## 3.2 US MIGRATION AND ASYLUM POLICIES

In accordance with Title 8 of the US Code, any individual who is physically present in the United States or who arrives at the border must be given an opportunity to seek asylum.<sup>22</sup> Nevertheless, in recent years, the United States has implemented a series of migration and asylum policies which have drastically limited access to asylum at the US-Mexico border, resulting in irreparable harm to thousands of individuals seeking safety from persecution or serious human rights violations in their countries of origin.<sup>23</sup> These include “metering”, the Migrant Protection Protocols (MPP), Title 42 and currently the Circumvention of Lawful Pathways Final Rule.

**“Asylum seekers have never not had a racist experience at the border.”**

Lawyer, Al Otro Lado (Tijuana, Mexico)<sup>24</sup>

### 3.2.1 “METERING”

Since as early as February 2016, CBP implemented an illegal de facto policy of pushbacks of asylum seekers (referred to as “metering”) at US ports of entry along the US-Mexico border.<sup>25</sup> Thousands of asylum seekers were forced to queue on the Mexican side of the border, sometimes for months, in dangerous conditions before they were permitted to request asylum.<sup>26</sup>

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<sup>16</sup> COMAR, “Cierre Febrero 2024”, [gob.mx/cms/uploads/attachment/file/896219/Cierre\\_Febrero-2024\\_29-Febrero\\_.pdf](http://gob.mx/cms/uploads/attachment/file/896219/Cierre_Febrero-2024_29-Febrero_.pdf); UNHCR, *Mid-Year Trends 2023* (previously cited), p. 2; UNHCR, *Fact Sheet: Mexico* (previously cited), pp. 1-2.

<sup>17</sup> COMAR, “Cierre Abril/Marzo 2024”, [gob.mx/cms/uploads/attachment/file/913718/Cierre\\_Abril-2024\\_1-Mayo\\_.pdf](http://gob.mx/cms/uploads/attachment/file/913718/Cierre_Abril-2024_1-Mayo_.pdf).

<sup>18</sup> COMAR, “Cierre Abril 2024” (previously cited); UNHCR, *Fact Sheet: Mexico* (previously cited), p. 1.

<sup>19</sup> COMAR, *Guía para las personas solicitantes del reconocimiento de la condición de refugiado*, 2022, [help.unhcr.org/mexico/wp-content/uploads/sites/22/2022/04/Guia-solicitante\\_COMAR\\_2022.pdf](http://help.unhcr.org/mexico/wp-content/uploads/sites/22/2022/04/Guia-solicitante_COMAR_2022.pdf); WOLA, *Struggling to Survive: the Situation of Asylum Seekers in Tapachula, Mexico*, June 2022, [wola.org/wp-content/uploads/2022/06/FINAL-Struggling-to-Survive-Asylum-Seekers-in-Tapachula.pdf](http://wola.org/wp-content/uploads/2022/06/FINAL-Struggling-to-Survive-Asylum-Seekers-in-Tapachula.pdf), p. 9.

<sup>20</sup> COMAR, “Cierre Abril 2024” (previously cited).

<sup>21</sup> Amnesty International, *Not safe anywhere: Haitians on the move need urgent international protection* (AMR 36/4920/2021), 28 October 2021, [amnesty.org/en/documents/amr36/4920/2021/en/](http://amnesty.org/en/documents/amr36/4920/2021/en/), p. 6.

<sup>22</sup> 8 U.S.C. § 1158(a); American Immigration Council, *Metering and Asylum Turnbacks*, March 2021, [americanimmigrationcouncil.org/sites/default/files/research/metering\\_and\\_asylum\\_turnbacks\\_0.pdf](http://americanimmigrationcouncil.org/sites/default/files/research/metering_and_asylum_turnbacks_0.pdf), p. 1.

<sup>23</sup> Amnesty International, *Americas: Pushback Practices and their Impact on the Human Rights of Migrants and Refugees* (AMR 01/3658/2021) 8 February 2021, [amnesty.org/en/documents/amr01/3658/2021/en/](http://amnesty.org/en/documents/amr01/3658/2021/en/), p. 1.

<sup>24</sup> In-person interview with lawyer at Al Otro Lado, Tijuana, Mexico, 28 November 2023.

<sup>25</sup> Amnesty International, *Americas: Pushback Practices* (previously cited), p. 1; Amnesty International, *‘You don’t have any rights here’: Illegal pushbacks, arbitrary detention and ill-treatment of asylum-seekers* (AMR 51/9101/2018), 11 October 2018, [amnesty.org/en/documents/amr51/9101/2018/en/](http://amnesty.org/en/documents/amr51/9101/2018/en/), p. 5; American Immigration Council, *Metering and Asylum Turnbacks* (previously cited).

<sup>26</sup> Amnesty International, *Americas: Pushback Practices* (previously cited), p. 1; Amnesty International, *‘You don’t have any rights here’* (previously cited), pp. 5, 11-14.

## 3.2.2 MIGRANT PROTECTION PROTOCOLS – “REMAIN IN MEXICO” POLICY

The Migrant Protection Protocols (MPP), better known as the “Remain in Mexico” policy, required asylum seekers at the US-Mexico border to return to and stay in Mexico during the adjudication of their asylum claims, which could take months or years to complete.<sup>27</sup> From January 2019 to December 2020, at least 70,000 asylum seekers were returned to Mexico to await the adjudication of their claims.<sup>28</sup> The Biden Administration suspended and then terminated MPP. However, the policy was reinstated as the result of a federal court order which saw at least 7,500 asylum seekers returned to Mexico from December 2021 to August 2022.<sup>29</sup> The US Supreme Court overturned the federal court order and MPP ended in October 2022.<sup>30</sup>

## 3.2.3 TITLE 42 PUBLIC HEALTH ORDER

From 20 March 2020 to 11 May 2023, within the context of the COVID-19 pandemic, the Centers for Disease Control and Prevention’s (CDC) Order, “Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists,” known as Title 42, was in place at the United States’ southern border.<sup>31</sup> The Title 42 public health order allowed the Department of Homeland Security (DHS) to expel asylum seekers arriving at the border if there was a “serious danger of the introduction of [a communicable] disease into the United States”.<sup>32</sup> Despite agreement from medical experts that there was no real public health basis for the use of Title 42, the pandemic was used as a pretext to block asylum at the US southern border over 2 million times.<sup>33</sup>

## 3.2.4 CIRCUMVENTION OF LAWFUL PATHWAYS FINAL RULE – THE “ASYLUM BAN”

Title 42 ended on 11 May 2023, in conjunction with the Biden Administration’s ending the national emergency related to the COVID-19 pandemic, which meant a return to the processing of

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<sup>27</sup> DHS, “Migrant Protection Protocols”, 1 September 2022, [dhs.gov/news/2019/01/24/migrant-protection-protocols#:~:text=The%20Migrant%20Protection%20Protocols%20\(MPP,of%20their%20immigration%20proceedings%2C%20where](https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols#:~:text=The%20Migrant%20Protection%20Protocols%20(MPP,of%20their%20immigration%20proceedings%2C%20where); Amnesty International, *Americas: Pushback Practices* (previously cited), p. 1.

<sup>28</sup> American Immigration Council, “The ‘Migrant Protection Protocols’”, 1 February 2024, [americanimmigrationcouncil.org/research/migrant-protection-protocols](https://www.americanimmigrationcouncil.org/research/migrant-protection-protocols).

<sup>29</sup> American Immigration Council, “The ‘Migrant Protection Protocols’” (previously cited).

<sup>30</sup> American Immigration Council, “The ‘Migrant Protection Protocols’” (previously cited).

<sup>31</sup> Health and Human Services Department, “Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons into United States from Designated Foreign Countries or Places for Public Health Purposes, 24 March 2020, [federalregister.gov/documents/2020/03/24/2020-06238/control-of-communicable-diseases-foreign-quarantine-suspension-of-introduction-of-persons-into](https://www.federalregister.gov/documents/2020/03/24/2020-06238/control-of-communicable-diseases-foreign-quarantine-suspension-of-introduction-of-persons-into).

<sup>32</sup> US Code, Title 42, [uscode.house.gov/browse/prelim@title42&edition=prelim](https://www.uscode.house.gov/browse/prelim@title42&edition=prelim); American Immigration Lawyers Association, “Practice Pointer: Title 42 and Asylum Processing at the Southern Border”, AILA Doc. No. 22102512, 13 January 2023; [aila.org/advocacy/aila-practice-pointers-and-alerts/practice-pointer-title-42-and-asylum-processing](https://www.aila.org/advocacy/aila-practice-pointers-and-alerts/practice-pointer-title-42-and-asylum-processing).

<sup>33</sup> Physicians for Human Rights, *Neither Safety nor Health: How Title 42 Expulsions Harm Health and Violate Rights*, July 2021, [phr.org/wp-content/uploads/2021/07/PHR-Report-United-States-Title-42-Asylum-Expulsions-July-2021.pdf](https://www.phr.org/wp-content/uploads/2021/07/PHR-Report-United-States-Title-42-Asylum-Expulsions-July-2021.pdf), p. 3; Amnesty International, “USA: At border, humanitarian delegation witnesses an end of Title 42 without chaos and cruelty of new asylum ban”, 12 May 2023, [amnesty.org/en/latest/news/2023/05/usa-humanitarian-delegation-end-title-42/](https://www.amnesty.org/en/latest/news/2023/05/usa-humanitarian-delegation-end-title-42/); Amnesty International, *Pushed into Harm’s Way: forced returns of unaccompanied migrant children to danger by the USA and Mexico* (AMR 51/4200/2021), 11 June 2021, [amnesty.org/en/documents/amr51/4200/2021/en/](https://www.amnesty.org/en/documents/amr51/4200/2021/en/), pp. 15-17; Amnesty International, *Americas: Pushback Practices* (previously cited), pp. 1-2; Amnesty International, “North America: Refugee and migrant rights must be top priority of ‘Three Amigos’ summit”, 9 January 2023, [amnesty.org/en/latest/news/2023/01/north-america-refugee-migrant-rights-three-amigos-summit/](https://www.amnesty.org/en/latest/news/2023/01/north-america-refugee-migrant-rights-three-amigos-summit/); Amnesty International, “*They Did Not Treat Us Like People*”: *Race and Migration-related Torture and Other Ill-Treatment of Haitians Seeking Safety in the USA* (AMR 36/5973/2022), 22 September 2022, [amnesty.org/en/documents/amr36/5973/2022/en/](https://www.amnesty.org/en/documents/amr36/5973/2022/en/), pp. 4-5, 19-24.

asylum seekers under Title 8.<sup>34</sup> However, that same day, the Circumvention of Lawful Pathways Final Rule (Final Rule) came into effect.<sup>35</sup> According to the Biden Administration:

“The [Circumvention of Lawful Pathways Final Rule] is designed to address the current and anticipated surge in migration throughout the hemisphere and further discourage irregular migration by: encouraging migrants to use lawful, safe, and orderly processes for entering the United States and other partner nations; imposing conditions on asylum eligibility for those who fail to do so; and supporting the swift return of migrants who do not have valid protection claims.”<sup>36</sup>

The Final Rule (also known as the Asylum Ban) imposes a rebuttable presumption of ineligibility for asylum upon individuals who enter the United States from Mexico at the southern land border or adjacent coastal borders “without authorization”.<sup>37</sup> The rebuttable presumption applies only to individuals whose entry to the US was (1) between 11 May 2023 and 11 May 2025; and, (2) after the individual travelled through a country other than their country of citizenship, nationality or, if stateless, last habitual residence, that is party to the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) or the 1967 Protocol Relating to the State of Refugees (1967 Protocol).<sup>38</sup>

The rebuttable presumption does not apply to asylum seekers who are able to meet one of three exceptions:

- They were provided authorization to travel to the United States pursuant to a DHS-approved parole process;
- They used the CBP One mobile application to schedule a time and place to present at a port-of-entry, or they presented at a port-of-entry without using the CBP One application and established that it was not possible to access or use the application due to a language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle; or,
- They applied for and were denied asylum in a third country en route to the United States.<sup>39</sup>

Unaccompanied children are exempted from the rebuttable presumption.<sup>40</sup>

In addition to the three exceptions, individuals can rebut the presumption of asylum ineligibility if they are able to demonstrate that, at the time of their “unauthorized entry” into the US, they or a member of their family with whom they were travelling:

- Faced an acute medical emergency;
- Faced an extreme and imminent threat to their life or safety, such as an imminent threat of rape, kidnapping, torture or murder; or,
- Were a victim of a severe form of trafficking, as defined in 8 CF § 214.11.<sup>41</sup>

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<sup>34</sup> The White House, Bill Signed: H.J.Res. 7, 10 April 2023, [whitehouse.gov/briefing-room/legislation/2023/04/10/bill-signed-h-j-res-7/](https://www.whitehouse.gov/briefing-room/legislation/2023/04/10/bill-signed-h-j-res-7/). Under Title 8, non-US nationals can seek asylum when crossing US borders citing a credible fear of persecution and/or torture.

<sup>35</sup> US Federal Register, Circumvention of Lawful Pathways, 88 FR 31314, 2023-10146, 16 May 2023, [federalregister.gov/documents/2023/05/16/2023-10146/circumvention-of-lawful-pathways](https://www.federalregister.gov/documents/2023/05/16/2023-10146/circumvention-of-lawful-pathways); DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule”, 11 May 2023, [dhs.gov/news/2023/05/11/fact-sheet-circumvention-lawful-pathways-final-rule](https://www.dhs.gov/news/2023/05/11/fact-sheet-circumvention-lawful-pathways-final-rule).

<sup>36</sup> DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited).

<sup>37</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), p. 31321. Adjacent coastal borders mean any coastal border at or near the US-Mexico border reached by an individual after travelling from Mexico and circumventing the US-Mexico land border.

<sup>38</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), p. 31321.

<sup>39</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), p. 31322; DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited).

<sup>40</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), p. 31322; DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited).

<sup>41</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), p. 31322; DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited).

Individuals who enter the United States “without authorization” and who cannot establish a legal basis to remain in the country may be subject to expedited removal.<sup>42</sup> An asylum officer would evaluate the rebuttable presumption as part of the credible fear interview, which is subject to review by an immigration judge. According to the DHS:

- If an asylum officer determines that the individual is not subject to, is excepted from, or has rebutted the presumption of asylum ineligibility, the asylum officer’s credible fear determination would follow existing procedures, including the screening for eligibility for asylum, withholding of removal and Convention Against Torture (CAT) protection under a significant possibility standard.
- If an asylum officer determines that the noncitizen is subject to and has not made a sufficient showing of being excepted from or rebutting the presumption, the asylum officer’s screening would be limited to determining whether the individual has demonstrated a reasonable possibility of persecution or torture in the designated country of removal. If a reasonable possibility of persecution or torture is established, the individual will be issued a notice to appear for removal proceedings before an immigration judge.<sup>43</sup>

The rebuttable presumption of asylum eligibility applies in expedited removal proceedings, as well as applications affirmatively filed with the Asylum Office or filed in immigration court proceedings as a defense to removal.<sup>44</sup>

Asylum seekers who are subject to the rebuttable presumption, do not rebut the presumption and do not establish reasonable fear of persecution or torture in the country of removal “will be promptly removed”.<sup>45</sup> Individuals who are ordered to be removed will be subject to at least a five-year bar to reentry and potential criminal prosecution if they subsequently re-enter the United States irregularly.<sup>46</sup> Individuals ordered removed will also be ineligible for the parole processes available to Cubans, Haitians, Nicaraguans and Venezuelans.<sup>47</sup>

From 12 May 2023 to 3 April 2024, DHS removed over 660,000 individuals (the majority of whom crossed the US southwest border) who did not establish a legal basis to remain in the United States using the consequences established in the Circumvention of Lawful Pathways Final Rule.<sup>48</sup> Total removals and returns from mid-May 2023 to April 2024 exceeded removals and returns in every full fiscal year since 2011.<sup>49</sup>

Amnesty International considers that the Final Rule violates the United States’ international obligations by limiting access to the US asylum system and by returning individuals to places where their lives may be at risk. Further, it is concerning that there are no exemptions for populations with circumstantial vulnerabilities such as LGBTIQ+ individuals, women traveling alone, older persons, families with children, or others such as Black, Brown and Indigenous populations that may face particular risk waiting in Mexico.



#### LITIGATION AGAINST THE ASYLUM BAN

Since May 2023, various organizations have filed lawsuits against the Circumvention of Lawful Pathways Final Rule. On 25 July 2023, the US District Court for the Northern District of California vacated the regulation.<sup>50</sup> The Biden Administration appealed the decision and the US Court of Appeals for the Ninth Circuit issued a stay on 3 August 2023.<sup>51</sup> This means that the Final Rule remains in place and

continues to be applied.<sup>52</sup>

On 27 July 2023, various organizations filed a lawsuit alleging that CBP officers were turning back asylum seekers without CBP One appointments and denying them access to ports of entry.<sup>53</sup> On 13 October 2023, a federal court in California denied the request for a preliminary injunction, meaning that CBP officers can continue to unlawfully turn back individuals seeking safety.<sup>54</sup>

<sup>50</sup> US District Court, Northern District of California, *East Bay Sanctuary Covenant v. Biden*, 25 July 2023, [aclu.org/documents/east-bay-sanctuary-covenant-v-biden-summary-judgment-order](https://www.aclu.org/documents/east-bay-sanctuary-covenant-v-biden-summary-judgment-order).

<sup>51</sup> US Court of Appeals for the Ninth Circuit, *East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 672 (9th Cir. 2021)

### 3.2.5 CBP ONE MOBILE APPLICATION

CBP One is a mobile application launched by US Customs and Border Protection (CBP) on 28 October 2020.<sup>55</sup> It serves as a single portal to a variety of CBP services. While the application was originally available for specific migration purposes, such as for “land travelers to submit their traveler information in advance prior to their border crossing into the United States [and] air travelers to request an inspection of biological and agriculture products upon their air arrival into the US”, additional uses have been added over time.<sup>56</sup> For example, CBP One was previously used by non-governmental organizations to submit information on behalf of individuals seeking humanitarian exemptions to Title 42 and to verify whether individuals were enrolled in the Migrant Protection Protocols. Individuals applying for the humanitarian parole programs for Cubans, Haitians, Nicaraguans and Venezuelans must also do so through CBP One.<sup>57</sup>

In the case of asylum seekers, as of 18 January 2023, individuals seeking international protection in the United States from countries that were subject to Title 42 expulsions were instructed to use CBP One to seek an exemption to Title 42.<sup>58</sup> Asylum seekers, particularly those from Cuba, Haiti, Nicaragua and Venezuela were instructed to use the application to schedule appointments to present themselves at participating ports of entry to request asylum; however, the use of CBP one was not mandatory by policy.<sup>59</sup>

Following the termination of Title 42 and in accordance with the Final Rule, all people seeking asylum through the US-Mexico border are now required to use the CBP One application to schedule a time to arrive at participating ports of entry along the border in order to present their asylum claims, unless they are able to demonstrate “by a preponderance of the evidence that it was not possible to access or use the CBP One app due to language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle”.<sup>60</sup> Asylum seekers who arrive at ports of entry without having previously scheduled an appointment through CBP One and who are unable to prove

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[cdn.ca9.uscourts.gov/datastore/opinions/2021/03/24/18-17274.pdf](https://cdn.ca9.uscourts.gov/datastore/opinions/2021/03/24/18-17274.pdf).

<sup>44</sup> DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited).

<sup>45</sup> DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited).

<sup>46</sup> DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited).

<sup>47</sup> DHS, “Fact Sheet: Circumvention of Lawful Pathways Final Rule” (previously cited); USCIS, “Processes for Cubans, Haitians, Nicaraguans and Venezuelans”, 1 April 2024, [uscis.gov/CHNV](https://uscis.gov/CHNV).

<sup>48</sup> CBP, “CBP Releases March 2024 Monthly Update”, 12 April March 2024, [cbp.gov/newsroom/national-media-release/cbp-releases-march-2024-monthly-update](https://cbp.gov/newsroom/national-media-release/cbp-releases-march-2024-monthly-update); National Immigration Project & Together & Free, *Facing an Impossible Choice: Experiences of Asylum Seekers in Matamoros and Reynosa Two Months into the Biden Asylum Ban*, 24 July 2023, [ninpig.org/sites/default/files/2023-07/2023\\_Facing-An-Impossible-Choice.pdf](https://ninpig.org/sites/default/files/2023-07/2023_Facing-An-Impossible-Choice.pdf), p. 1.

<sup>49</sup> CBP, “CBP Releases March 2024 Monthly Update” (previously cited).

<sup>50</sup> US District Court, Northern District of California, *East Bay Sanctuary Covenant v. Biden*, 25 July 2023, [aclu.org/documents/east-bay-sanctuary-covenant-v-biden-summary-judgment-order](https://aclu.org/documents/east-bay-sanctuary-covenant-v-biden-summary-judgment-order).

<sup>51</sup> US Court of Appeals for the Ninth Circuit, *East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 672 (9th Cir. 2021) [cdn.ca9.uscourts.gov/datastore/opinions/2021/03/24/18-17274.pdf](https://cdn.ca9.uscourts.gov/datastore/opinions/2021/03/24/18-17274.pdf).

<sup>52</sup> USCIS, “Asylum”, 12 February 2024, [uscis.gov/humanitarian/refugees-and-asylum/asylum](https://uscis.gov/humanitarian/refugees-and-asylum/asylum).

<sup>53</sup> *AOL et. al v. Mayorkas*, [americanimmigrationcouncil.org/sites/default/files/litigation\\_documents/challenging\\_cbp\\_one\\_turnback\\_policy\\_complaint\\_0.pdf](https://americanimmigrationcouncil.org/sites/default/files/litigation_documents/challenging_cbp_one_turnback_policy_complaint_0.pdf).

<sup>54</sup> American Immigration Council, “Court Allows Turnbacks of Asylum Seekers Without CBP One Appointments to Continue”, 13 October 2023, [americanimmigrationcouncil.org/news/court-allows-turnbacks-asylum-seekers-without-cbp-one-appointments-continue](https://americanimmigrationcouncil.org/news/court-allows-turnbacks-asylum-seekers-without-cbp-one-appointments-continue).

<sup>55</sup> CBP, “CBP One™ Mobile Application”, 9 April 2024, [cbp.gov/about/mobile-apps-directory/cbpone](https://cbp.gov/about/mobile-apps-directory/cbpone).

<sup>56</sup> CBP, “CBP One™ Mobile Application” (previously cited).

<sup>57</sup> USCIS, “Processes for Cubans, Haitians, Nicaraguans, and Venezuelans” (previously cited).

<sup>58</sup> DHS, “DHS Scheduling System for Safe, Orderly and Humane Border Processing Goes Live on CBP One™ App”, 15 May 2023, [dhs.gov/news/2023/01/12/dhs-scheduling-system-safe-orderly-and-humane-border-processing-goes-live-cbp-one-tem](https://dhs.gov/news/2023/01/12/dhs-scheduling-system-safe-orderly-and-humane-border-processing-goes-live-cbp-one-tem).

<sup>59</sup> CBP, “CBP One™ Mobile Application” (previously cited); DHS, *Privacy Impact Assessment for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border*, DHS Reference No. DHS/CBP/PIA-076, 19 January 2023, [dhs.gov/sites/default/files/2023-01/privacy-pia-cbp076-advance-collection-for-undocumented-individuals-jan2023\\_0.pdf](https://dhs.gov/sites/default/files/2023-01/privacy-pia-cbp076-advance-collection-for-undocumented-individuals-jan2023_0.pdf), p. 5.

<sup>60</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), p. 31322.



that it was not possible to access or use the application, or do not meet one of the two other exceptions in the Final Rule, will be presumed to be ineligible for asylum.<sup>61</sup>

The CBP One application is only available in English, Spanish and Haitian Creole.<sup>62</sup> Appointments are offered at eight ports of entry: Brownsville-Matamoros, Calexico-Mexicali, Eagle Pass-Piedras Negras, El Paso (Paso del Norte)-Ciudad Juárez, Hidalgo-Reynosa, Laredo-Nuevo Laredo,<sup>63</sup> Nogales and San Ysidro-Tijuana.<sup>64</sup>



When CBP One first became required for asylum seekers in May 2023, 1,000 new appointments were made available across the participating ports of entry for 23 hours each day.<sup>65</sup> In June, CBP increased the number of appointments to 1,450.<sup>66</sup> According to CBP, the number of people who can be processed through the application “will vary by port based on available resources and existing infrastructure”.<sup>67</sup>

In order to use the CBP One application, asylum seekers need a mid-to-high-end smart phone, access to good quality internet, an email address and some basic technological knowledge.<sup>68</sup> People seeking asylum can download and register themselves in the application from anywhere. To register themselves, asylum seekers need an email address; must upload facial photographs of all members of the registration group; add an address in the United States that they are travelling to; and add an emergency contact in the US.<sup>69</sup> Registrations that have been submitted cannot be edited. If an asylum seeker needs to change something in their registration, the only way is to delete it and make a new registration.<sup>70</sup>

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<sup>61</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), p. 31321-31322.

<sup>62</sup> CBP, “CBP One™ Mobile Application” (previously cited). According to CBP, English, Spanish and Haitian Creole are “the primary languages for the nationalities that most frequently use CBP One”. Communication from CBP, 9 April 2024.

<sup>63</sup> In June 2023, CBP suspended asylum appointments through the application at the Laredo port-of-entry for a few days because asylum seekers were being extorted. Reuters, “Exclusive: US restarts asylum appointments at Mexico border town despite extortion threat”, 28 June 2023, [reuters.com/world/americas/us-restarts-asylum-appointments-mexico-border-town-despite-extortion-threat-2023-06-28/](https://www.reuters.com/world/americas/us-restarts-asylum-appointments-mexico-border-town-despite-extortion-threat-2023-06-28/).

<sup>64</sup> CBP, “CBP Makes Changes to CBP One™ App”, 10 May 2023, [cbp.gov/newsroom/national-media-release/cbp-makes-changes-cbp-one-app](https://www.cbp.gov/newsroom/national-media-release/cbp-makes-changes-cbp-one-app).

<sup>65</sup> CBP, “CBP Makes Changes to CBP One™ App” (previously cited).

<sup>66</sup> CBP, “CBP One™ Appointments Increased to 1,450 Per Day”, 14 July 2023, [cbp.gov/newsroom/national-media-release/cbp-one-appointments-increased-1450-day](https://www.cbp.gov/newsroom/national-media-release/cbp-one-appointments-increased-1450-day).

<sup>67</sup> CBP, “CBP One™ Mobile Application” (previously cited).

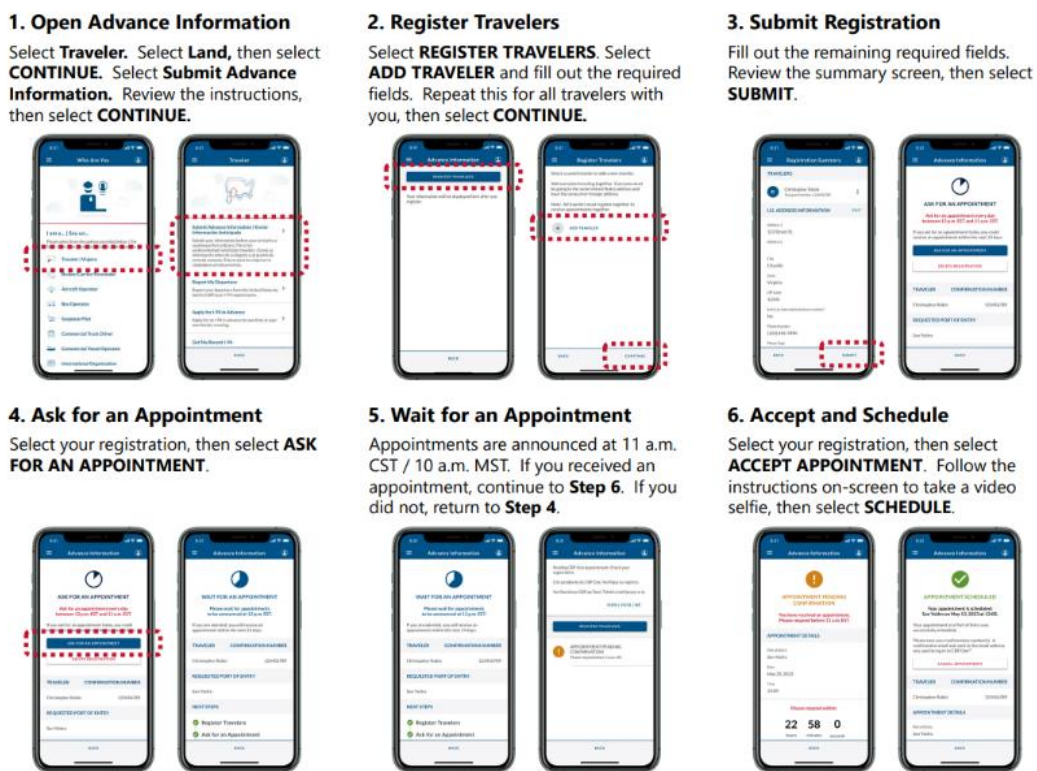
<sup>68</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos*, 25 October 2023, [reliefweb.int/report/mexico/cbp-one-puente-hacia-el-asilo-entre-mexico-y-estados-unidos#:~:text=CBP%20One%20es%20una%20aplicaci%C3%B3n,el%20prop%C3%B3sito%20de%20solicitar%20asilo,p.1;TCRP&CREEC,CPBOneDisabilityRightsViolationsofSection508oftheRehabilitationAct,25March2024,4b16d9e9-506a-4ada-aeca-7c3e69a4ed29.usrfiles.com/ugd/4b16d9\\_e98ae77035514157bc1c4c746b5545e6.pdf](https://reliefweb.int/report/mexico/cbp-one-puente-hacia-el-asilo-entre-mexico-y-estados-unidos#:~:text=CBP%20One%20es%20una%20aplicaci%C3%B3n,el%20prop%C3%B3sito%20de%20solicitar%20asilo,p.1;TCRP&CREEC,CPBOneDisabilityRightsViolationsofSection508oftheRehabilitationAct,25March2024,4b16d9e9-506a-4ada-aeca-7c3e69a4ed29.usrfiles.com/ugd/4b16d9_e98ae77035514157bc1c4c746b5545e6.pdf).

<sup>69</sup> CBP, *CBP One™ Mobile Application Traveler User Guide*, 11 May 2023, [cbp.gov/sites/default/files/assets/documents/2023-May/CPBOne%20One%20-%20User%20Guide%20-%20Traveler%20Land%20Submit%20Advance%20Information%20-%20English.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2023-May/CPBOne%20One%20-%20User%20Guide%20-%20Traveler%20Land%20Submit%20Advance%20Information%20-%20English.pdf); TCRP, *CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act* (previously cited), p. 4.

<sup>70</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 26.

While as mentioned above registration can be done anywhere, in order to actually request and schedule appointments via CBP One, asylum seekers must be located in central or northern Mexico (including Mexico City and Guadalajara).<sup>71</sup> CBP uses geofencing capabilities to limit use of the application to request and schedule appointments to users within this defined geographical area.<sup>72</sup> When an asylum seeker logs into CBP One to request an appointment, the GPS on their mobile device is pinged by the application which collects and sends the latitude and longitude coordinates to CBP for analytical purposes (i.e., to determine where the user is submitting the advance arrival information from) and to monitor irregularities (i.e., receiving multiple submissions from the same phone).<sup>73</sup>

Asylum seekers have up to 12 hours a day (from 11 a.m. CST/GMT-6 to 11 p.m. CST/GMT-6) to sign into CBP One and request an appointment.<sup>74</sup> Requests for appointments are considered the day immediately following the request which means that individuals must log into the application and request an appointment each day until they are allocated an appointment.<sup>75</sup> Asylum seekers can change the port-of-entry each time they request an appointment.<sup>76</sup>



<sup>71</sup> CBP, “CBP One™ Mobile Application” (previously cited).  
<sup>72</sup> DHS, *Privacy Impact Assessment for CBP One™*, DHS Reference No. DHS/CBP/PIA-068, 19 February 2021, [dhs.gov/sites/default/files/2023-01/privacy-pia-cbp068-cbpmobileapplication-jan2023.pdf](https://dhs.gov/sites/default/files/2023-01/privacy-pia-cbp068-cbpmobileapplication-jan2023.pdf), p. 19; DHS, *Privacy Impact Assessment for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border* (previously cited), p. 6.  
<sup>73</sup> DHS, *Privacy Impact Assessment for CBP One™* (previously cited), p. 19; DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42*, DHS/CBP/PIA-076(a), 19 September 2023, [dhs.gov/sites/default/files/2023-12/23\\_1019\\_priv\\_pia-cbp-076%28a%29-advance-collection-appendix-update.pdf](https://dhs.gov/sites/default/files/2023-12/23_1019_priv_pia-cbp-076%28a%29-advance-collection-appendix-update.pdf), p. 5.  
<sup>74</sup> CBP, “CBP One™ Application Update Announcement”, 29 February 2024, [cbp.gov/sites/default/files/assets/documents/2024-Feb/24\\_0229\\_cbpone-app-flyer-english.pdf](https://cbp.gov/sites/default/files/assets/documents/2024-Feb/24_0229_cbpone-app-flyer-english.pdf). Asylum seekers previously had up to 23 hours a day (from 11 am CST to 10 am CST) to sign into CBP One and request an appointment. CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited).  
<sup>75</sup> DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42* (previously cited), p. 4.  
<sup>76</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 24.

Each day at 11 a.m. CST/GMT-6, CBP One allocates 1,450 appointments to a number of people who requested them the previous day. Seventy percent of available appointments are allocated randomly to individuals and 30% are allocated to people with the oldest accounts who have been waiting the longest.<sup>77</sup> CBP has also “imposed a limit in the allocation system to the number of Mexican individuals who may be provided an appointment each day” apparently as a way of “ensuring a more even distribution of appointments across nationalities.”<sup>78</sup> Individuals have up to 23 hours (by 11 a.m. CST/GMT-6) to accept the appointment which can only be done by one member of the registration group uploading a video selfie in the application.<sup>79</sup> If an individual is experiencing technical difficulties, they can request a 23-hour extension through the application to accept the appointment. However, if they are still unable to accept the appointment after the additional 23 hours, the appointment offer will expire, and they will have to ask for a new appointment.<sup>80</sup>

Appointments are given 21 days in advance.<sup>81</sup> According to CBP, “appointments do not guarantee admission [to the US] and a determination of admissibility is made on a case-by-case basis by CBP officers”.<sup>82</sup> Having a CBP One appointment is not equivalent to making an asylum claim. People seeking asylum who present themselves at a port-of-entry with a CBP One appointment will be paroled into the United States where they can then apply for asylum.<sup>83</sup>

CBP has not shared public information indicating the number of appointments per port-of-entry each day.<sup>84</sup> However, according to border updates published by the Strauss Center for International Security and Law at the University of Texas at Austin the breakdown of appointments at each port-of-entry is as follows:<sup>85</sup>

PORT-OF-ENTRY	NUMBER OF CBP ONE APPOINTMENTS
Brownsville-Matamoros	~ 380 CBP One appointments ~ 20 people via NGO lists
Calexico-Mexicali	~ 75 CBP One appointments ~ 10 people via NGO lists
Eagle Pass-Piedras Negras	~ 60 CBP One appointments
El Paso (Paso Del Norte)-Ciudad Juárez	~ 200 CBP One appointments ~ 5 people via NGO lists
Hidalgo-Reynosa	~ 195 CBP One appointments ~ 16 people via NGO lists

<sup>77</sup> CBP, “CBP Releases January 2024 Monthly Update”, 13 February 2024, [cbp.gov/newsroom/national-media-release/cbp-releases-january-2024-monthly-update](https://www.cbp.gov/newsroom/national-media-release/cbp-releases-january-2024-monthly-update).

<sup>78</sup> Communication from CBP, 9 April 2024.

<sup>79</sup> Asylum seekers can request an additional 23 hours to accept the appointment. CBP, “CBP One™ Application Update Announcement”, 10 May 2023, [cbp.gov/document/guidance/cbp-one-application-update-announcement-english](https://www.cbp.gov/document/guidance/cbp-one-application-update-announcement-english); CBP, “CBP One™ | Traveler – Land – Submit Advance Information”, 11 May 2023, [cbp.gov/sites/default/files/assets/documents/2023-May/CBP%20One%20-%20Quick%20Resource%20Guide%20-%20Traveler%20Land%20Submit%20Advance%20Information%20-%20English\\_old.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2023-May/CBP%20One%20-%20Quick%20Resource%20Guide%20-%20Traveler%20Land%20Submit%20Advance%20Information%20-%20English_old.pdf); CBP, “CBP Makes Changes to CBP One™ App”, 5 May 2023, [cbp.gov/newsroom/national-media-release/cbp-makes-changes-cbp-one-app](https://www.cbp.gov/newsroom/national-media-release/cbp-makes-changes-cbp-one-app); CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 31; DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42* (previously cited), p. 4.

<sup>80</sup> DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42* (previously cited), p. 4.

<sup>81</sup> CBP, “CBP One™ Mobile Application” (previously cited).

<sup>82</sup> CBP, “CBP One™ Mobile Application” (previously cited).

<sup>83</sup> USCIS, “Asylum” (previously cited).

<sup>84</sup> Communication from CBP, 9 April 2024.

<sup>85</sup> Strauss Center for International Security and Law, University of Texas at Austin, *Asylum Processing at the U.S.-Mexico Border: February 2024*, [strausscenter.org/publications/asylum-processing-at-the-u-s-mexico-border-february-2024/](https://strausscenter.org/publications/asylum-processing-at-the-u-s-mexico-border-february-2024/), pp. 5-13.

PORT-OF-ENTRY	NUMBER OF CBP ONE APPOINTMENTS
Laredo-Nuevo Laredo	~ 55 CBP One appointments ~ 2 people via NGO lists
Nogales	~ 100 CBP One appointments ~ 10 people via NGO lists
San Ysidro-Tijuana	~ 385 CBP One appointments ~ 10 people via NGO lists
<b>Total number of appointments</b>	<b>1,450 CBP One appointments 73 people via NGO lists</b>

In addition to CBP One appointments, at several ports of entry, CBP processes “walk ups”.<sup>86</sup> These walk ups are usually coordinated by lists managed by non-governmental organizations to whom CBP has allocated a specific number of spaces each day.<sup>87</sup> According to the Strauss Center, in Matamoros, Nuevo Laredo, Reynosa and Tijuana, the lists generally prioritize individuals with medical emergencies, while in Mexicali and Nogales, individuals are prioritized by date of arrival.<sup>88</sup> However, it is not clear if individuals who enter the United States on a list are considered as having entered the country with CBP One appointments and how the rebuttable assumption of asylum ineligibility will be applied in these cases.<sup>89</sup> When asked about these lists, CBP stated that it “does not manage or track lists of individuals seeking to present at a POE outside of the CBP One process”.<sup>90</sup>

Upon arriving at a port-of-entry with a CBP One appointment, CBP officers will evaluate each individual to determine how they will be processed. CBP does not adjudicate asylum claims.<sup>91</sup> Individuals processed for expedited removal proceedings who express a fear of persecution or torture or a fear of return to their country, or who indicate an intention to apply for asylum, are referred to US Citizenship and Immigration Services (USCIS) for a credible fear interview. Individuals issued a Notice to Appear and placed in removal proceedings will have the opportunity to seek relief, including asylum, or other protection before an immigration judge.<sup>92</sup>

According to CBP, from May 2023 to January 2024, there have been 421,570 CBP One appointments.<sup>93</sup> The top nationalities who have been processed are Venezuela, Mexico and Haiti.<sup>94</sup>

MONTH	NUMBER OF APPOINTMENTS
May 2023	27,460
June 2023	36,900
July 2023	44,450
August 2023	46,180
September 2023	44,480
October 2023	45,490
November 2023	44,210

<sup>86</sup> In-person and virtual interviews with various organizations including AI Otro Lado, Casa Arcoiris and Sidewalk School; Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 3.

<sup>87</sup> In-person and virtual interviews with various organizations including AI Otro Lado, Casa Arcoiris and Sidewalk School.

<sup>88</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 3.

<sup>89</sup> In-person and virtual interviews with organizations, August-November 2023; National Immigration Project, *Facing an Impossible Choice* (previously cited), p. 2.

<sup>90</sup> Communication from CBP, 9 April 2024.

<sup>91</sup> CBP, “CBP One™ Mobile Application” (previously cited).

<sup>92</sup> CBP, “CBP One™ Mobile Application” (previously cited).

<sup>93</sup> CBP, “CBP Releases February 2024 Monthly Update” (previously cited).

<sup>94</sup> DHS, “Immigration Enforcement and Legal Processes Monthly Tables”, 5 April 2024, [dhs.gov/ohss/topics/immigration/enforcement-and-legal-processes-monthly-tables](https://dhs.gov/ohss/topics/immigration/enforcement-and-legal-processes-monthly-tables); CBP, “CBP Releases February 2024 Monthly Update” (previously cited).

MONTH	NUMBER OF APPOINTMENTS
December 2023	45,540
January 2024	45,000
February 2024	42,100
March 2024	44,000
<b>Total</b>	<b>465,810<sup>95</sup></b>

In March 2024, 30 members of Congress expressed serious concerns that the CBP One is contravening the rights of asylum seekers and called on DHS “to take immediate steps to both improve CBP One and resolve accessibility issues to protect the safety of asylum seekers and support border communities and other cities that receive new arrivals.”<sup>96</sup>

In accordance with the Final Rule, people seeking asylum will be ineligible for international protection in the United States unless they schedule a CBP One appointment to present themselves at a US port-of-entry (or meet one of the Final Rule’s two other exceptions). Consequently, use of the CBP One mobile application has become mandatory for asylum seekers at the US-Mexico border to ensure that they are not considered ineligible to seek asylum in the United States. The Final Rule and mandatory use of CBP One are the newest iteration of migration and asylum policies implemented by the US government at the US-Mexico border which drastically limit access to asylum in violation of international human rights and refugee law.<sup>97</sup>

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<sup>95</sup> DHS, “Immigration Enforcement and Legal Processes Monthly Tables – December 2023”, 5 April 2024, [dhs.gov/ohss/topics/immigration/enforcement-and-legal-processes-monthly-tables](https://dhs.gov/ohss/topics/immigration/enforcement-and-legal-processes-monthly-tables); CBP, “CBP Releases March 2024 Monthly Update” (previously cited).

<sup>96</sup> Congress of the United States, Letter to DHS, 21 March 2024, [castro.house.gov/imo/media/doc/03212024lettertodhsenglish.pdf](https://castro.house.gov/imo/media/doc/03212024lettertodhsenglish.pdf), p. 1.

<sup>97</sup> Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited); Communication from CBP, 6 May 2024.

# 4. MANDATORY USE OF CBP ONE TO SEEK ASYLUM VIOLATES THE UNITED STATES' AND MEXICO'S INTERNATIONAL HUMAN RIGHTS AND REFUGEE LAW OBLIGATIONS

## 4.1 INTERNATIONAL PROTECTION AND THE PRINCIPLE OF *NON-REFOULEMENT*

All individuals have the universal human right to seek and enjoy asylum from persecution and serious human rights violations.<sup>98</sup> All individuals also have the right not to be returned to places where their life or freedom may be endangered or where they would be at risk of torture or cruel, inhuman or degrading treatment or punishment, regardless of their migration status.<sup>99</sup> This principle, known as *non-refoulement*, is a protection under international human rights, refugee, and humanitarian law, and requires states to refrain from returning, removing or transferring anyone to their countries of origin or any other location where there are substantial grounds to believe they would be at risk of serious human rights abuses.<sup>100</sup> The principle of *non-refoulement* provides protection rights that are absolute and without exception with regards to risk of torture. In order to fulfill the obligation not to refool individuals, states must have a mechanism with due

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<sup>98</sup> Universal Declaration of Human Rights, Article 14; 1951 Convention Relating to the Status of Refugees; 1967 Protocol Relating to the Status of Refugees; Cartagena Declaration on Refugees.

<sup>99</sup> 1951 Convention Relating to the Status of Refugees, Article 33; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 3(1).

<sup>100</sup> OHCHR, "The Principle of Non-refoulement Under International Human Rights Law", 5 July 2018, [ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf).

process to assess individuals for this risk, and often coincides with evaluations for recognition of refugee status and protections against refoulement based on refugee rights.<sup>101</sup>

Both the United States<sup>102</sup> and Mexico<sup>103</sup> have the obligation to ensure the right of individuals to seek asylum, to uphold the principle of *non-refoulement* and to protect and respect the human rights of all people without exception, including asylum seekers and migrants, who are subject to their state's authority by being present in their respective jurisdictions and/or in transit through them. Additionally, the prohibition of refoulement exists "...wherever a state exercises jurisdiction or effective control, even when outside of that State's territory."<sup>104</sup>

## 4.2 THE UNITED STATES

This report analyses the human rights violations associated with the mandatory use of the CBP One application as the exclusive manner of entry into the United States via the Mexico border to seek asylum. The United States has both domestic and international obligations to provide access to territory and to individualized and fair assessments of all requests for protection by asylum seekers looking for safety at the border, in a way that does not discriminate based on migration status, including the manner of entry.<sup>105</sup> According to the United Nations High Commissioner for Refugees (UNHCR), "access to a fair and efficient refugee status determination procedure is an essential element in the full and inclusive application of the 1951 Convention and its 1967 Protocol, and indeed a safeguard to protect refugees and asylum seekers from *refoulement*".<sup>106</sup>

Access to territory is a necessary requirement for realizing the right to seek asylum.<sup>107</sup> Once asylum seekers have been able to access territory, they must also be able to present their claims by accessing refugee status determination procedures that contain certain basic safeguards.<sup>108</sup> UNHCR has stated that "while it is left to each State to establish the procedure most appropriate

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<sup>101</sup> 1951 Convention Relating to the Status of Refugees, Article 33; Committee against Torture, General Comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22, CAT/C/GC/4, 4 September 2018, [ohchr.org/en/documents/general-comments-and-recommendations/catcgc4-general-comment-no-4-2017-implementation](https://ohchr.org/en/documents/general-comments-and-recommendations/catcgc4-general-comment-no-4-2017-implementation), para. 13.

<sup>102</sup> The United States is State party to the 1967 United Nations Protocol Relating to the Status of Refugees, and is therefore bound to comply, with the obligations deriving from the 1967 Protocol as well as, by incorporation, articles 2-34 of the 1951 Convention Relating to the Status of Refugees. Congress passed the Refugee Act in 1980 in a sweeping effort to bring the United States' domestic laws in line with its international obligations and thereby provide additional assurances and protections to asylum seekers and refugees. See: Refugee Act of 1980, Pub. L. No. 96-212, § 101(a), 94 Stat. 102 (1980), [govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg102.pdf](https://govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg102.pdf); *East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 672 (9th Cir. 2021) ("To ... implement the country's new treaty commitments, Congress passed the Refugee Act of 1980"), [cdn.ca9.uscourts.gov/datastore/opinions/2021/03/24/18-17274.pdf](https://cdn.ca9.uscourts.gov/datastore/opinions/2021/03/24/18-17274.pdf). The United States is also State party to the Convention against Torture.

<sup>103</sup> Mexico is State party to the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol and the Convention against Torture. Mexico has also signed the Cartagena Declaration on Refugees.

<sup>104</sup> OHCHR, "The Principle of Non-refoulement Under International Human Rights Law" (previously cited).

<sup>105</sup> UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol*, 26 January 2007, [unhcr.org/refworld/docid/45f17a1a.html](https://unhcr.org/refworld/docid/45f17a1a.html), para. 7; UNHCR, "Comments of the United Nations High Commissioner for Refugees on the Proposed Rule from the U.S. Department of Justice (Executive Office for Immigration Review) and the U.S. Department of Homeland Security (U.S. Citizenship and Immigration Services): 'Circumvention of Lawful Pathways'", CIS No. 2736-22, DHS Docket No. USCIS 2022-0016, A.G. Order No. 5605-2023, 20 March 2023, [refworld.org/pdfid/6417e6674.pdf](https://refworld.org/pdfid/6417e6674.pdf), pp. 4-5; Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited), pp. 7-9; Amnesty International, "They Did Not Treat Us Like People" (previously cited), p. 18.

<sup>106</sup> UNHCR, "Comments of the UNHCR on the Proposed Rule from the U.S. Department of Justice" (previously cited), p. 3.

<sup>107</sup> UN Special Rapporteur on the human rights of migrants, *Report on means to address the human rights impacts of pushbacks of migrants on land and at sea*, 12 May 2021, UN Doc. A/HRC/47/30, [documents.un.org/doc/undoc/gen/g21/106/33/pdf/g2110633.pdf?token=j9V9cJKVJCdzuzsjC&fe=true](https://documents.un.org/doc/undoc/gen/g21/106/33/pdf/g2110633.pdf?token=j9V9cJKVJCdzuzsjC&fe=true), para. 43.

<sup>108</sup> UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, UN Doc. HCR/1P/4/ENG/REV.4, February 2019, [unhcr.org/media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967](https://unhcr.org/media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967), p. 42.

to that State's constitutional and administrative structure, asylum procedures must be conducted in full respect of due process standards."<sup>109</sup> Through the use of the application, the United States could be considered to be extending its responsibility to ensure that asylum seekers are provided with fair and individualized screenings and due process rights with regards to the refugee status determination procedure –a process which is declaratory and meant to *formally recognize* individuals who are refugees, not to grant status through the procedure– wherever they are located and subject to the requirement to comply with the appointment system administered by the application. Moreover, in situations of large-scale influx (which the US is arguing is occurring at the US-Mexico border)<sup>110</sup> “asylum seekers should be admitted to the State in which they first seek refuge and if that State is unable to admit them on a durable basis, it should always admit them at least on a temporary basis and provide them with protection.”<sup>111</sup>

The principle of *non-refoulement* is applicable wherever a State exercises jurisdiction or where individuals are subject to the effective authority or control of the state, including at the border.<sup>112</sup> The way in which the CBP One application works –by requiring asylum seekers to install it on their cellphones and then collecting data about their location through the application– constitutes the United States extending its jurisdiction past its physical land border and exercising state authority over people seeking asylum who are not physically within the boundaries of US territory but instead are waiting in Mexico for CBP One appointments.<sup>113</sup> Further, given that people seeking asylum are only able to approach US ports of entry with a CBP One appointment (except for the Final Rule's limited exceptions), the United States is effectively preventing admittance at the frontier, a form of refoulement, and is not fulfilling its duty to safeguard those in need of international protection nor provide them with due process, in violation of its international obligations.<sup>114</sup>

International human rights law further requires states to ensure that delays or deficiencies in asylum processes do not deter asylum seekers from pursuing their claims.<sup>115</sup> In an explanation of *non-refoulement* obligations under the Convention against Torture (CAT), the UN Committee against Torture stressed that “States parties should not adopt dissuasive measures or policies such as... refusing to process claims for asylum or prolonging them unduly.”<sup>116</sup>

UNHCR has also expressed concern that the operation of the presumption of ineligibility established in the Final Rule, in conjunction with the exceptions – parole programs, use of CBP One and applying for asylum in third countries during transit – amounts to a penalization of irregular entry in violation of Article 31(1) of the 1951 Refugee Convention.<sup>117</sup> The 1951 Convention recognizes that the seeking of asylum can require refugees to breach immigration rules and indicates that asylum seekers should not be subject to specific requirements or suffer penalties or discrimination for this reason.<sup>118</sup> Article 31(1) effectively prohibits discrimination between

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<sup>109</sup> UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* (previously cited), pp. 42-43.

<sup>110</sup> US Federal Register, *Circumvention of Lawful Pathways* (previously cited), pp. 31314-31316.

<sup>111</sup> UNHCR, *Protection of Asylum-Seekers in Situations of Large-Scale Influx No. 22 (XXXII) – 1981*, 21 October 1981, [unhcr.org/publications/protection-asylum-seekers-situations-large-scale-influx](http://unhcr.org/publications/protection-asylum-seekers-situations-large-scale-influx), II.A.1-2.

<sup>112</sup> UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations* (previously cited), paras. 24, 26, 32-43; UNHCR, *Submission by the Office of the United Nations High Commissioner for Refugees in the case of Hirsi and Others v. Italy*, March 2010, [unhcr.org/refworld/docid/4b97778d2.html](http://unhcr.org/refworld/docid/4b97778d2.html), paras. 4(1)(1)-4(2)(3); UNHCR, *Note on the Principle of Non-Refoulement*, November 1997, [refworld.org/docid/438c6d972.html](http://refworld.org/docid/438c6d972.html), part E; UNHCR, *Executive Committee of the High Commissioner's Programme, Non-Refoulement No. 6 (XXVIII) - 1977*, 12 October 1977, No. 6 (XXVIII), [refworld.org/docid/3ae68c43ac.html](http://refworld.org/docid/3ae68c43ac.html), para. C.

<sup>113</sup> Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited), p. 8.

<sup>114</sup> UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations* (previously cited), para. 7; Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited), pp. 7-9; Amnesty International, *You don't have any rights here* (previously cited), pp. 12-14; UNHCR, “Comments of the UNHCR on the Proposed Rule from the U.S. Department of Justice” (previously cited), pp. 13 & 29.

<sup>115</sup> CAT, General Comment No. 4 (previously cited), para. 14; Amnesty International, *They Did Not Treat Us Like People* (previously cited), p. 18.

<sup>116</sup> CAT, General Comment No. 4 (previously cited), para. 14.

<sup>117</sup> UNHCR, “Comments of the UNHCR on the Proposed Rule from the U.S. Department of Justice” (previously cited), p. 13.

<sup>118</sup> 1951 Convention Relating to the Status of Refugees.



groups of asylum seekers based on their manner of entry.<sup>119</sup> According to UNHCR, the differential treatment of groups of asylum seekers, such as those who arrive at ports of entry and those who enter irregularly or who arrive at a port-of-entry without a CBP One appointment, is a denial of the latter group's right to seek asylum.<sup>120</sup> Further, making unlawful entry a possible bar to asylum eligibility is a "penalty that carries potentially serious consequences for someone seeking international protection, undermines the right to asylum and risks violations of the principle of *non-refoulement*".<sup>121</sup> Moreover, states cannot exclude someone from refugee status until their claim has been adequately evaluated and someone cannot be excluded from refugee status based on their manner of entry into the country in which they are seeking international protection.<sup>122</sup>

Considering the foregoing, while Amnesty International recognizes that innovations such as electronic entry management systems could potentially provide for safe transit and more orderly border access, programs like CBP One cannot be used as the exclusive manner of entry into the United States to seek international protection.<sup>123</sup> The organization considers that the CBP One mobile application must not be used to create obstacles, but instead should be one of a variety of means to access the right to seek asylum.

## 4.3 MEXICO

Mexico has both domestic and international obligations to protect the human rights of asylum seekers who are in transit to the United States.<sup>124</sup> This includes ensuring the right of individuals to seek asylum.

The requirement to use the CBP One application to seek asylum in the United States and the fact that it is only possible to apply for appointments from central to northern Mexico means that asylum seekers must now wait in Mexico for undetermined amounts of time while they apply for CBP One appointments. Mexico has accepted the use of the CBP One application in its territory and has announced that it will allow migrants to transit through the country when they have a CBP One appointment. However, Mexico does not provide them with any type of migratory documentation, such as humanitarian visas, to transit through the country to the US-Mexico border.<sup>125</sup> This lack of documentation places asylum seekers in vulnerable situations in Mexico, where they face the risk of detention and deportation and struggle to access employment, healthcare, education and other services.<sup>126</sup> Consequently, many asylum seekers feel the need to

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<sup>119</sup> 1951 Convention Relating to the Status of Refugees.

<sup>120</sup> UNHCR, "Comments of the UNHCR on the Proposed Rule from the U.S. Department of Justice" (previously cited), pp. 13-14.

<sup>121</sup> UNHCR, "Comments of the UNHCR on the Proposed Rule from the U.S. Department of Justice" (previously cited), pp. 13-14.

<sup>122</sup> UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* (previously cited), p. 17.

<sup>123</sup> Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited), pp. 7-9; UNHCR, "Comments of the UNHCR on the Proposed Rule from the U.S. Department of Justice" (previously cited), p. 5.

<sup>124</sup> 1951 Convention Relating to the Status of Refugees; 1967 Protocol Relating to the Status of Refugees; Universal Declaration of Human Rights; Cartagena Declaration on Refugees; IACHR, *Inter-American Principles on the Human Rights of all Migrants, Refugees, Stateless Persons and Victims of Human Trafficking*, Resolution 04/19 approved by the Commission on December 7, 2019, [oas.org/en/iachr/decisions/pdf/Resolution-4-19-en.pdf](https://oas.org/en/iachr/decisions/pdf/Resolution-4-19-en.pdf).

<sup>125</sup> Instituto Nacional de Migración, "Autoriza INM paso a migrantes extranjeros que cuenten con cita confirmada por CBP", Comunicado No. 185, 21 de marzo de 2023, [gob.mx/inm/prensa/autoriza-inm-paso-a-migrantes-extranjeros-que-cuenten-con-cita-confirmada-por-cbp-329581](https://gob.mx/inm/prensa/autoriza-inm-paso-a-migrantes-extranjeros-que-cuenten-con-cita-confirmada-por-cbp-329581); UNHCR, *El impacto del desplazamiento forzado en la movilidad humana: Reporte del monitoreo de protección de México 2023*, February 2024, [acnur.org/mx/media/reportes-de-monitoreo-de-proteccion-en-mexico-2023-el-impacto-del-desplazamiento-forzado-en-la](https://acnur.org/mx/media/reportes-de-monitoreo-de-proteccion-en-mexico-2023-el-impacto-del-desplazamiento-forzado-en-la), pp. 30-31.

<sup>126</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023; SEGOB, *Boletín Estadísticas sobre Delitos Perpetrados en contra de Personas Migrantes Irregulares en México 2023*, January 2024, [portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadisticas/DelitosMigIrreg/2023/BMigIrregDelitos\\_2023.pdf](https://portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadisticas/DelitosMigIrreg/2023/BMigIrregDelitos_2023.pdf), p. 9; IOM, *Migrantes en México: Vulnerabilidad y Riesgos*, 2016, [ecampus.iom.int/pluginfile.php/14566/block\\_html/content/MICIC\\_Mexico\\_desk\\_study.pdf](https://ecampus.iom.int/pluginfile.php/14566/block_html/content/MICIC_Mexico_desk_study.pdf), p. 3; UNHCR, *Fact Sheet*:

apply for asylum in Mexico in order to have documentation that protects them in the country, which has resulted in over-saturating the Mexican Commission for Refugee Assistance (COMAR) with asylum claims of individuals' whose intention is to go to the US.<sup>127</sup>

Amnesty International heard from asylum seekers, service providers and local and international organizations that agents of the Mexican National Institute for Migration (INM) block access to US ports of entry and only allow individuals with CBP One appointments to access them. The organization considers that Mexican authorities are acting as agents of the United States in enforcing the use of CBP One by asylum seekers through their acquiescence to the application being utilized in Mexico and their enforcement of its use by preventing access to US ports of entry on Mexican soil by individuals without CBP One appointments. Mexican authorities blocking individuals access to US ports of entry so they can seek asylum violates international human rights and refugee law. The actions of Mexican authorities also force asylum seekers having to resort to more dangerous ways to irregularly enter the United States which places them at risk.

Mexico's obligations also include protection of the right to life, personal integrity, equality and non-discrimination, movement, and to be free from torture and other cruel, inhuman or degrading treatment or punishment, as well as access to employment, education, healthcare and housing, among other rights.<sup>128</sup> Mexico must also ensure that any alleged violations of the rights of asylum seekers are duly investigated. Amnesty International received testimonies of violations of the rights of asylum seekers in Mexico committed by both state and non-state actors, including extortion, kidnapping, disappearances, sexual and gender-based violence, discrimination and inadequate living conditions.

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Mexico (previously cited), p. 2; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 28.

<sup>127</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023; UNHCR, *Fact Sheet: Mexico* (previously cited), p. 2; Amnesty International, *Not safe anywhere* (previously cited), p. 5; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), pp. 6 & 35-36.

<sup>128</sup> International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of all forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture; American Convention on Human Rights; Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights "Protocol of San Salvador".



## MIGRATION AGREEMENTS

External migration policies are not unlawful per se under international law. However, policies focusing on the externalization of border control and/or asylum processing pose significant human rights risks, and their implementation often results in asylum seekers being contained in or returned to countries where they are subjected to serious human rights violations.<sup>129</sup> The US and Mexican governments have continuously implemented common immigration policies aimed at deterring migration, including but not limited to militarization, externalization of borders, widespread use of immigration detention, expedited removals and criminalization of those who advocate for migrants' rights.<sup>130</sup> Specifically, as early as 2016, CBP implemented an illegal de facto policy of pushbacks of asylum seekers (referred to as "metering") at US ports of entry along the US-Mexico border which forced asylum seekers to queue on the Mexican side of the border until they were permitted to approach a US port-of-entry to request asylum.<sup>131</sup> The United States and Mexico jointly implemented the Migrant Protection Protocols that trapped asylum seekers in camps along the US-Mexico border where they were at risk.<sup>132</sup> Similarly, under Title 42, nearly 2.5 million asylum seekers from Central America, Haiti and Venezuela were expelled from the United States to Mexico without the opportunity to effectively seek asylum in the US.<sup>133</sup> The Final Rule and mandatory use of the CBP One application are an additional way in which Mexico and US continue to fail to uphold the rights of asylum seekers. The United States has only been able to implement these policies with the cooperation of Mexico.

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<sup>129</sup> Amnesty International, *Primer: Defending the Rights of Refugees and Migrants in the Digital Age* (POL 40/7654/2024) 5 February 2024, [amnesty.org/en/documents/pol40/7654/2024/en/](https://www.amnesty.org/en/documents/pol40/7654/2024/en/), p. 13.

<sup>130</sup> Amnesty International, *Americas: Pushback Practices* (previously cited), pp. 1-2; Amnesty International, "North America: Refugee and migrant rights must be top priority of 'Three Amigos' summit" (previously cited).

<sup>131</sup> Amnesty International, *Americas: Pushback Practices* (previously cited), p. 1; Amnesty International, *'You don't have any rights here'* (previously cited), pp. 5, 11-14.

<sup>132</sup> Amnesty International, *Americas: Pushback Practices* (previously cited), pp. 1-2; Amnesty International, "North America: Refugee and migrant rights must be top priority of 'Three Amigos' summit" (previously cited).

<sup>133</sup> Amnesty International, *Pushed into Harm's Way* (previously cited), pp. 15-17; Amnesty International, *Americas: Pushback Practices* (previously cited), pp. 1-2; Amnesty International, "North America: Refugee and migrant rights must be top priority of 'Three Amigos' summit" (previously cited); Amnesty International, *"They Did Not Treat Us Like People"* (previously cited), pp. 4-5, 19-24.

# 5. CHALLENGES IN USING THE CBP ONE MOBILE APPLICATION TO SEEK ASYLUM

To prepare this report, Amnesty International interviewed 55 individuals and 66 families who, based on the size of their families or groups they were travelling with, represent the experiences of approximately 356 asylum seekers with the CBP One application in Matamoros, Monterrey, Piedras Negras, Reynosa and Tijuana, Mexico; and, Brownsville and San Diego, US. Of the asylum seekers that the organization spoke with, 79 had a CBP One appointment, while 249 did not.<sup>134</sup> Eighteen asylum seekers had never heard of the application. The organization also spoke with migrant shelters and service providers, and local and international organizations about the CBP One application.

When CBP One became mandatory for seeking asylum in May 2023, many asylum seekers did not know about the application nor how to use it. Amnesty International and other organizations reported a variety of issues surrounding the application, including technological errors; lack of smart phones, internet, language proficiency and technical assistance to use the application; lack of information about the US asylum process; limited number of appointments; US refusals to process asylum seekers without appointments at ports of entry; and Mexican authorities preventing asylum seekers from accessing ports of entry.<sup>135</sup>

**“It’s confusing to understand how the application works. You have to be very patient. The application often doesn’t work. It’s very frustrating, very difficult. It’s not so easy to use.”**

Staff, Casa Arcoiris shelter (Tijuana, Mexico)<sup>136</sup>

Although the functioning of the application has improved since May 2023, Amnesty International has observed that people seeking asylum continue to experience challenges using CBP One due to an onerous registration process, technological errors and flaws and lack of knowledge about the

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<sup>134</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>135</sup> HBA, *Lives at Risk* (previously cited), p. 2; Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited); Strauss Center for International Security and Law, University of Texas at Austin, *Asylum Processing at the U.S.-Mexico Border: May 2023*, 31 May 2023, [strausscenter.org/publications/asylum-processing-at-the-u-s-mexico-border-may-2023/](https://strausscenter.org/publications/asylum-processing-at-the-u-s-mexico-border-may-2023/), p. 3; HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2.

<sup>136</sup> In-person interview with staff at Casa Arcoiris shelter, Tijuana, Mexico, 29 November 2023.

application and how it works.<sup>137</sup> Moreover, some asylum seekers are unable to use the application for financial, literacy and language proficiency reasons, among others.

**“Using the application is difficult for older people, people who don’t know how to use technology well, or depending on your education level or the cellphone that you have. The journey is not the same for everyone; there are kidnappings, rapes and discrimination.”**

Honduran asylum seeker (Tijuana, Mexico)<sup>138</sup>

## 5.1 REGISTERING IN THE CBP ONE APPLICATION

Most of the individuals interviewed by Amnesty International created their CBP One registrations in Tapachula, Mexico. They then began applying for appointments once they reached Mexico City or another place in central Mexico.<sup>139</sup>

**“Many people register themselves incorrectly in the application. They absolutely need help registering themselves.”**

Lawyer, Casa Nicolás shelter (Monterrey, Mexico)<sup>140</sup>

According to asylum seekers with whom Amnesty International spoke, the registration process is the most difficult part of using CBP One.<sup>141</sup> Over half of those interviewed by the organization received error messages during the registration process which resulted in them being kicked out of the application and losing the information that they had entered so far, meaning that they had to log back in and restart the registration process.<sup>142</sup> This was particularly difficult for asylum seekers given the amount of information that is required for each person to be registered, as well as the conditions that they find themselves in while registering themselves including limited and poor internet connections.

Several organizations raised the issue that the application requires people seeking asylum to indicate a contact person and address in the United States.<sup>143</sup> While many of the asylum seekers interviewed by Amnesty International had family or friends already in the US, some did not and

<sup>137</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 38; Congress of the United States, Letter to DHS (previously cited), p. 1.

<sup>138</sup> In-person interviews with Honduran asylum seekers, Tijuana, Mexico, 29 November 2023.

<sup>139</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>140</sup> In-person interview with lawyer, Casa Nicolás shelter, Monterrey, Mexico, 30 October 2023.

<sup>141</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>142</sup> In-person interviews with asylum seekers in Monterrey and Piedras Negras; Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 4; Jesuit Refugee Service, *Accompaniment at the U.S.-Mexico Border: Conditions Report & Policy Recommendations*, September 2023, [irsusa.org/wp-content/uploads/sites/2/2023/09/Advocacy-Report\\_2023-English-1.pdf](https://irsusa.org/wp-content/uploads/sites/2/2023/09/Advocacy-Report_2023-English-1.pdf), p. 3; TCRP, *CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act* (previously cited), pp. 4-5.

<sup>143</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 16.

therefore, struggled to complete this part of the registration process. Staff at Casa Arcoiris –a shelter for LGBTIQ+ asylum seekers in Tijuana– has indicated that there have been reports of a burgeoning and dangerous black-market business around the requirement to provide a US address, where people have reportedly gained permission to use a US address by paying to do so. Casa Arcoiris raised concerns over reports of individuals being subjected to trafficking and forced sex work as a result of resorting to these networks to gain a usable address for purposes of registration in the application.<sup>144</sup>

Many people seeking asylum shared that they did not know how to properly register themselves in CBP One which resulted in them making mistakes or leaving out essential information during the registration process. Several individuals told Amnesty International that they registered themselves only with their first and last name, not their full names. Others ended up paying people to register them, but they were still sometimes registered incorrectly.<sup>145</sup>

**“They registered us in Tapachula, but it was done wrong, they didn’t include our full names. I had to get a new email address, a new phone number and I only managed to eventually register myself using an iPhone.”**

Nicaraguan asylum seeker (Monterrey, Mexico)<sup>146</sup>

Another common issue was asylum seekers not registering their children, and especially babies, in the application because they did not know that they had to or they did not know how to.<sup>147</sup> An organization interviewed by Amnesty International indicated that this was a major problem when CBP One first became mandatory for asylum seekers because, on the one hand, asylum seekers did not know that they had to register minors, and, on the other hand, it was common to receive an error message saying there was no space for additional travelers when trying to add additional people to the registration group. Amnesty International received information that with some cases, CBP has allowed children who were not registered to enter with their parents when they presented themselves for their appointments.<sup>148</sup> However, this is not official policy nor standard practice. As a result, in some cases this has led to family separation as one parent may decide to enter the US while the other remains with the children in Mexico.<sup>149</sup>

**“Nobody knows about the application where I’m from. The first time I did it wrong because I didn’t include my children. Now I’ve been waiting for three months.”**

Mexican asylum seeker (Tijuana, Mexico)<sup>150</sup>

Once a CBP One registration has been submitted, there is no way to edit it.<sup>151</sup> The only option is to create a new registration, resulting in asylum seekers having multiple registrations. Of the asylum seekers that Amnesty International interviewed, at least one in three had registered themselves more than once in CBP One. While some individuals quickly realized that they had made a mistake and created new registrations, the organization spoke with others who had already been requesting appointments for weeks or months at the time they realized that they would have to re-register themselves.<sup>152</sup> When the organization raised this issue with CBP, it was told that “CBP is evaluating whether it will allow individuals to edit their CBP One registration.”<sup>153</sup>

In some cases, asylum seekers were unable to delete their registration and simply created a new one, resulting in there being more than one registration for the same person. Some of the

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<sup>144</sup> In-person interview with staff at Casa Arcoiris shelter, Tijuana, Mexico, 29 November 2023. The shelter works with US-based organizations to find addresses in the US.

<sup>145</sup> In-person interview with Honduran asylum seekers, Piedras Negras, Mexico, 2 November 2023.

<sup>146</sup> In-person interview with Nicaraguan asylum seeker, Casa Nicolás shelter, Monterrey, Mexico, 30 October 2023.

<sup>147</sup> MSF, “Se cancela el Título 42 pero la crisis migratoria continúa en la región”, 11 May 2023, [msf.mx/actualidad/se-cancela-el-titulo-42-pero-la-crisis-migratoria-continua-en-la-region/](https://www.msf.mx/actualidad/se-cancela-el-titulo-42-pero-la-crisis-migratoria-continua-en-la-region/).

<sup>148</sup> In-person and virtual interviews with organizations & asylum seekers, August–November 2023.

<sup>149</sup> HBA, *Lives at Risk* (previously cited), p. 6.

<sup>150</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>151</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 26.

<sup>152</sup> In-person interviews with asylum seekers, October–November 2023.

<sup>153</sup> Communication from CBP, 9 April 2024.

organizations Amnesty spoke with suggested that this could be one of the causes of error and fraud messages, but Amnesty has not been able to confirm this.<sup>154</sup>



### PREGNANT ASYLUM SEEKERS

The inability to edit CBP One registrations is particularly problematic in the case of pregnant asylum seekers. Amnesty International interviewed a Mexican asylum seeker whose baby was born while she was waiting for an appointment. The only option she had was to delete her registration and create a new one.<sup>155</sup> The organization also interviewed several pregnant asylum seekers who were worried about what would happen if their babies were born before they received a CBP One appointment. This created additional stress.

**“My baby was born while I was waiting for the appointment. I had already been waiting for two months. I had to make a new registration because I had to add my baby. Now I’ve been waiting for another four months. There is no order; everything is uncertain. I would prefer to know when my turn is.”**

Mexican asylum seeker (Tijuana, Mexico)<sup>156</sup>

Several asylum seekers that Amnesty International interviewed shared that the application deleted their registrations and they had to start the process all over again. This was something that various shelters had also observed. Asylum seekers received no notice or information from CBP as to why their registrations had been removed. CBP has stated that “registrations that are identified as fraudulent will be removed” and that it “removes users using multiple registrations to ask for appointments at the same time”.<sup>157</sup> Moreover, in March 2024, CBP announced that it would be deactivating all registrations that are in excess of 10 individuals and limited future registrations to 10.<sup>158</sup> However, none of the individuals interviewed by Amnesty International indicated that they were using more than one registration at a time or that they had registration groups of ten people or more.<sup>159</sup>

**“I was trying to get the appointment for three months and one day my registration was deleted. I had to register myself again. There is no information about how the app works. There are a lot of rumors. On TikTok they’re saying that certain registrations were deleted. There are a lot of people who decide to turn themselves in, but I’ll feel better if I enter with an appointment.”**

Salvadoran asylum seeker (Matamoros, Mexico)<sup>160</sup>

**“We had been using the application for two months, everything was going well. One day, instead of pressing ‘appointment’, I pressed ‘delete’, which is next to it. Everything was deleted. [The application] is not easy to use. It didn’t even warn me or ask me if I was sure. It just deleted two months of trying to get the appointment ... we just have to wait and try not to despair.”**

Salvadoran asylum seeker (Tijuana, Mexico)<sup>161</sup>

<sup>154</sup> In-person interviews with organizations in Monterrey and Tijuana, October-November 2023.

<sup>155</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>156</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>157</sup> CBP, “CBP One™ Application Update Announcement” (previously cited); Communication from CBP, 6 May 2024; National Immigration Project, *Facing an Impossible Choice* (previously cited), p. 7.

<sup>158</sup> CBP, “CBP One Mobile Application” (previously cited).

<sup>159</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>160</sup> In-person interview with Salvadorian asylum seeker, Matamoros, Mexico, 9 November 2023.

<sup>161</sup> In-person interview with Salvadorian asylum seeker, Tijuana, Mexico, 28 November 2023.

## 5.2 RANDOM ALLOCATION OF APPOINTMENTS – “A LOTTERY SYSTEM”

CBP One randomly allocates 70 percent of appointments to asylum seekers who requested an appointment the previous day, with 30 percent of appointments being allocated to people requesting appointments with the oldest accounts who have been waiting longest for an appointment.<sup>162</sup> The application does not assign appointments based on the order of registration, but essentially operates as a lottery system. The fact that the application functions in this way creates vastly different experiences for individuals using it. For example, Amnesty International interviewed a family of Venezuelan asylum seekers who registered and received an appointment the following day.<sup>163</sup> On the other hand, the organization spoke with at least 60 asylum seekers who had been trying to get appointments for three months or more, including seven individuals who had been waiting four months and one asylum seeker who had been waiting for six.<sup>164</sup> Further, given the manner in which the application allocates appointments, it is possible that some people seeking asylum will never receive a CBP One appointment.

**“We’ve been waiting two months for our appointments, but we see how some people pass right away. It would be better if the appointments were in order, so you know when you’re going to get your turn.”**

Haitian asylum seeker (Reynosa, Mexico)<sup>165</sup>

**“People are waiting two to three months [for appointments], but it’s very variable; sometimes appointments are given in three months, sometimes they’re given in two days. There’s no criteria for the allocation of appointments.”**

Staff, Casa Nicolás shelter (Monterrey, Mexico)<sup>166</sup>

**“It’s luck; it’s a lottery. You go fishing every day and you can catch a fish or an empty sack. We suffer a lot. We’ve been applying for a month. We’re expecting a baby.”**

Haitian asylum seeker (Reynosa, Mexico)<sup>167</sup>

The fact that CBP One assigns appointments randomly, and not in order, creates unnecessary stress, frustration and worry for asylum seekers as they have no way of knowing how long they will have to wait for appointments. It is also stressful for asylum seekers to see some people receive appointments in very short amounts of time, while others end up waiting months.<sup>168</sup>

**“My self-esteem goes down because there are people who get an appointment and I’ve been trying for longer and nothing. The children are missing out on the school year. We had to flee our home. I’m discouraged, but I remember that I can’t go back to where I’m from. The appointments should be given to the oldest [registration] numbers so that we don’t lose hope.”**

Mexican asylum seeker (Tijuana, Mexico)<sup>169</sup>

**“Some people get an appointment in two days while other have to wait months. Those who have to wait longer became discouraged and depressed.”**

Staff, Casa Nicolás shelter (Monterrey, Mexico)<sup>170</sup>

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<sup>162</sup> CBP, “CBP Makes Changes to CBP One™ App” (previously cited); CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 31.

<sup>163</sup> In-person interview with Venezuelan asylum seekers, Brownsville, USA, 9 November 2023.

<sup>164</sup> In-person interviews with asylum seekers, October–November 2023.

<sup>165</sup> In-person interview with Haitian asylum seeker, Reynosa, Mexico, 7 November 2023.

<sup>166</sup> In-person interview with staff at Casa Nicolás shelter, Monterrey, Mexico, 30 October 2023.

<sup>167</sup> In-person interview with Haitian asylum seeker, Reynosa, Mexico, 7 November 2023.

<sup>168</sup> National Immigration Project & Together & Free, *Facing an Impossible Choice* (previously cited), p. 9.

<sup>169</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 28 November 2023.

<sup>170</sup> In-person interview with staff at Casa Nicolás shelter, Monterrey, Mexico, 30 October 2023.



**“We have to keep waiting. I’ve been waiting for two months now. Just as it has worked out for others, I trust that it will work out for me.”**

Honduran asylum seeker (Monterrey, Mexico)<sup>171</sup>

**“It’s really a matter of luck. It stresses asylum seekers out and frustrates them a lot when it takes too long because they have to support themselves while waiting.”**

Staff, Casa Indi shelter (Monterrey, Mexico)<sup>172</sup>

The organization HIAS reported that, on 7 August 2023, CBP sent confirmation messages by error to many asylum seekers that turned out to be false. People entered into the application only to find out that their appointments did not exist, which caused frustration and anger.<sup>173</sup>

Almost all of the asylum seekers that Amnesty International interviewed shared that they would much prefer the appointments to be allocated in order of registration as this would provide more certainty and clarity as to when a person could expect to receive their appointment. Amnesty International considers that the way in which CBP One allocates appointments violates the rights of individuals to seek asylum given that there is no certainty as to when or if they will receive an appointment.

## 5.3 WAIT TIMES FOR APPOINTMENTS

The wait time for appointments has increased since the use of CBP One became mandatory for asylum seekers in May 2023. Organizations interviewed by Amnesty stated that, in the beginning, the majority of asylum seekers were able to secure appointments within one to two months.<sup>174</sup> In October 2023, HIAS reported that people seeking asylum waited on average two months for appointments.<sup>175</sup> However, as of November 2023, the majority of asylum seekers had been waiting three to four months for appointments.<sup>176</sup> According to CBP, “the average wait time for an appointment for a non-Mexican individual is approximately 2-3 months from account creation to presentation at a POE”.<sup>177</sup> However, this calculation does not take into account the wait time of individuals who have had to register multiple times.<sup>178</sup>

Organizations interviewed by Amnesty International stated that increasingly long wait times were not uncommon and that there are cases of people who have been waiting for six and seven months.<sup>179</sup> Asylum seekers at a shelter in Tijuana told Amnesty International, “The wait time is getting longer. People used to get appointments in two months, but now it’s three or four. Most people in the shelter have been waiting for four months.”<sup>180</sup> A Honduran family in Reynosa said, “Before the appointments used to come out after 20 days, no more than two months. Now the appointments are very delayed.”<sup>181</sup>

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<sup>171</sup> In-person interview with Honduran asylum seeker, Monterrey, Mexico, 31 October 2023.

<sup>172</sup> In-person interview with staff at Casa Indi shelter, Monterrey, Mexico, 31 October 2023.

<sup>173</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 3.

<sup>174</sup> In-person interviews with shelters in Matamoros, Monterrey & Tijuana, October-November 2023.

<sup>175</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 1.

<sup>176</sup> In-person interviews with shelters in Matamoros, Monterrey & Tijuana, October-November 2023.

<sup>177</sup> Communication from CBP, 9 April 2024.

<sup>178</sup> Communication from CBP, 9 April 2024. CBP does not track the number of registrations an individual may have.

<sup>179</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023; Congress of the United States, Letter to DHS (previously cited), p. 2; TCRP, *CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act* (previously cited), p. 5.

<sup>180</sup> In-person interviews with asylum seekers, Tijuana, Mexico, 27 November 2023.

<sup>181</sup> In-person interview with Honduran family, Reynosa, Mexico, 7 November 2023.

**“From March to May the appointments were very constant, but from May to September we noticed that asylum seekers had to wait longer without any news. People have been waiting four months for appointments. From September to November there have been very few appointments. During this time, only 12 people have left the shelter with appointments. Asylum seekers get discouraged; they don’t see any progress.”**

Staff, Casa Arcoiris shelter (Tijuana, Mexico)<sup>182</sup>

As explained above, the number of daily appointments is significantly less than the number of asylum seekers waiting for appointments.<sup>183</sup> When CBP One first became mandatory for asylum seekers in May 2023, there were 1,000 daily appointments.<sup>184</sup> In June, the number of daily appointments increased to 1,450.<sup>185</sup> Since that time, CBP has not increased the number of daily appointments. CBP told Amnesty International that it does not plan to increase the number of appointments at this time even though the agency has recognized that the number of daily appointments is insufficient.<sup>186</sup> According to CBP, “without CBP One, CBP would have decreased capacity to process migrants at [southwest border] ports of entry, further increasing wait times and risks of extortion and violence”.<sup>187</sup>

However, the number of asylum seekers trying to get appointments continues to increase. According to UNHCR, as of February 2024, there were more than 8,000 people seeking asylum living in shelters and informal settlements along the US-Mexico border.<sup>188</sup> UNHCR has reported that many asylum seekers in Northern Mexico live in private accommodation, making them harder to track, and therefore, the total number of asylum seekers at the border is even higher.<sup>189</sup> The Strauss Center reported that, as of February 2024:<sup>190</sup>

PORT-OF-ENTRY	NUMBER OF CBP ONE APPOINTMENTS	ESTIMATED NUMBER OF ASYLUM SEEKERS WAITING
Brownsville (Texas) – Matamoros (Tamaulipas)	~ 380 CBP One appointments ~ 20 people via NGO lists	~ 2,000 – 2,500 asylum seekers
Calexico (California) – Mexicali (Baja California)	~ 75 CBP One appointments ~ 10 people via NGO lists	~ 1,600 asylum seekers

<sup>182</sup> In-person interview with staff at Casa Arcoiris shelter, Tijuana, Mexico, 29 November 2023.

<sup>183</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 4; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 39.

<sup>184</sup> CBP, “CBP Makes Changes to CBP One™ App” (previously cited).

<sup>185</sup> CBP, “CBP One™ Appointments Increased to 1,450 Per Day” (previously cited).

<sup>186</sup> Communications from CBP, 9 April 2024 & 6 May 2024; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels*, 4 April 2024, [wola.org/analysis/kidnapping-migrants-asylum-seekers-texas-tamaulipas-border-intolerable-levels/?emci=9cc1da5a-e5f1-ee11-aaf2-002248223353&emdi=9a8ff0cd-6ef3-ee11-aaf0-7c1e52017038&ceid=14660259](https://wola.org/analysis/kidnapping-migrants-asylum-seekers-texas-tamaulipas-border-intolerable-levels/?emci=9cc1da5a-e5f1-ee11-aaf2-002248223353&emdi=9a8ff0cd-6ef3-ee11-aaf0-7c1e52017038&ceid=14660259); Department of Homeland Security, “Examining CBP One: Functions, Features, Expansion, Risks”, 21 March 2024, [youtube.com/watch?v=BZzLJW\\_L0rU](https://www.youtube.com/watch?v=BZzLJW_L0rU).

<sup>187</sup> Communication from CBP, 9 April 2024.

<sup>188</sup> UNHCR, *Fact Sheet: Mexico* (previously cited), p. 2.

<sup>189</sup> UNHCR, *Fact Sheet: Mexico* (previously cited), p. 2; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 6.

<sup>190</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), pp. 5-13.

PORT-OF-ENTRY	NUMBER OF CBP ONE APPOINTMENTS	ESTIMATED NUMBER OF ASYLUM SEEKERS WAITING
Eagle Pass (Texas) – Piedras Negras (Coahuila)	~ 60 CBP One appointments	~ 500 – 700 asylum seekers
Hidalgo (Texas) – Reynosa (Tamaulipas)	~ 195 CBP One appointments ~ 15 people via NGO lists	~ 4,000 asylum seekers
Laredo (Texas) – Nuevo Laredo (Tamaulipas)	~ 55 CBP One appointments ~ 2 people via NGO lists	~ 50 asylum seekers
Nogales (Arizona) – Nogales (Sonora)	~ 100 CBP One appointments ~ 15 people via NGO lists	~ 2,700 asylum seekers

Amnesty International considers the total number of daily CBP One appointments insufficient given the number of asylum seekers already at the US-Mexico border, as well as those arriving to the border and in central Mexico trying to get appointments.<sup>191</sup> As the number of asylum seekers using CBP One continues to rise, the average wait time for appointments will only continue to increase if action is not taken to ensure the availability of appointments is proportionate to the number of people in need of them. Moreover, the manner in which CBP One allocates appointments makes wait times for appointments completely arbitrary. Amnesty International considers that increasing and uncertain wait times violate the rights of individuals to seek asylum.

## 5.4 TECHNOLOGICAL ISSUES AND FLAWS

When the CBP One application became mandatory for asylum seekers in May 2023 it experienced a variety of technological issues, frequently stopped working and error messages were common.<sup>192</sup> Many of the organizations interviewed by Amnesty International shared that the functioning of the application has improved over time. They indicated that CBP has been open to receiving feedback from them and has made updates to the application accordingly.<sup>193</sup> From January to October 2023, CBP has updated the CBP One application 16 times.<sup>194</sup> UNHCR has reported that, based on a survey of 15,000 asylum seekers in Mexico, during the first and second quarter of 2023, 75% experienced technological difficulties while using the application, but this dropped to 40% in the last quarter of 2023.<sup>195</sup> At the same time, technological issues including error and fraud messages, crashes and glitches continue to regularly occur.<sup>196</sup> These issues complicate individuals' ability to use the application and have psychological, physical and social impacts.

**“We’ve been trying to get an appointment for four months now. We try every day and nothing. Sometimes we get a ‘fraud’ message, sometimes ‘error’. Once the phone turned off and didn’t turn back on. We’re desperate. Our children get sick. Many people lose hope.”**

Mexican asylum seeker (Tijuana, Mexico)<sup>197</sup>

<sup>191</sup> Congress of the United States, Letter to DHS (previously cited), pp. 1-2.

<sup>192</sup> UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 39.

<sup>193</sup> In-person and online interviews with organizations, August-November 2023; HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2.

<sup>194</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 3.

<sup>195</sup> UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 39.

<sup>196</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023; HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 39.

<sup>197</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

### ▪ Application crashes or stops working

People seeking asylum stated that the CBP One application frequently crashes or stops working.<sup>198</sup> Crashes most frequently occur when many people try to use the application at the same time, such as in the mornings when everyone is attempting to apply for appointments.<sup>199</sup> Sometimes the crashes prevent individuals from being able to request an appointment, as well as from being able to accept an appointment that has been allocated to them. A Venezuelan asylum seeker told Amnesty, “Yesterday we applied for an appointment. Today we couldn’t because the application froze. That happens when a lot of people log in at the same time.”<sup>200</sup>

**“Lately the app has been glitchy. No one knows why. It doesn’t go in order. [Using the app] becomes complicated and maddening. There are people who get [an appointment] in five days and others that have to wait a long time.”**

Honduran asylum seeker (Tijuana, Mexico)<sup>201</sup>

### ▪ Error and fraud messages

Asylum seekers continue to frequently receive error and fraud messages when using CBP One.<sup>202</sup> These messages usually kick users out of the application, but asylum seekers stated that they can often log back in without any issues.<sup>203</sup> However, some shared that these messages have prevented them from being able to apply for appointments. Almost all of the asylum seekers interviewed by Amnesty International had received an error or fraud message at least once while using the application. The error messages do not indicate what the specific error is. Moreover, even if an asylum seeker is using the application in Spanish or Haitian Creole, the error and fraud messages appear in English.<sup>204</sup>

**“We’ve been asking for the appointment for two months. Sometimes we receive ‘fraud’ messages. We think it’s when the app is over saturated. You click to ask for an appointment and the app doesn’t work. We watch videos on TikTok that guide us.”**

Venezuelan asylum seeker (Reynosa, Mexico)<sup>205</sup>

**“We’d been waiting for three months. A ‘fraud’ message appeared, I pressed something and everything was erased. We had to start all over again. It’s maddening.”**

Mexican asylum seeker (Tijuana, Mexico)<sup>206</sup>

### ▪ Updates to the application

Updates to the CBP One application result in it not functioning well for a period of time following the update.<sup>207</sup> Guatemalan asylum seekers stated that “app updates cause many problems” and that “updates to the app cause errors.”<sup>208</sup>

**“I’d been applying for a month. One day, I had to update the application. I did the update and the app worked**

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<sup>198</sup> In-person interviews with asylum seekers, October-November 2023; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 39.

<sup>199</sup> In-person interviews with asylum seekers, October-November 2023; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 39.

<sup>200</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>201</sup> In-person interview with Honduran asylum seeker, Tijuana, Mexico, 29 November 2023.

<sup>202</sup> In-person interviews with asylum seekers, October-November 2023; Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 4.

<sup>203</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>204</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>205</sup> In-person interview with Venezuelan asylum seeker, Reynosa, Mexico, 6 November 2023.

<sup>206</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>207</sup> In-person interviews with asylum seekers and organizations, October-November 2023.

<sup>208</sup> In-person interview with Guatemalan asylum seekers, Monterrey, Mexico, 30 October 2023; In-person interview with Guatemalan asylum seekers, Piedras Negras, Mexico, 3 November 2023.

**fine for a day, but the next day my registration was deleted. I've had the new registration for 5 days. I feel really sad about what happened.”**

Venezuelan asylum seeker (Matamoros, Mexico)<sup>209</sup>

Organizations indicated that updates to CBP One generate fear, confusion and worry amongst people seeking asylum, and that asylum seekers often struggle to understand updates and changes to the application. One change that created many issues for individuals was the introduction of a “captcha code” when logging into the application. Organizations and asylum seekers told Amnesty International that CBP One has become more difficult to use since the “captcha code” was introduced because it often does not work or generates error messages which results in asylum seekers not being able to log into their accounts to request appointments.

**“They wanted to kill my son in Michoacán, that's why we had to leave. In Tijuana, they explained the application to us and how it works. When they introduced the captcha, we got confused. Before it was just numbers and now it's more confusing. We get errors and fraud. We'd like it to be faster. It's maddening. We're afraid to be here. Three weeks ago, someone threw a dead body into the shelter.”**

Mexican asylum seeker, (Tijuana, Mexico)<sup>210</sup>

**“With the recent updates there's an extra step that involves identifying figures by color. I have a visual disability and can't figure this part out. Before this step didn't exist. Without support I would never be able to apply for an appointment.”**

Honduran asylum seeker, (Tijuana, Mexico)<sup>211</sup>

#### ■ Photographs and video selfies

Asylum seekers must take and upload a photograph when they register themselves in the CBP One application.<sup>212</sup> In order to confirm an appointment that is being offered to them, one member of the registration group must upload a video selfie to the application.<sup>213</sup> This video selfie is compared to the photograph that the individual uploaded during their registration.

When CBP One first became mandatory for asylum seekers, many struggled with this part of the process.<sup>214</sup> Flaws with the photographs and video selfies have a disproportionate impact on racialized asylum seekers.<sup>215</sup> Amnesty International and other organizations documented that Black asylum seekers were unable to upload photographs which resulted in them being unable to register themselves.<sup>216</sup>

<sup>209</sup> In-person interview with Venezuelan asylum seeker, Matamoros, Mexico, 9 November 2023.

<sup>210</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>211</sup> In-person interview with Honduran asylum seeker, Tijuana, Mexico, 29 November 2023.

<sup>212</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 13.

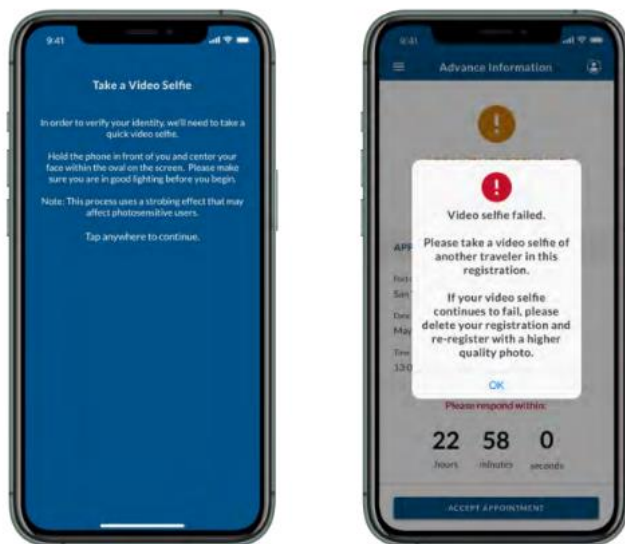
<sup>213</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 31.

<sup>214</sup> HBA, *Lives at Risk* (previously cited), pp. 9-11.

<sup>215</sup> Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited), p. 11; The Guardian, “Facial recognition bias frustrates Black asylum applicants to US, advocates say”, 8 February 2023, [theguardian.com/us-news/2023/feb/08/us-immigration-cbp-one-app-facial-recognition-bias](https://www.theguardian.com/us-news/2023/feb/08/us-immigration-cbp-one-app-facial-recognition-bias); HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2.

<sup>216</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2; Amnesty International, *Mandatory Use of CBP One Application Violates the Right to Seek Asylum* (previously cited), p. 11; HBA, *Lives at Risk* (previously cited).

While organizations interviewed by Amnesty International indicated that photographs and video selfies are now working better, there continue to be problems.<sup>217</sup> Whether or not people seeking asylum are able to upload photographs and/or videos depends on the quality of the cellphone that they are using. For example, many people told the organization that the photo and video selfie work better on iPhones. The conditions and surroundings in which asylum seekers are taking the photograph and video also impacts their quality.<sup>218</sup> Thousands of people are in shelters with inadequate conditions to upload high quality photos and have poor and unstable internet connections.



According to CBP, if the video selfie fails, asylum seekers should delete their registration and re-register with a higher quality photograph.<sup>219</sup> Amnesty International considers it extremely problematic that CBP expects asylum seekers, who are fleeing dangerous situations in search of international protection and who have potentially been waiting for an appointment for months, to delete their registration and begin the process all over again because of problems with the video selfie or quality of the original photo which are likely due to weak internet or inadequate conditions for taking

the video or photo. Moreover, it ignores the limited financial resources of many people seeking asylum and again puts the burden on asylum seekers and conditions their access to international protection on expensive technology.

- **Incompatibility with certain phones**

The CBP One application does not work on certain cellphones. Frequent problems have been reported with older models of Samsung phones and incompatibly with Huawei cellphones.<sup>220</sup> Organizations indicated that it is not uncommon for asylum seekers to have had to purchase new cellphones because the application did not work on the one they had.<sup>221</sup> Requiring individuals to have specific equipment, such as cellphones, cannot be a requirement to seek asylum.

- **Lack of troubleshooting support**

People seeking asylum and the organizations assisting them encounter difficulties in contacting CBP for technical or troubleshooting support.<sup>222</sup> A Honduran asylum seeker said, “When you have problems, they stay up in the air.”<sup>223</sup>

**“We don’t know what the maximum waiting time is for an appointment, how many appointments are given daily, if the application is going to expire. There are many rumors. We wish there was a customer service that could clear up these doubts for us.”**

<sup>217</sup> In-person interviews with asylum seekers and organizations, October-November 2023.

<sup>218</sup> In-person interviews with asylum seekers and organizations, October-November 2023.

<sup>219</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited), p. 47.

<sup>220</sup> In-person interviews with asylum seekers and shelters, October-November 2023.

<sup>221</sup> In-person and online interviews with organizations, August-November 2023.

<sup>222</sup> Congress of the United States, Letter to DHS (previously cited), pp. 3-4.

<sup>223</sup> In-person interview with Honduran asylum seeker, Monterrey, Mexico, 31 October 2023.

Guatemalan asylum seeker (Piedras Negras, Mexico)<sup>224</sup>

CBP does have an email address that asylum seekers can write to if they have questions or are experiencing issues with the application. However, organizations that Amnesty International spoke with indicated that this requires asylum seekers to be able to write an email in English, which many are unable to do, and any response received from CBP One would also be in English.<sup>225</sup> Many asylum seekers were not aware of this email address or that they could write to CBP for assistance.<sup>226</sup> Those who were not staying in shelters or who did not have access to organizations found themselves in an even more difficult situation. CBP told Amnesty International that it is “considering additional ways to provide users multiple ways to seek assistance” and that it “engages with local NGOs and International Organizations to provide information and forums to discuss common questions and issues.”<sup>227</sup>

The fact that people seeking asylum are unable to resolve questions and problems with CBP leaves them in a state of uncertainty and adds an additional level of stress and worry.

**“Someone did me the favor of registering me but spelt my last name wrong. I’m depressed. I’ve been waiting three months for my appointment and I’m afraid I’ll be rejected because of this. There’s no one to ask, no one understands, and I don’t know if I’m waiting in vain.”**

Nicaraguan asylum seeker (Reynosa, Mexico)<sup>228</sup>

Although the functioning of the CBP One application has improved since May 2023, asylum seekers continue to regularly experience technological issues while using the application. This results in them being unable to apply for appointments and therefore, unable to access asylum in the US in violation of their human rights.

## 5.5 MISINFORMATION AND LACK OF KNOWLEDGE OF THE CBP ONE APPLICATION

Many of the asylum seekers interviewed by Amnesty International knew about the CBP One application before they got to Mexico.<sup>229</sup> While this was especially the case for asylum seekers travelling from Central and South America to the US-Mexico, the organization observed that individuals from Mexico often did not know about the application until they arrived at the border. Many asylum seekers from outside of the Americas had never heard of CBP One at all. In some cases, asylum seekers had heard of the application but thought that it was only for people from specific countries.<sup>230</sup>

Interestingly, almost all of the asylum seekers Amnesty spoke with found out about the application and received information on how to use it from other asylum seekers or on social media, particularly

<sup>224</sup> In-person interview with Guatemalan asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>225</sup> In-person interviews with organizations, October-November 2023.

<sup>226</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>227</sup> Communication from CBP, 9 April 2024.

<sup>228</sup> In-person interview with Nicaraguan asylum seeker, Reynosa, Mexico, 7 November 2023.

<sup>229</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>230</sup> In-person interviews with asylum seekers, October-November 2023.

TikTok, Facebook and YouTube.<sup>231</sup> While CBP has published information and user guides in multiple languages, not one asylum seeker told Amnesty that they had consulted official information from CBP about the application.<sup>232</sup> In Mexico, shelters and organizations such as HIAS play an important role in providing information about CBP One and assisting people seeking asylum to resolve doubts and issues with the application.<sup>233</sup>

**“After 7 days of using the application, we got our appointment. We flew from Mexico City to Tijuana. What we did was watch videos on YouTube explaining how to use the app and we were changing ports [of entry] every day. Once we got it, we had 18 days to get to the appointment. Now our nerves are on edge. We would recommend other migrants not to jump into the river.”**

Cuban asylum seekers (Tijuana, Mexico)<sup>234</sup>

Even if many of the asylum seekers interviewed by Amnesty International knew about CBP One, the majority did not know how the application works.<sup>235</sup>

**“[The shelter] teaches us how to use the app, but we don’t all understand it well; it can be tedious to understand it. There is a significant backlog, and we would prefer it to go in order. The code [the app] asks for to log in makes it difficult to use. The information isn’t clear. People get desperate. We get ‘error’ or ‘fraud’ [messages] and there’s no one to clarify these doubts with. The uncertainty makes you think it’s better to turn yourself in [cross irregularly into the US].”**

Honduran asylum seeker (Tijuana, Mexico)<sup>236</sup>

**“What I want to know is if this is a lottery. I want to understand how it works, when it’s going to be my turn. We thought that coming to Reynosa was better because we would get [the appointment] faster, but it’s not like that.”**

Haitian asylum seeker (Reynosa, Mexico)<sup>237</sup>

The biggest misunderstanding about how CBP One works amongst asylum seekers is that appointments are assigned randomly.<sup>238</sup> Countless asylum seekers told the organization that they did not understand why they had not yet received an appointment when others who had registered after them had. As indicated above, the fact that CBP One does not allocate appointments in order of registration causes stress, worry and uncertainty for people seeking asylum.

**“My fear is that the application will shut down. I don’t know how the appointments are given. So many doubts generate a lot of emotions like stress and the desire to turn myself in and throw in the towel.”**

Guatemalan asylum seeker (Monterrey, Mexico)<sup>239</sup>

**“I’ve been trying to get the appointment for three months. I thought that the appointments were going in order. It’s maddening. I’m distraught with the situation. Someone tried to kill me. I don’t want to leave my Mexico, but I can’t stay.”**

Mexican asylum seeker (Matamoros, Mexico)<sup>240</sup>

Lack of knowledge about how CBP One works has resulted in the spreading of misinformation and

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<sup>231</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>232</sup> CBP, *CBP One™ Mobile Application Traveler User Guide* (previously cited).

<sup>233</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited).

<sup>234</sup> In-person interview with Cuban asylum seekers, Tijuana, Mexico, 29 November 2023.

<sup>235</sup> Human Rights First, *Inhumane and Counterproductive: Asylum Ban Inflicts Mounting Harm*, October 2023, [humanrightsfirst.org/wp-content/uploads/2023/10/Inhumane-and-Counterproductive-final-report.pdf](https://humanrightsfirst.org/wp-content/uploads/2023/10/Inhumane-and-Counterproductive-final-report.pdf), pp. 7, 27-29; HBA, *Lives at Risk* (previously cited), p. 19.

<sup>236</sup> In-person interview with Honduran asylum seeker, Tijuana, Mexico, 29 November 2023.

<sup>237</sup> In-person interview with Haitian asylum seeker, Reynosa, Mexico, 7 November 2023.

<sup>238</sup> National Immigration Project, *Facing an Impossible Choice* (previously cited), p. 7.

<sup>239</sup> In-person interview with Guatemalan asylum seeker, Monterrey, Mexico, 30 October 2023.

<sup>240</sup> In-person interview with Mexican asylum seeker, Matamoros, Mexico, 9 November 2023.



rumors about how the application works. It also places asylum seekers at risk for scams and extortion.<sup>241</sup> According to HIAS, the information on social media “generate misinformation, false rumors and are used to extort people or promote dangerous entries into the United States.”<sup>242</sup> Rumors that Amnesty International heard include that CBP One will cease to exist; that certain registrations had been deleted; and, that applying in a group or writing your name in all capital letters gives a better chance of getting an appointment.<sup>243</sup> HIAS has reported that, following updates to the application, a rumor started that appointments were allocated more quickly to groups, which caused many asylum seekers to search for others in groups on social media to create registration groups. Some people took advantage of these publications to obtain personal information for the purpose of extorting or committing fraud against asylum seekers.<sup>244</sup>

Mexican asylum seekers seem to have even less knowledge and information about CBP One which puts them at greater risk for fraud, scams and extortion.<sup>245</sup>

**“Everything about [the application] affects them emotionally. In the end it’s one more obstacle for people. There are many Facebook groups where [asylum seekers] support each other but they run the risk of being extorted and [these groups] can do more harm than help. Social networks are very popular for seeking information. They are also very popular for disinformation and a place for fraud and extortion.”**

Casa Arcoiris shelter (Tijuana, Mexico)<sup>246</sup>

According to CBP, “since the expansion of CBP One, the number of migrants reported to be waiting in Mexican Northern Border cities has decreased as individuals are able to instead request an appointment throughout Central and Northern Mexico.”<sup>247</sup> However, Amnesty International’s research reveals that asylum seekers’ lack of knowledge of CBP One results in them making uninformed decisions that may place them in more dangerous situations or even impact their eventual asylum claims in the United States.<sup>248</sup> For example, there is a general sense amongst asylum seekers that the closer you are to the US-Mexico border, the better your chance is of getting a CBP One appointment. This rumor is fueled by a lack of understanding about how the application allocates appointments. Instead of remaining in cities such as Mexico City or Monterrey where there are more services and opportunities, people seeking asylum chose to travel to the border before getting their appointment and end up having to wait in border cities that are more dangerous and have limited resources for people seeking asylum.<sup>249</sup> There are also often rumors that appointments are allocated faster at certain ports of entry which ends up impacting migration routes and flows.

In this same sense, asylum seekers who end up crossing into the United States without an appointment, either because they have never heard of CBP One or because they are unable to wait in Mexico any longer, may not be aware that this could have implications for an eventual asylum claim that they make in the US. Many asylum seekers had never heard of the Final Rule and were not aware that using CBP One was necessary to rebut the presumption of asylum ineligibility.<sup>250</sup> Amnesty International interviewed 18 asylum seekers who had never heard of CBP One and consequently, all entered the United States without appointments resulting in them being ineligible for asylum in accordance with the Final Rule (unless they are able to establish one of

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<sup>241</sup> Congress of the United States, Letter to DHS (previously cited), p. 2.

<sup>242</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 3.

<sup>243</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>244</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 3.

<sup>245</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>246</sup> In-person interview with staff at Casa Arcoiris shelter, Tijuana, Mexico, 29 November 2023.

<sup>247</sup> Communication from CBP, 6 May 2024.

<sup>248</sup> HBA, *Lives at Risk* (previously cited), p. 19.

<sup>249</sup> US Department of State, “Mexico Travel Advisory”, 22 August 2023, [travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html#Tamaulipas%20state](https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html#Tamaulipas%20state).

<sup>250</sup> In-person interviews with asylum seekers, October-November 2023; HBA, *Lives at Risk* (previously cited), p. 4.

the limited exceptions).<sup>251</sup>

## 5.6 INABILITY TO USE THE CBP ONE APPLICATION

Not everyone has the same ability to use the CBP One application and understand how it works. Asylum seekers need to have some understanding of technology, a newer cellphone, access to internet, an email address and know how to take and upload pictures and videos to the application. People seeking asylum need to be able to read and write in English, Haitian Creole or Spanish.<sup>252</sup> CBP One assumes that all asylum seekers are in the same situation and ends up conditioning an individual's ability to seek asylum on their ability to use the application.<sup>253</sup> However, some asylum seekers are unable to use the CBP One application for various reasons including that they do not have a cellphone; they do not understand English, Haitian Creole or Spanish; they are unable to read or write; they have limited technological knowledge and skills; or they have visual or other disabilities.<sup>254</sup> In March 2024, the Texas Civil Rights Project and the Civil Rights Education and Enforcement Center filed an administrative complaint with DHS's Office of Civil Rights and Civil Liberties alleging that the CBP One application violates the rights of people seeking asylum with disabilities.<sup>255</sup>

Amnesty International has also observed that, while the Final Rule includes an exception for individuals who are not able to access or use the application due to a language barrier, illiteracy, significant technical failure or other ongoing or serious obstacle, in reality, it is difficult for asylum seekers to enter the United States under one of these exceptions.

### ▪ No smartphone

Not all asylum seekers have cellphones let alone smartphones. Or the cellphone that they do have might not be compatible with CBP One. The majority of asylum seekers that Amnesty met with had cellphones, but at least two families did not. Asylum seekers who do not have cellphones will sometimes buy a sim card and will use other people's phones to use the application. Many shelters that the organization visited have purchased cellphones or have had them donated and allow those without phones to use them. However, neither of these options are ideal because asylum seekers must enter into the application every day to request an appointment.

**“I have problems with the application. I can't download it because I don't have a cellphone. I'm trying to get a phone, if not, I'll have to turn myself in [cross irregularly].”**

Honduran asylum seeker, (Piedras Negras, Mexico)<sup>256</sup>

### ▪ Language proficiency

CBP One is only available in English, Haitian Creole and Spanish, making it very difficult for asylum seekers who do not speak these languages to use the application.<sup>257</sup> Moreover, sometimes the error or fraud messages only appear in English, even if the individual is using the application in one of

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<sup>251</sup> The 18 asylum seekers interviewed by Amnesty International had recently entered the United States and therefore, the organization does not know whether they were deemed ineligible to seek asylum in accordance with the Circumvention of Lawful Pathways Final Rule. In-person interviews with asylum seekers in San Diego and Jacumba, United States, 28 & 29 November 2023; HRF, *Inhumane and Counterproductive* (previously cited), pp. 27-29.

<sup>252</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 4.

<sup>253</sup> HRF, *Inhumane and Counterproductive* (previously cited), p. 29.

<sup>254</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 4; HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2; HBA, *Lives at Risk* (previously cited), p. 9.

<sup>255</sup> TCRP, *CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act* (previously cited).

<sup>256</sup> In-person interview with Honduran asylum seeker, Piedras Negras, Mexico, 2 November 2023.

<sup>257</sup> Congress of the United States, Letter to DHS (previously cited), p. 2.

the other two languages.<sup>258</sup> The nationalities of those arriving at the US-Mexico border include Indigenous asylum seekers from Central America and French-speaking African asylum seekers who struggle to use CBP One.<sup>259</sup> In June 2023, organizations wrote to DHS to highlight the insurmountable barriers that Indigenous asylum seekers face in accessing and using the application.<sup>260</sup>

CBP told Amnesty International that it is “consistently evaluating whether to add additional languages within CBP One.”<sup>261</sup> Reference guides are available in 12 languages to improve language access.<sup>262</sup>

### **“CBP One is a complete non-starter for Black French-speaking Africans in Sonora.”**

Emem Maurus, Transgender Law Center<sup>263</sup>

#### **Literacy**

People seeking asylum who do not know how to read or write are unable to use the application. A Guatemalan asylum seeker told Amnesty International that she accidentally deleted her registration because she cannot read and did not know what button she was pressing.<sup>264</sup>

#### **Financial considerations**

In order to use CBP One to apply for appointments daily, not only do asylum seekers need a cellphone that supports the application, they also need to have access to a strong and stable internet connection.<sup>265</sup> Asylum seekers told Amnesty International that it is very costly to constantly be purchasing internet data packages in order to be able to use the application.<sup>266</sup> A UNHCR survey found that throughout 2023 between 15-21% of asylum seekers in Mexico reported not having access to internet which impacted their ability to use CBP One.<sup>267</sup> Others noted that while many shelters have installed wifi to help asylum seekers use the application, given the large number of people using the wifi at the same time, it sometimes does not work well enough and they need to purchase data.<sup>268</sup> Access to internet is even more difficult and expensive for asylum seekers who have not been able to access shelters and are staying in informal settlements, encampments or on the street.<sup>269</sup>

Sometimes asylum seekers will not eat in order to be able to purchase a higher quality cellphone or data packages.<sup>270</sup> Amnesty interviewed a Honduran asylum seeker who did not have enough money to purchase internet and therefore, had not yet been able to download CBP One and apply for appointments.<sup>271</sup>

### **“I’m travelling with my daughter. Her dream is to be a veterinarian. We walked for three days and spent 13**

<sup>258</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; HBA, *Lives at Risk* (previously cited), p. 11; Congress of the United States, Letter to DHS (previously cited), p. 2.

<sup>259</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; HRF, *Inhumane and Counterproductive* (previously cited), pp. 30-31; Congress of the United States, Letter to DHS (previously cited), p. 2.

<sup>260</sup> National Immigration Project, “The ‘Circumvention of Lawful Pathways’ Rule Leaves Indigenous Peoples with No Pathway to Seek Asylum”, 5 June 2023, [nipnlg.org/sites/default/files/2023-06/2023\\_June-Indigenous-Peoples-Asylum-Letter.pdf](https://nipnlg.org/sites/default/files/2023-06/2023_June-Indigenous-Peoples-Asylum-Letter.pdf); HRF, *Inhumane and Counterproductive* (previously cited), pp. 37-38.

<sup>261</sup> Communication from CBP, 9 April 2024.

<sup>262</sup> Communication from CBP, 9 April 2024.

<sup>263</sup> Online interview with Emem Maurus, Transgender Law Center, 25 October 2023.

<sup>264</sup> In-person interview with Guatemalan asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>265</sup> MSF, “‘La salud de personas migrantes está gravemente afectada por aumento de secuestros y violencia sexual en el noreste de México’: MSF”, 15 February 2024, [msf.mx/actualidad/la-salud-de-personas-migrantes-esta-gravemente-afectada-por-aumento-de-secuestros-y-violencia-sexual-en-el-noreste-de-mexico-msf/](https://msf.mx/actualidad/la-salud-de-personas-migrantes-esta-gravemente-afectada-por-aumento-de-secuestros-y-violencia-sexual-en-el-noreste-de-mexico-msf/).

<sup>266</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>267</sup> UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 39.

<sup>268</sup> In-person interviews with asylum seekers, Matamoros, Mexico, 9 November 2023.

<sup>269</sup> In-person interviews with asylum seekers, Matamoros, Mexico, 8 November 2023.

<sup>270</sup> In-person interviews with organizations, Reynosa, Mexico, 7 November 2023.

<sup>271</sup> In-person interview with Honduran asylum seeker, Monterrey, Mexico, 1 November 2023.

**hours on the train. I haven't had internet to be able to apply for the appointment. I don't have any money. I'm wondering if I should just turn myself in to the United States."**

Honduran asylum seeker (Monterrey, Mexico)<sup>272</sup>

**"You have to have an Android or an iPhone and activate [internet data] packages for five days. It's too expensive."**

Venezuelan asylum seeker (Monterrey, Mexico)<sup>273</sup>

In contrast, individuals with more resources who, for instance, are able to stay in hotels, have better and more consistent access to internet, which likely plays a role in them getting CBP One appointments more easily.<sup>274</sup>

#### ■ **Technical failures**

Some asylum seekers have cellphones but either they are unable to download CBP One onto their phone or they are able to download the application, but for some reason it does not work. Amnesty International interviewed a Colombian asylum seeker who had tried to register himself at least five times in CBP One from different cities in Mexico. He was only able to actually open the application once but was kicked out before he was able to finish the registration process. He ended up crossing into the United States without a CBP One appointment.<sup>275</sup>



#### **THE CASE OF "PAUL" AND "PAULO"<sup>276</sup>**

"We've been trying to get an appointment for three months. We've made 8 registrations. We always get fraud messages. Sometimes we log into the application and our registrations have been deleted. We can't use the app.

The thing is, we're identical twins. My name is "Paul", and his name is "Paulo". The problem is that they made a mistake on our Haitian passports and put "Paulo" for both of us.

We're twins. We have the same date and place of birth. Surely the application thinks we're the same person and that is why we always get fraud messages.

We would like to be able to explain our case to the United States because we don't know what to do and no one has been able to help us.

We had to pass through the Darién. I hope this route isn't used anymore. The jungle is very dangerous. I think about it and tears come to my eyes."

## **5.6.1 EXCEPTIONS TO THE CIRCUMVENTION OF LAWFUL PATHWAYS FINAL RULE**

The Final Rule requires asylum seekers to use the CBP One application to schedule a time to present themselves at a port-of-entry otherwise they could be ineligible for asylum. However, they will be exempted from the mandatory use of CBP One if they are able to demonstrate "by a preponderance of the evidence that it was not possible to access or use the CBP One app due to language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle."<sup>277</sup> Amnesty International considers that the situations of many of the asylum seekers set out above could fall under these exceptions. However, it is unclear how these exceptions are being

<sup>272</sup> In-person interview with Honduran asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>273</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 30 October 2023.

<sup>274</sup> In-person and online interviews with organizations, August-November 2023.

<sup>275</sup> In-person interview with Colombian asylum seeker, San Diego, USA, 28 November 2023.

<sup>276</sup> In-person interviews with Haitian asylum seekers, Reynosa, Mexico, 6 November 2023.

<sup>277</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited), pp. 31321-31322.

determined at the border and if border agents will have discretion in these decisions. Some organizations have reported that CBP officers have asked people seeking asylum who were unable to use the application why they did not use someone else's phone or ask someone who was literate or spoke the requisite languages for help.<sup>278</sup>

Regardless of the existence of these exceptions, the reality on the ground is that asylum seekers are unable to approach CBP officers to explain why they might meet one of the exceptions to the mandatory use of the application because INM agents in Mexico control asylum seekers' access to the bridges and ports of entry.<sup>279</sup> INM will check asylum seekers' documents and only allow those on the bridge who have a CBP One appointment.<sup>280</sup> The organization *Al Otro Lado* had documented that, even in cases where people seeking asylum may make it past INM agents, "CBP has a consistent practice of turning individuals away from POEs if they do not have [CBP One] appointments."<sup>281</sup>

The Strauss Center has reported that in Ciudad Juárez, Chihuahua, "members of Fideicomiso – a part of the Chihuahua state government– and at times the Mexican National Guard (*Guardia Nacional*) stop asylum seekers before they can enter the city's international bridges."<sup>282</sup> In Piedras Negras, Coahuila, Amnesty International heard from asylum seekers and organizations about the "Grupo Enlace", a group set up by the municipality, which controls access to the bridge. Amnesty met with several asylum seekers who had attempted to approach CBP to explain their specific circumstances, however, Grupo Enlace prevented them from approaching CBP. A Honduran asylum seeker said, "INM agents tell us that we can go and cross by the river, but that we can't cross on the bridge."<sup>283</sup> The Strauss Center has reported that, "If the group detects an asylum seeker, they stop the individual from entering the bridge."<sup>284</sup> In Tijuana, Baja California, INM agents verify asylum seekers' CBP One appointments and only permit those with appointments to enter one of the two ports of entry.<sup>285</sup> According to the National Immigration Project, INM officers in Matamoros and Reynosa have referred to "CBP orders" when preventing asylum seekers from approaching US ports of entry.<sup>286</sup>

**"When we wanted to explain why we missed our appointment the Grupo Enlace told us to either go back to the shelter or back to our country. Sometimes I think about crossing irregularly, just to be heard, just to have a chance."**

Guatemalan asylum seeker (Piedras Negras, Mexico)<sup>287</sup>

**"The Grupo Enlace won't let us near the bridge. They tell us to cross the river and that everything will be fine. It's maddening. We wish there was a representative in Mexico who would listen to us".**

Honduran asylum seeker (Piedras Negras, Mexico)<sup>288</sup>

When asked about these allegations, CBP told the organization:

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<sup>278</sup> Houston Immigration Legal Services Collaborative, "The New Asylum Rule – CBP One", [houstonimmigration.org/the-new-asylum-rule-cbp-one/](https://houstonimmigration.org/the-new-asylum-rule-cbp-one/).

<sup>279</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited); TCRP, *CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act* (previously cited), p. 3.

<sup>280</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), pp. 5-13; HRF, *Inhumane and Counterproductive* (previously cited), pp. 6-7, 37-38; National Immigration Project, *Facing an Impossible Choice* (previously cited), pp. 2 & 6.

<sup>281</sup> TCRP, *CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act* (previously cited), p. 3.

<sup>282</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 9.

<sup>283</sup> In-person interview with Honduran asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>284</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 8.

<sup>285</sup> Visit to San Ysidro port-of-entry, Tijuana, Mexico, 29 November 2023; Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 13.

<sup>286</sup> National Immigration Project, *Facing an Impossible Choice* (previously cited), p. 2.

<sup>287</sup> In-person interview with Guatemalan asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>288</sup> In-person interview with Honduran asylum seeker, Piedras Negras, Mexico, 3 November 2023.

“CBP is committed to allowing access to ports of entry and works to ensure individuals are able to access a port-of-entry while at the same time ensuring that the POEs operate in a manner that is safe for noncitizens, travelers and officers. CBP communicates closely with the Government of Mexico regarding our border operations including the need for individuals without appointments to be able to access POEs. CBP continues to process hundreds of individuals per day at SWB POEs who present both without appropriate travel documents and without CBP One appointments.”<sup>289</sup>

Amnesty International considers that placing the burden on asylum seekers to demonstrate that they were unable to access or use the application could preclude those individuals’ access to international protection and ultimately result in *refoulement*. Moreover, even though exceptions to the use of CBP One exist, the information received by Amnesty International demonstrates that these exceptions are not an effective means to access asylum because asylum seekers are blocked by Mexican officials and are unable to access US ports of entry unless they have an appointment. There is no way for asylum seekers to demonstrate that they were unable to utilize the application as there is no way to access US CBP officers. This forces asylum seekers to cross irregularly into the United States in the most dangerous ways and drives them into the hands of smugglers who control irregular crossings.<sup>290</sup>

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<sup>289</sup> Communication from CBP, 9 April 2024.

<sup>290</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

# 6. TECHNOLOGICAL CONSIDERATIONS AND PRIVACY AND SURVEILLANCE CONCERNS

Digital technologies and tools are increasingly shaping and delivering State's asylum policies.<sup>291</sup> Border externalization policies are increasingly enacted through the deployment of sophisticated and invasive digital technologies, raising serious privacy, non-discrimination and surveillance concerns.<sup>292</sup> The former United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, has expressed that CBP One's use of facial recognition and GPS technologies, and cloud storage, to collect data on asylum seekers prior to their entry into the United States raises serious privacy and non-discrimination concerns.<sup>293</sup>

The application's Privacy Impact Assessment indicates that CBP One "contains a privacy policy that appears every time a user logs in" and that "users must consent to the terms of using the application prior to being authorized to use it".<sup>294</sup> Asylum seekers interviewed by Amnesty International stated that they did not understand the privacy policy or who their information could potentially be shared with and that they agreed to the policy because it was the only way for them to be able to use the application.<sup>295</sup> The privacy assessment further states that the application collects information "on a voluntary basis for the purpose of facilitating and implementing CBP's mission."<sup>296</sup> However, considering that use of CBP One is one of the limited exceptions to not being ineligible for asylum under the Final Rule, it is arguable whether use of the application is truly voluntary. As indicated above, at the time an asylum seeker requests an appointment through

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<sup>291</sup> Amnesty International, *Primer: Defending the Rights of Refugees and Migrants in the Digital Age* (previously cited), p. 4.

<sup>292</sup> Amnesty International, *Primer: Defending the Rights of Refugees and Migrants in the Digital Age* (previously cited), p. 12.

<sup>293</sup> UNGA, Racial and xenophobic discrimination and the use of digital technologies in border and immigration enforcement, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, A/HRC/48/76, 17 December 2021, [ohchr.org/en/documents/thematic-reports/ahrc4876-racial-and-xenophobic-discrimination-and-use-digital](https://www.ohchr.org/en/documents/thematic-reports/ahrc4876-racial-and-xenophobic-discrimination-and-use-digital), para. 47.

<sup>294</sup> DHS, *Privacy Impact Assessment for CBP One™* (previously cited), p. 6; DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42* (previously cited).

<sup>295</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>296</sup> DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42* (previously cited), p. 6.

the application, the GPS on their device is pinged by the application and the location of the device is sent to CBP for analytical purposes such as determining the individual's location or if multiple appointment requests are being sent from the same phone.<sup>297</sup> CBP stores this data for one year within the CBP Amazon Web Services (AWS) Cloud East (CACE) environment.<sup>298</sup>

Amnesty International's static decompilation of CBP One revealed that the application registers device information and unique identifiers with Google's Firebase service. While this could have legitimate use cases, such as solving bugs that only occur on certain hardware configurations, the application does not disclose to the user the use of Google's services as a sub-processor and an opt-out option is not offered. Further, the privacy impact assessments of the application make no reference to the sharing of information with Google's Firebase service.

Asylum seekers must upload a photograph when registering themselves in the application and must upload a video selfie in order to confirm an appointment that has been allocated to them. According to CBP, the application uses the selfie photograph for five distinct purposes:

- (1) to conduct one-to-one (1:1) facial comparison against the passport photograph previously uploaded to the [CBP Advance Travel Authorization (ATA)] mobile application from the eChip;
- (2) to conduct one-to-many (1:n) vetting against derogatory photographic holdings for law enforcement and national security concerns as part of the ATA vetting process;
- (3) to generate a new gallery of ATA participants for facial comparison when ATA participants arrive at a port-of-entry;
- (4) to conduct 1:n identity verification once the participants arrive at the port-of-entry; and
- (5) to conduct 1:n vetting against known derogatory photographs for assistance in CBP's admissibility determination.<sup>299</sup>

Further, prior to an asylum seeker's arrival at a port-of-entry, CBP "may use the information submitted by the individual to conduct system checks to identify individuals who may pose a risk to national security, border security or public safety".<sup>300</sup> These checks are identical to the checks conducted by CBP during the primary or, in some cases, secondary inspection process.

From purpose 2 and 5 listed under CBP One's privacy assessment, it is clear that "derogatory photographic holdings" is not a specific categorization, failing to disclose what agencies are the holders of the photographic holdings, and under which specific concerns.<sup>301</sup> It is concerning that the privacy assessment does not clarify what threshold must be met for such a comparison to occur. It neither clarifies whether the people whose photographs are kept within these holdings have consented to having their faces scanned against input facial images of asylum seekers. Similarly, it is entirely unclear whether asylum seekers have consented to having their faces transferred between various agencies. While law enforcement and national security concerns can be legitimate, the criteria under which possible infringements on the right to privacy can occur must be legitimate, necessary and proportional.<sup>302</sup>

It is also currently unclear from the privacy assessment how 1:n facial recognition functionally assists in CBP's admissibility determination, i.e., what are the conditions that dictates that 1:n facial recognition is strictly necessary and proportional to achieving these goals. The privacy assessment also remains unclear about whether ATA participants are simply compared against

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<sup>297</sup> DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42* (previously cited), p. 5.

<sup>298</sup> DHS, *Privacy Impact Assessment Update for the Collection of Advance Information from Certain Undocumented Individuals on the Land Border: Post Title 42* (previously cited), p. 5.

<sup>299</sup> DHS, *Privacy Impact Assessment for CBP One™* (previously cited), p. 24.

<sup>300</sup> DHS, *Privacy Impact Assessment for CBP One™* (previously cited), pp. 19-20.

<sup>301</sup> DHS, *Privacy Impact Assessment for CBP One™* (previously cited), p. 24.

<sup>302</sup> Amnesty International, *Primer: Defending the Rights of Refugees and Migrants in the Digital Age* (previously cited), pp. 20-21.



existing images taken of them upon first arrival, or whether this is compared against larger “derogatory photographic holdings”.

Facial recognition technology for identification entails widespread bulk monitoring, collection, storage, analysis or other use of material and collection of sensitive personal data (biometric data). Moreover, facial recognition systems are trained with image recognition algorithms that rely on vast amounts of individuals’ faces as input data to improve the system’s ‘success rate’, without the individuals’ knowledge or consent, and such an action cannot be ‘undone’. Even where input data or training data is deleted, the faces captured by the system have been used to train a facial recognition system, likely without the individual’s knowledge or control. Such practices cannot satisfy the requirements of necessity and proportionality under international human rights law and as such violate the right to privacy.<sup>303</sup>

The United States must ensure that it is not engaging in mass surveillance and discriminatory targeted surveillance, which 1:n facial recognition constitutes.<sup>304</sup> As Amnesty International has documented previously, this constitutes a violation of the right to privacy, and the right to equality and non-discrimination in particular.<sup>305</sup>

Amnesty International has found that digital technologies are reinforcing border regimes that discriminate based on race, ethnicity and national origin.<sup>306</sup> The human rights harms of facial recognition technology are not experienced equally and raise well-known discrimination risks. For instance, certain groups may be disproportionately represented in facial image datasets due to discriminatory policing or other practices. Moreover, it is well-established that facial recognition technology systems perform unequally depending on key characteristics including skin color, ethnicity and gender. These discrimination risks have been highlighted by various UN experts,<sup>307</sup> as well as agencies of the US Government. The US Department of Commerce’s National Institute of Standards and Technology (NIST) measured the effects of race, age and sex on leading facial recognition technology systems used in the US and found that “the majority of face recognition algorithms exhibit demographic differentials”.<sup>308</sup> The agency “found empirical evidence for the existence of demographic differentials in face recognition algorithms that [it] evaluated”. Echoing the Gender Shades results, “the NIST study measured higher false positives rates in women, African Americans, and particularly in African American women.”<sup>309</sup> Such discrepancies mean that certain groups of asylum seekers may be at higher risk of being incorrectly misidentified or matched against “derogatory” photographs and consequently refused the right to asylum. CBP informed Amnesty International it “works closely with the NIST to ensure high-performing algorithms for the use of facial comparison technology” and that a “recent NIST test showed the algorithm used by CBP has an accuracy of 99.88 percent and CBP’s data analysis also indicates virtually no demographic impact with high technical match rates across the globe”.<sup>310</sup>

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<sup>303</sup> Amnesty International, *Primer: Defending the Rights of Refugees and Migrants in the Digital Age* (previously cited), p. 17.

<sup>304</sup> Amnesty International, *Primer: Defending the Rights of Refugees and Migrants in the Digital Age* (previously cited), p. 21.

<sup>305</sup> Amnesty International, Ban the Scan, [banthescan.amnesty.org/nyc/](https://banthescan.amnesty.org/nyc/); Amnesty International, *Digitally Divided: Technology, Inequality and Human Rights* (POL 40/7108/2023), 2 October 2023, [amnestyusa.org/wp-content/uploads/2023/09/Amnesty-Tech-and-Inequality-Report-Digitally-Divided.pdf](https://www.amnestyusa.org/wp-content/uploads/2023/09/Amnesty-Tech-and-Inequality-Report-Digitally-Divided.pdf), p. 16.

<sup>306</sup> Amnesty International, *Primer: Defending the Rights of Refugees and Migrants in the Digital Age* (previously cited), p. 4.

<sup>307</sup> Committee on the Elimination of Racial Discrimination (CERD), General Recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, 17 December 2020, [ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-36-2020-preventing-and](https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-36-2020-preventing-and), para. 23.

<sup>308</sup> US National Institute of Standards and Technology, *Face Recognition Vendor Test (FRVT) Part 3: Demographic Effects*, December 2019, [nvlpubs.nist.gov/nistpubs/ir/2019/nist.ir.8280.pdf](https://nvlpubs.nist.gov/nistpubs/ir/2019/nist.ir.8280.pdf).

<sup>309</sup> Testimony from Dr Charles H. Romine, Director of the National Institute of Standards and Technology, before US Congress Committee on Oversight and Reform, 15 January 2020, [nist.gov/speech-testimony/facial-recognition-technology-part-iii-ensuring-commercial-transparency-accuracy](https://www.nist.gov/speech-testimony/facial-recognition-technology-part-iii-ensuring-commercial-transparency-accuracy).

<sup>310</sup> Communication from CBP, 6 May 2024.

# 7. SITUATION IN MEXICO WHILE WAITING FOR CBP ONE APPOINTMENTS

It is important to understand the conditions in which asylum seekers are awaiting appointments via the CBP One application. Of deep concern, the conditions in Mexico have become ever more dangerous for those seeking asylum.<sup>311</sup> Asylum seekers travelling through the country face the serious risk of being extorted, kidnapped and experiencing discrimination and sexual and gender-based violence by both state and non-state actors.<sup>312</sup>

According to a survey conducted by UNHCR and its partners in Mexico in 2023, 56% of those interviewed had been victims of violence during their transit through Mexico, while 42% experienced a violent incident on their journey prior to arriving in Mexico.<sup>313</sup> Eighty-five percent of the migrants Doctors Without Borders (MSF) attended to in the first half of 2023 had been victims of intentional violence on their journey through Mexico.<sup>314</sup> Almost all of the asylum seekers that Amnesty International interviewed had experienced at least one violent incident on their way through Mexico. Many asylum seekers who had crossed through the Darién jungle, which has been documented extensively as being very dangerous for asylum seekers, told Amnesty that, in their opinion, their experiences in Mexico were worse.<sup>315</sup>

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<sup>311</sup> HRF, *Inhumane and Counterproductive* (previously cited), p. 14; MSF, “Migración en América: un camino de violencia desbordada en 2023”, 18 December 2023, [msf.mx/actualidad/migracion-en-america-un-camino-de-violencia-desbordada-en-2023/](https://msf.mx/actualidad/migracion-en-america-un-camino-de-violencia-desbordada-en-2023/); UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), pp. 28-30; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).  
<sup>312</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 4; HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2; MSF, “Se recrudece la violencia contra mujeres, niños y niñas migrantes entre Chiapas y Oaxaca”, 30 November 2023, [msf.mx/actualidad/se-recrudece-la-violencia-contra-mujeres-ninos-y-ninas-migrantes-entre-chiapas-y-oaxaca/](https://msf.mx/actualidad/se-recrudece-la-violencia-contra-mujeres-ninos-y-ninas-migrantes-entre-chiapas-y-oaxaca/); HRF, *Inhumane and Counterproductive* (previously cited), pp. 5, 21; JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 1; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), pp. 28-29; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited); Congress of the United States, Letter to DHS (previously cited), pp. 1-2.

<sup>313</sup> UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), pp. 5-6, 26, 28-29.

<sup>314</sup> Twitter, MSF, 5 October 2023, [twitter.com/MSF\\_Colombia/status/1709969645006893313](https://twitter.com/MSF_Colombia/status/1709969645006893313); MSF, “La salud de personas migrantes está gravemente afectada” (previously cited).

<sup>315</sup> In-person interviews with asylum seekers, October-November 2023; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), pp. 6 & 28; Mixed Migration Centre, *Safety risks in the Darien Gap and assistance needed among refugees and migrants*, October 2022, [r4v.info/en/document/safety-risks-darien-gap-mixed-migration-centre-october-2022](https://r4v.info/en/document/safety-risks-darien-gap-mixed-migration-centre-october-2022).

**“Mexico is the worst thing we went through. It’s a mafia. They take money from us everywhere. In Tierra Blanca, Veracruz, we were kidnapped for three days and then released. We were blindfolded and they beat us several times. We were taken off the buses several times and were forced to pay. We were sold tickets at double the price. So many things happened to us that make you want to cry. If we don’t get the appointment quickly, we’ll throw ourselves into the river.”**

Venezuelan asylum seeker (Piedras Negras, Mexico)<sup>316</sup>

## 7.1 EXTORTION

Over two-thirds of the asylum seekers interviewed by Amnesty International were extorted at least once on their journey through Mexico.<sup>317</sup> Many were forced to pay Mexican authorities, members of criminal groups or unknown individuals at roadblocks throughout the country. Others were charged more for bus tickets or were not sold tickets at all because they are migrants.

**“It would seem like migrants carry an ATM on their backs.”**

Venezuelan asylum seeker (Monterrey, Mexico)<sup>318</sup>

**“In Mexico you can keep going as long as you pay, but there comes a time when you run out [of money]. They always want to take advantage of us. There’s a lot of kidnapping and violence.”**

Guatemalan asylum seeker (Piedras Negras, Mexico)<sup>319</sup>

### ▪ Checkpoints

People seeking asylum are systematically extorted as they travel from southern Mexico to the US-Mexico border.<sup>320</sup>

**“We were extorted every time we took a bus.”**

Venezuelan asylum seeker (Monterrey, Mexico)<sup>321</sup>

Asylum seekers explained to Amnesty International that they are stopped at checkpoints by members of state police, National Guard, INM, criminal groups or sometimes unknown individuals who have their faces covered. Asylum seekers are removed from the buses they are travelling on and forced to pay a fee in order to continue their journey.<sup>322</sup> Many stated that they believed the

<sup>316</sup> In-person interview with Venezuelan asylum seeker, Piedras Negras, Mexico, 2 November 2023.

<sup>317</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>318</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>319</sup> In-person interview with Guatemalan asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>320</sup> JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2.

<sup>321</sup> In-person interview with Venezuelan asylum seeker, Piedras Negras, Mexico, 2 November 2023.

<sup>322</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023.

drivers worked with those operating the checkpoints because it seemed like they would purposely stop or do nothing to avoid them.<sup>323</sup> Asylum seekers who do not pay are threatened with deportation or being sent back to Tapachula.<sup>324</sup> INM and police officers threaten to rip up asylum seekers' documents.<sup>325</sup> Asylum seekers are left at these checkpoints by the buses they are travelling on, meaning that they lose their bus fare (which they were usually charged more for), as well as the money that they had to pay at the checkpoint. They then have no option but to walk.<sup>326</sup>

**“We’ve been trying to get the appointment for 20 days. It’s been a very bad experience. We feel very desperate because we haven’t got [the appointment] yet. We were taken off the bus from Oaxaca to Mexico City; you don’t get back any of the money you spent. The buses are very dangerous, and a lot of money is taken from you. The jungle [the Darién] was nothing compared to Mexico.”**

Venezuelan asylum seeker (Piedras Negras, Mexico)<sup>327</sup>

**“I’ve been asking for the appointment for two months. I feel frustration, desperation. My three children suffer a lot. I’ve run out of money and there’s a lot of risk if one goes out, even to the doctor. We have a permanent resident card because COMAR recognized us as refugees. Even so, they would take me off of the buses and tell me that my document was not real, [ask me] how much I paid for it. I know my rights, but here they want to take advantage of you all the time.”**

Honduran asylum seeker (Monterrey, Mexico)<sup>328</sup>

Asylum seekers are typically forced to pay between \$200-\$5,000 MXN (\$11-\$295 USD) per person at each checkpoint.<sup>329</sup> A Venezuelan asylum seeker in Monterrey told Amnesty that INM agents asked her for \$1,000 MXN (\$59 USD).<sup>330</sup> A Venezuelan couple in Matamoros paid the INM \$3,500 MXN (\$207 USD) after being threatened to be returned to Tapachula if they did not pay.<sup>331</sup> A Salvadorean asylum seeker had to pay the police \$800 MXN (\$47 USD) in Reynosa.<sup>332</sup> A Guatemalan family of four had paid around \$15,000 MXN (\$884 USD) in total to the police from southern Mexico to Monterrey.<sup>333</sup>

**“They took us off the bus 3 times, the police, the INM and the National Guard. They told us that we were ‘illegal’ and that they were asking for collaboration. They wanted \$200 [MXN] per person.”**

Venezuelan asylum seeker (Monterrey, Mexico)<sup>334</sup>

People seeking asylum are likely to be stopped at least three times in southern Mexico before arriving to Mexico City and several times from Mexico City northwards depending on which port-of-entry they are traveling to.<sup>335</sup>

**“It’s been a very long trip. From Juchitán to Oaxaca, the police and the INM got on the bus four times and asked us for \$200 pesos per person or they would return us to Tapachula. In Mexico City, they took us off the bus because we didn’t have an appointment and we had to walk for hours. When we got back on the bus, they stopped and took us off four more times. Sometimes they asked for up to \$500 pesos per person. If**

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<sup>323</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023; HRF, *Inhumane and Counterproductive* (previously cited), p. 13.

<sup>323</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>324</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>325</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2.

<sup>326</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>327</sup> In-person interview with Venezuelan asylum seeker, Piedras Negras, 2 November 2023.

<sup>328</sup> In-person interview with Honduran asylum seeker, Monterrey, Mexico, 6 November 2023.

<sup>329</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>330</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>331</sup> In-person interview with Venezuelan asylum seekers, Matamoros, Mexico, 9 November 2023.

<sup>332</sup> In-person interview with Salvadoran asylum seeker, Matamoros, Mexico, 9 November 2023.

<sup>333</sup> In-person interview with Guatemalan asylum seekers, Monterrey, Mexico, 30 October 2023.

<sup>334</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>335</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

**Mexico doesn't want us here, it should let us leave easily."**

Venezuelan asylum seeker (Monterrey, Mexico)<sup>336</sup>

**"We have our appointment tomorrow. We got it in 7 days. We know this place is dangerous. Yesterday a friend was almost kidnapped outside the shelter. From Monterrey to here there's a lot of extortion. You have to hand over all the money you have. At one migration checkpoint they asked us for up to \$1,000 [MXN] per person."**

Honduran asylum seeker (Reynosa, Mexico)<sup>337</sup>

Staff at the Frontera Digna shelter in Piedras Negras told Amnesty International about police checkpoints in Nueva Rosita and Allende, Coahuila, where asylum seekers are not only forced to pay large amounts of money to police (up to \$4,500 MXN / \$266 USD) but are also at risk of violence and sexual assault.<sup>338</sup> The Strauss Center reported that, at the end of December 2023, Mexican authorities "increased their enforcement efforts to reduce the number of migrants arriving in Piedras Negras, including increasing the number of highway checkpoints and bussing apprehended migrants to southern Mexico."<sup>339</sup> These enforcement efforts caused some asylum seekers to miss their CBP One appointments.<sup>340</sup>

Many asylum seekers were told by INM agents that if they did not pay, they would be returned to Tapachula. A Venezuelan family was threatened by state police that if they did not pay \$800 MXN (\$47 USD) each, the police would call the INM.<sup>341</sup>

**"They took me off a bus in the middle of the desert in Sonora. They only took foreigners [off the bus]. They let me go because I have documents, but they put the others in a truck and took them away. I was terrified."**

Honduran asylum seeker (Tijuana, Mexico)<sup>342</sup>

**"Sometimes INM gets [on the bus], sometimes other people who are maybe from the mafia. The buses are dangerous. They grope you. They take you off the bus. It's very hard for migrants. We're Mexican, but we saw what they did to them. They even pointed a gun at them and asked them for money."**

Mexican asylum seeker (Tijuana, Mexico)<sup>343</sup>

#### ▪ **Charged more for transportation**

Asylum seekers are often charged more, sometimes up to double the price, for bus tickets. In many cases, bus companies would refuse to sell asylum seekers bus tickets unless they were willing to pay more for them.<sup>344</sup> A Venezuelan family in Monterrey said, "They charged us more for bus tickets. For example, if the ticket cost \$10 MXN, we had to pay \$20 MXN. We always had to pay more."<sup>345</sup> A Haitian asylum seeker said, "The bus companies charged us \$1,400 MXN per person, but Mexicans only had to pay \$500 MXN."<sup>346</sup>

**"Tickets normally cost \$220 pesos, but we were charged \$3,000 per person. That's why so many people decide to throw themselves into the river. No one has any money left."**

Guatemalan asylum seeker (Piedras Negras, Mexico)<sup>347</sup>

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<sup>336</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>337</sup> In-person interview with Honduran asylum seeker, Reynosa, Mexico, 6 November 2023.

<sup>338</sup> In-person interview with staff at Frontera Digna shelter, Piedras Negras, 2 November 2023.

<sup>339</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 8.

<sup>340</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 8.

<sup>341</sup> In-person interview with Venezuelan asylum seekers, Piedras Negras, Mexico, 3 November 2023.

<sup>342</sup> In-person interview with Honduran asylum seeker, Tijuana, Mexico, 29 November 2023.

<sup>343</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>344</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>345</sup> In-person interview with Venezuelan asylum seekers, Monterrey, Mexico, 1 November 2023.

<sup>346</sup> In-person interview with Haitian asylum seeker, Reynosa, Mexico, 7 November 2023.

<sup>347</sup> In-person interview with Guatemalan asylum seeker, Piedras Negras, Mexico, 3 November 2023.

## ▪ Not being sold bus tickets

People seeking asylum sometimes struggle to buy bus tickets as bus companies refuse to sell them tickets because they are asylum seekers or migrants.<sup>348</sup> They would have to rely on Mexicans to purchase bus tickets for them.<sup>349</sup> Others were forced to walk long distances because no one would sell them tickets.<sup>350</sup> Some asylum seekers had only been able to purchase tickets by showing that they had registered in CBP One or in some cases, by showing the confirmation of their CBP One appointment.<sup>351</sup> While it may be easier for asylum seekers with CBP One appointments to travel in Mexico, having an approved appointment puts them at more risk for extortion and kidnappings.<sup>352</sup> For example, a Venezuelan family said that in Juchitán, Oaxaca, they were asked to show a printed copy of their CBP One registrations in order to get on buses.<sup>353</sup>

**“Everyone tries to make a business out of migrants. In Mexico, they didn’t want to sell us tickets. They charge migrants more. They discriminate against us.”**

Guatemalan asylum seeker (Monterrey, Mexico)<sup>354</sup>

Amnesty International interviewed some individuals who already had CBP One appointments but were told by Mexican police officers or bus companies that they were not allowed to travel by bus.<sup>355</sup> In some cases, asylum seekers have missed their CBP One appointments because bus companies have refused to sell them tickets or they have been stopped at a checkpoint.

**“We got our appointment after a month, but they wouldn’t sell us [bus] tickets even with the scheduled appointment. We missed our appointment. We wanted to approach CBP to explain our case but Grupo Enlace wouldn’t let us approach them. [Grupo Enlace] told us that there was no other option but to delete our registration and ask for a new appointment until we got it.”**

Guatemalan asylum seekers (Piedras Negras, Mexico)<sup>356</sup>

## ▪ More dangerous routes – “La Bestia”

The levels of extortion and violence that people seeking asylum who travel by bus throughout Mexico experience has resulted in some resorting to more dangerous means of travel because they do not have enough money to pay at checkpoints. Several asylum seekers interviewed by Amnesty International told the organization that they decided to travel by train (known as “La Bestia” – the beast) even if they knew it was more dangerous but because they would not be extorted.<sup>357</sup> *La Bestia* is a cargo train that asylum seekers use to cross Mexico; it is not designed or authorized for passengers. As a result, many people suffer injuries while riding or attempting to board the train.<sup>358</sup>

**“Before arriving in Mexico City, police asked us for \$800 pesos per person with the threat that if we did not pay, we would be deported. We had to give the money and we had no choice but to get on “la bestia”. There we were cold, hot; they stole everything from us.”**

Honduran asylum seeker (Piedras Negras, Mexico)<sup>359</sup>

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<sup>348</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>349</sup> In-person interviews with asylum seekers, Monterrey & Piedras Negras, Mexico, 1 & 3 November 2023.

<sup>350</sup> In-person interviews with asylum seekers, Piedras Negras, Mexico, 2 & 3 November 2023.

<sup>351</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>352</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>353</sup> In-person interview with Venezuelan asylum seekers, Monterrey, Mexico, 1 November 2023.

<sup>354</sup> In-person interview with Guatemalan asylum seeker, Monterrey, Mexico, 30 October 2023.

<sup>355</sup> In-person interview with Venezuelan asylum seekers, Piedras Negras, Mexico, 2 November 2023.

<sup>356</sup> In-person interview with Guatemalan asylum seekers, Piedras Negras, 3 November 2023.

<sup>357</sup> In-person interviews with asylum seekers, Monterrey & Piedras Negras, October-November 2023.

<sup>358</sup> El País, “Return of The Beast, the train that mutilates migrants’ dreams”, 10 December 2023, [english.elpais.com/international/2023-12-10/return-of-the-beast-the-train-that-mutilates-migrants-dreams.html](https://english.elpais.com/international/2023-12-10/return-of-the-beast-the-train-that-mutilates-migrants-dreams.html); EFE, “Miles de migrantes desafían los operativos en los trenes de México para llegar a EE.UU.”, 3 October 2023, [efe.com/mundo/2023-10-03/miles-de-migrantes-desafian-los-operativos-en-los-trenes-de-mexico-para-llegar-a-ee-uu/](https://efe.com/mundo/2023-10-03/miles-de-migrantes-desafian-los-operativos-en-los-trenes-de-mexico-para-llegar-a-ee-uu/).

<sup>359</sup> In-person interview with Honduran asylum seeker, Piedras Negras, Mexico, 3 November 2023.

## 7.2 KIDNAPPINGS

Following the end of Title 42, there has been an increase in kidnappings of asylum seekers, especially on the routes to Matamoros, Reynosa and Piedras Negras, as well as in these cities.<sup>360</sup> Amnesty International was told of asylum seekers who were kidnapped right outside of shelters, at bus terminals and from apartments that they were renting.<sup>361</sup> Of the 356 asylum seekers that Amnesty International interviewed, 32 (almost one in ten) had been kidnapped. In Matamoros and Reynosa, Doctors Without Borders (MSF) attended to 129 cases of individuals who had been kidnapped in the last quarter of 2023 and January 2024.<sup>362</sup> Human Rights First has also extensively documented an increase in kidnappings of asylum seekers in Chihuahua, Matamoros and Reynosa.<sup>363</sup> A 2024 study by WOLA found that “the kidnapping and extortion of migrants has increased notably since late 2023” with “many describ[ing] this moment as the worst period of violence they’ve seen, both in numbers and brutality.”<sup>364</sup> According to official data from the Mexican government, in 2023, 65 migrants and asylum seekers (of 540 who presented complaints about being victims of violence) were kidnapped, of which 13 were children.<sup>365</sup> However, these numbers are likely much less than the actual number of migrants and asylum seekers kidnapped (as well as the total number of migrants who were victims of crime and violence in Mexico) given that the majority do not file complaints with the authorities for reasons that will be set out in more detail below.

Kidnapped individuals typically have to pay between \$1000 and \$10,000 USD per person in order to be released.<sup>366</sup> Amnesty was told that those who are unable to pay are forced to work for the cartels.<sup>367</sup> Many people were robbed of their personal belongings but were usually allowed to keep the cellphone that they were using to apply for CBP One appointments.<sup>368</sup>

**“There’s is a checkpoint in Nueva Rosita. If you don’t give money, they beat you horribly. When they kidnapped us, they called our relatives and gave them an account to deposit money. Then they took us to the Elektra to get 40,000 pesos ransom. We panicked. We heard how they abused another migrant. The United States probably wonders why we don’t make the appointments, it’s because of the dangers on the way. You live a trauma in your country and here it ends up being worse.”**

Honduran asylum seeker (Piedras Negras, Mexico)<sup>369</sup>

**“We got our appointment after two months. I’ve paid about 10,000 dollars in total in extortions from Guatemala to here. I don’t have anything left. I’m broken, traumatized. We were kidnapped for 5 days here in Reynosa. We had to pay to get out. My legs still hurt from the beatings they gave us. At least they let me keep my cellphone to get the appointment. We just want to cross.”**

Ecuadorian asylum seeker (Reynosa, Mexico)<sup>370</sup>

Although criminal groups are mainly responsible for the kidnappings, people interviewed by

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<sup>360</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; Strauss Center, *Asylum Processing at the U.S.-Mexico Border: November 2023* (previously cited), p. 6; HRF, *Inhumane and Counterproductive* (previously cited), pp. 5, 14-19; JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>361</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023.

<sup>362</sup> MSF, “La salud de personas migrantes está gravemente afectada por aumento de secuestros y violencia sexual en el noreste de México”: MSF” (previously cited).

<sup>363</sup> HRF, *Inhumane and Counterproductive* (previously cited), pp. 14-19, 20-21.

<sup>364</sup> WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>365</sup> SEGOB, *Boletín Estadísticas sobre Delitos Perpetrados en contra de Personas Migrantes Irregulares en México 2023* (previously cited), p. 14.

<sup>366</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>367</sup> In-person interviews with asylum seekers, Reynosa & Piedras Negras, 2, 3 & 6 November 2023; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>368</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>369</sup> In-person interview with Honduran asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>370</sup> In-person interview with Ecuadorian asylum seeker, Reynosa, Mexico, 6 November 2023.

Amnesty International stated that Mexican authorities are also involved, either by actively participating or doing nothing to stop them.<sup>371</sup> Criminal groups used to give asylum seekers who were kidnapped bracelets so that they would not be kidnapped again.<sup>372</sup> In July 2023, 154 African, Asian and South American migrants and asylum seekers were kidnapped in Sonoyta, Sonora.<sup>373</sup> On 30 December 2023, armed individuals boarded a bus that was travelling from Monterrey to Matamoros and kidnapped approximately 32 asylum seekers and migrants from Colombia, Ecuador, Honduras, Mexico and Venezuela.<sup>374</sup>

**“We were kidnapped in Reynosa. We were renting a house and the state police broke into it. They detained us and handed us over to the mafia. They kept us from Tuesday to Friday. They asked for \$1,800 [USD] dollars per person. They took everything from us, but they left us the phone that we were using for the appointment. If you don’t pay within 24 hours, they move you to another warehouse and they beat you and treat you worse. When they released us, the taxis tried to kidnap us again. You can’t trust anyone here. Anyone will try to sell you.”**

Honduran asylum seeker (Reynosa, Mexico)<sup>375</sup>

**“When we were on our way from Monterrey to Nuevo Laredo, we were kidnapped by the New Generation Cartel. They released us in Nueva Rosita, and we had to walk here [Piedras Negras] with two children. In Mexico you have to pay immigration, the police, the cartel. Nobody cares that you’re carrying a 5-month-old child. The same government screws you over and rips up your papers in your face. The police are the ones who hand you over [to the cartel] and they screw you even more if you say you already have your appointment.”**

Venezuelan asylum seeker (Piedras Negras, Mexico)<sup>376</sup>

People seeking asylum are at a greater risk when they already have their CBP One appointment.<sup>377</sup> Many people have missed their appointments because they were kidnapped.<sup>378</sup> Several asylum seekers told Amnesty International that they tried to avoid telling others that they had an appointment for fear of being kidnapped.<sup>379</sup> However, this was often difficult as individuals are often asked to show their appointments in order to buy bus tickets.

**“They kidnapped us one day before our appointment in Reynosa. They kept us there for 17 days. We’re terrified to leave [the shelter]. The taxi drivers are accomplices. They took all our documents, clothes. We had to pay \$10,000 [USD].”**

Venezuelan asylum seeker (Reynosa, Mexico)<sup>380</sup>

Amnesty International was told by CBP that, “if an individual misses their appointment, the Port-of-entry and Officer evaluate the circumstances on a case-by-case basis if a person will be permitted to enter as if they were arriving for their CBP One appointment time. In some circumstances, individuals may have to create a new registration and request a new appointment.”<sup>381</sup> However, the bigger problem is INM officials preventing asylum seekers from

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<sup>371</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>372</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>373</sup> HRF, *Inhumane and Counterproductive* (previously cited), p. 22; El País, “Hallados 126 migrantes ecuatorianos en una casa de seguridad en Sonora”, 11 August 2023, [elpais.com/mexico/2023-08-11/hallados-126-migrantes-ecuatorianos-en-una-casa-de-seguridad-de-sonora.html](https://elpais.com/mexico/2023-08-11/hallados-126-migrantes-ecuatorianos-en-una-casa-de-seguridad-de-sonora.html).

<sup>374</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 7; BBC, “Rescatan a los 31 migrantes secuestrados en México durante su viaje en autobús a la frontera con Estados Unidos”, 3 January 2024, [bbc.com/mundo/articles/c84282pd9z4o](https://bbc.com/mundo/articles/c84282pd9z4o).

<sup>375</sup> In-person interview with Honduran asylum seeker, Reynosa, Mexico, 6 November 2023.

<sup>376</sup> In-person interview with Venezuelan asylum seeker, Piedras Negras, 2 November 2023.

<sup>377</sup> HRF, *Inhumane and Counterproductive* (previously cited), pp. 24-26.

<sup>378</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.; HRF, *Inhumane and Counterproductive* (previously cited), pp. 6, 24-26; WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>379</sup> In-person interview with asylum seekers, Piedras Negras, Mexico, 2 November 2023.

<sup>380</sup> In-person interview with Venezuelan asylum seeker, Reynosa, Mexico, 6 November 2023.

<sup>381</sup> Communication from CBP, 9 April 2024.



being able to approach CBP to explain that they missed an appointment.<sup>382</sup>

One of the exceptions to the rebuttable presumption of asylum eligibility in the Final Rule is that an asylum seeker has “faced an extreme and imminent threat to their life or safety, such as an imminent threat of rape, kidnapping, torture or murder”.<sup>383</sup> However, it is unclear how this will be applied to asylum cases and the problem remains in asylum seekers’ ability to access the bridge to cross into the United States because of the presence of INM.

**“Nine of us were renting a house and were kidnapped. Three people dressed as state agents arrived at 9 pm and stayed until 12 am. They said we were going to the National Migration Institute. They put us in a van and handed us over to the kidnappers. They forced us to call our family and asked for \$1,800 [USD] per person. They told us we had 24 hours. The family did the impossible and within 8 hours they had made the deposit. They did not beat us physically, but we were affected mentally. We had to wait another 24 hours. They just gave us bread and water. We heard how they abused a woman there. Then they released us and took us to the shelter in a taxi. Here we’re very afraid to leave.”**

Honduran asylum seeker (Reynosa, Mexico)<sup>384</sup>

## 7.3 DISAPPEARANCES

Many people seeking asylum go missing on their journey throughout Mexico to the US-Mexico border. According to the Mexican National Search Commission (CNB – *Comisión Nacional de Búsqueda*) 87 migrants were registered as missing between January 2023 and March 2024.<sup>385</sup> However, civil society organizations have indicated that there is an alarming under-registration of missing migrants, indicating that the CNB only publishes 9.6% of the total number of reported missing migrants and that at least 1,270 migrants have been reported as disappeared to local prosecutor’s officers.<sup>386</sup> Staff at the Frontera Digna shelter in Piedras Negras told Amnesty

<sup>382</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>383</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited).

<sup>384</sup> In-person interview with Honduran asylum seekers, Reynosa, Mexico, 7 November 2023.

<sup>385</sup> Comisión Nacional de Búsqueda, [versionpublicarncpdno.segob.gob.mx/Dashboard/Index](https://versionpublicarncpdno.segob.gob.mx/Dashboard/Index).

<sup>386</sup> Distintas Latitudes, “Migrar y desaparecer (IV): Morgues colapsadas y un subregistro de personas desaparecidas en M[éxico]”, 21 September 2023, [distintaslatitudes.net/historias/reportaje/migrar-y-desaparecer-iv](https://distintaslatitudes.net/historias/reportaje/migrar-y-desaparecer-iv); HRF, *Inhumane and Counterproductive* (previously cited), pp. 23-24; OHCHR, “Relatives of disappeared migrants seek answers and justice”, 2 February 2024, [ohchr.org/en/stories/2024/02/relatives-disappeared-migrants-seek-answers-and-justice](https://ohchr.org/en/stories/2024/02/relatives-disappeared-migrants-seek-answers-and-justice); Forbes, “ONG denuncia que México registra más de 1,800 migrantes desaparecidos”, 30 August 2023, [forbes.com.mx/ong-denuncian-1800-migrantes-desaparecidos-mexico/](https://forbes.com.mx/ong-denuncian-1800-migrantes-desaparecidos-mexico/).

International that they have reported missing asylum seekers to the authorities.<sup>387</sup>

## 7.4 SCAMS AND FRAUD

There are scams and fraud related to CBP One. People charge to register asylum seekers in the application and others sell fake appointments.<sup>388</sup> HIAS has observed asylum seekers paying between \$5,000-\$20,000 MXN (\$295-\$1,178 USD) for services to help them with the application that usually end up being scams or fake appointments.<sup>389</sup> Amnesty interviewed a Honduran family who had paid \$100 MXN (approximately \$5 USD) per person for someone to register them in CBP One in Tapachula.<sup>390</sup> A Venezuelan asylum seeker told the organization that there are people yelling “approved appointments” around the northern bus terminal in Mexico City.<sup>391</sup> Some asylum seekers end up purchasing fake appointments and only find this out when they arrive at the port-of-entry. People take advantage of asylum seekers’ lack of knowledge about the application and the vulnerable circumstances that they find themselves in.

**“I was extorted. I was charged \$900 [USD] by lawyers and it was all a scam. When I showed up for my ‘appointment’, I was told that the time I had been given didn’t exist. I was devastated. I’m trying again. Let’s see when I get a new appointment.”**

Honduran asylum seeker (Reynosa, Mexico)<sup>392</sup>

## 7.5 SEXUAL AND GENDER-BASED VIOLENCE

There has been an increase in sexual and gender-based violence committed against asylum seekers in Mexico.<sup>393</sup> Médecins Sans Frontières (MSF) reported a 70% increase in consultations for sexual violence in Reynosa and Matamoros in the last quarter of 2023 compared with the third quarter of the same year.<sup>394</sup> In January 2024, the organization attended 28 cases of sexual violence, a figure which exceeds the amount for each month in 2023.<sup>395</sup> In Piedras Negras, MSF attended to 95 cases of sexual violence in 2023.<sup>396</sup> At the same time, MSF has indicated that there is major underreporting of cases of sexual and gender-based violence mainly due to the many barriers for

<sup>387</sup> In-person interview with staff at Frontera Digna shelter, Piedras Negras, Mexico, 2 November 2023.

<sup>388</sup> Congress of the United States, Letter to DHS (previously cited), p. 2.

<sup>389</sup> HIAS, *CBP One: Puente hacia el asilo entre México y Estados Unidos* (previously cited), p. 2.

<sup>390</sup> In-person interview with Honduran asylum seekers, Piedras Negras, Mexico, 2 November 2023.

<sup>391</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>392</sup> In-person interview with Honduran asylum seeker, Reynosa, Mexico, 6 November 2023.

<sup>393</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; MSF, “La salud de personas migrantes está gravemente afectada” (previously cited); HRF, *Inhumane and Counterproductive* (previously cited), pp. 5, 19-20; Reuters, “Migrants are being raped at Mexico border as they await entry to US”, 29 September 2023, [reuters.com/world/migrants-are-being-raped-mexico-border-they-await-entry-us-2023-09-29/](https://www.reuters.com/world/migrants-are-being-raped-mexico-border-they-await-entry-us-2023-09-29/); WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>394</sup> MSF, “La salud de personas migrantes está gravemente afectada” (previously cited).

<sup>395</sup> MSF, “La salud de personas migrantes está gravemente afectada” (previously cited).

<sup>396</sup> MSF, “La salud de personas migrantes está gravemente afectada” (previously cited); MSF, “MSF México reporta más violencia sexual hacia migrantes en 2024 que en todo 2023”, 18 April 2024, [swissinfo.ch/spa/msf-m%C3%A9xico-reporta-m%C3%A1s-violencia-sexual-hacia-migrantes-en-2024-que-en-todo-2023/75995259](https://www.swissinfo.ch/spa/msf-m%C3%A9xico-reporta-m%C3%A1s-violencia-sexual-hacia-migrantes-en-2024-que-en-todo-2023/75995259).

survivors to seek and obtain assistance.<sup>397</sup>

People seeking asylum have a higher chance of suffering sexual and gender-based violence when they are kidnapped.<sup>398</sup> Nearly half of the cases of sexual violence identified by MSF from April to June 2023 occurred during kidnappings in Reynosa, while others occurred in the encampment in Matamoros and in the Darién jungle.<sup>399</sup> The route through Mexico has become particularly dangerous for women asylum seekers travelling alone.

Staff at the Frontera Digna shelter in Piedras Negras told the organization that have heard accounts of police officers and members of the National Guard assaulting and raping asylum seekers in Nueva Rosita and Ciudad Acuña, Coahuila.<sup>400</sup> A group of Honduran asylum seekers told Amnesty International that the Coahuila State Police (*Policía Estatal Coahuila*) stopped them and threatened to remove their clothes.<sup>401</sup> A group of female Venezuelan asylum seekers stated that they were stopped and sexually assaulted by the police in Nueva Rosita.<sup>402</sup>

**“Recently 6 people from Honduras arrived at the shelter. They told us that the police took them off the bus and beat them. Two women were stripped naked; the children were left in the car. Six police officers raped a 19-year-old girl. They wanted to enter the United States using the app, but they couldn’t bear to stay in Piedras Negras and crossed the river. When they arrived at the shelter, they were badly beaten.”**

Honduran asylum seeker (Piedras Negras, Mexico)<sup>403</sup>

## 7.6 LIVING CONDITIONS

Mexico has not ensured the right to dignified living conditions for asylum seekers within its territory. Although Mexico is cooperating with the US in the implementation of its migration and asylum policies, the State has left it in the hands of civil society and international organizations to solve the living conditions of asylum seekers and migrants with very little, or no, support. Despite this almost complete lack of support, shelters, service providers and organizations on the ground are doing significant and essential work to guarantee the living conditions of asylum seekers.<sup>404</sup>

Many asylum seekers stay in shelters or informal encampments with inadequate living conditions,

<sup>397</sup> MSF, “Violencia sexual: una realidad cada vez más recurrente en las crisis migratorias”, 25 November 2023, [msf.mx/actualidad/violencia-sexual-una-realidad-cada-vez-mas-recurrente-en-las-crisis-migratorias/](https://www.msf.mx/actualidad/violencia-sexual-una-realidad-cada-vez-mas-recurrente-en-las-crisis-migratorias/).

<sup>398</sup> MSF, “La salud de personas migrantes está gravemente afectada” (previously cited); WOLA, *Kidnapping of Migrants and Asylum Seekers at the Texas-Tamaulipas Border Reaches Intolerable Levels* (previously cited).

<sup>399</sup> HRF, *Inhumane and Counterproductive* (previously cited), p. 19.

<sup>400</sup> In-person interview with staff at Frontera Digna shelter, Piedras Negras, Mexico, 2 November 2023.

<sup>401</sup> In-person interview with Honduran asylum seekers, Piedras Negras, Mexico, 2 November 2023.

<sup>402</sup> In-person interview with Venezuelan asylum seekers, Piedras Negras, Mexico, 2 November 2023.

<sup>403</sup> In-person interview with Honduran asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>404</sup> UNHCR, *Fact Sheet: Mexico* (previously cited), p. 4; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 32-34; Comisión Nacional de Derechos Humanos, *Los desafíos de la migración y los albergues como oasis*, Encuesta Nacional de Personas Migrantes en Tránsito por México, 2018, [cndh.org.mx/sites/default/files/doc/Informes/Especiales/InformeEspecial-Desafios-migracion.pdf](https://cndh.org.mx/sites/default/files/doc/Informes/Especiales/InformeEspecial-Desafios-migracion.pdf).

while some live in private accommodation.<sup>405</sup> According to a 2023 UNHCR survey, 15% of asylum seekers that responded were homeless.<sup>406</sup> While conditions vary greatly, many asylum seekers are staying in tents with inadequate access to food, water and sanitation, as well as limited medical and psychological care.<sup>407</sup> Nevertheless, given the security situation in many border cities, asylum seekers prefer to stay in shelters even if the living conditions are inadequate. UNHCR has underscored the strong need for information services and legal support, medical attention, food assistance, shelter capacity and equipment, and mental health and psychological support.<sup>408</sup> These circumstances are made more difficult by the fact that people seeking asylum do not know how long they will have to wait in Mexico for their CBP One appointments which not only impacts their well-being, but also irregular crossings into the United States.

UNHCR has stated that the “humanitarian situation on the Mexican side of the US-Mexico border continues to be serious” and that “the capacity to receive and provide assistance to refugees and migrants has been exceeded for months.”<sup>409</sup> The majority of the shelters that Amnesty visited were at or had exceeded their capacity. This was largely due to the insufficient number of CBP One appointments and the increasing number of asylum seekers attempting to obtain an appointment.<sup>410</sup> Given the large numbers of people seeking asylum who arrive to border cities each day, some shelters have limits on the amount of time that asylum seekers could stay for, unless they had a CBP One appointment in which case they could stay until their appointment. This placed additional stress on asylum seekers who worried not only about getting an appointment so that they can enter the United States but also whether they would have a place to stay until that time.

**“I feel very vulnerable. The five days we have in the shelter are running out and then what? I panic at the thought that we could be kidnapped.”**

Colombian asylum seeker (Monterrey, Mexico)<sup>411</sup>

**“They wanted to kidnap us here in the shelter. There were vans that watched and surveilled us for 20 days. We don’t let the children near the door. We’ve called the police, but they never come.”**

Guatemalan asylum seeker (Piedras Negras, Mexico)<sup>412</sup>

Haitian asylum seekers shared that they feel particularly uncomfortable and at risk in shelters and informal encampments. Some shelters have specific areas designated for Haitians which results in separating them from the rest of asylum seekers.

## 7.6.1 HEALTHCARE

Although Mexico’s Migration Law recognizes the right to health of all individuals regardless of their migratory status, this is not always respected.<sup>413</sup> Asylum seekers have trouble accessing medical

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<sup>405</sup> HBA, *Lives at Risk* (previously cited), p. 4; UNHCR, *Fact Sheet: Mexico* (previously cited), p. 2; UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), pp. 6, 32-34; TCRP, *CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act* (previously cited), pp. 5-6.

<sup>406</sup> UNHCR, *El impacto del desplazamiento forzado en la movilidad humana* (previously cited), p. 32.

<sup>407</sup> MSF, “La salud de personas migrantes está gravemente afectada” (previously cited); HRF, *Inhumane and Counterproductive* (previously cited), pp. 38-40.

<sup>408</sup> UN News, “UN refugee agency concerned about situation at Mexico-US border”, 8 August 2023, [news.un.org/en/story/2023/08/1139552#:~:text=UN%20refugee%20agency%20concerned%20about%20situation%20at%20Mexico%20US%20border,-8%20August%202023&text=The%20UN%20Refugee%20Agency%2C%20UNHCR,shelters%2C%20exposed%20to%20multiple%20risks](https://news.un.org/en/story/2023/08/1139552#:~:text=UN%20refugee%20agency%20concerned%20about%20situation%20at%20Mexico%20US%20border,-8%20August%202023&text=The%20UN%20Refugee%20Agency%2C%20UNHCR,shelters%2C%20exposed%20to%20multiple%20risks); UNHCR, *Fact Sheet: Mexico* (previously cited), p. 2.

<sup>409</sup> UN News, “UN refugee agency concerned about situation at Mexico-US border” (previously cited).

<sup>410</sup> In-person interviews with shelters, October-November 2023.

<sup>411</sup> In-person interview with Colombian asylum seeker, Monterrey, Mexico, 30 October 2023.

<sup>412</sup> In-person interview with Guatemalan asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>413</sup> Mexico, Migration Law, [diputados.gob.mx/LeyesBiblio/pdf/LMigra.pdf](https://diputados.gob.mx/LeyesBiblio/pdf/LMigra.pdf), Art. 8.

care in Mexico. It is expensive and asylum seekers are usually not able to cover the costs.<sup>414</sup> The majority of asylum seekers with whom Amnesty International spoke had not tried to access medical care. However, of those that did, some stated that they were denied entry to hospitals because they were migrants.<sup>415</sup> A few who were able to receive medical care stated that they felt discriminated against by medical professionals.<sup>416</sup>

**“Doctors in Mexico don’t treat us well. I feel discriminated against everywhere. We’ve been to the hospital three times to get more medication for my son who has epilepsy, but they always cancel my appointment. Sometimes I feel like throwing myself into the river. I want to enter [with the appointment], but there are no options. I don’t feel protected.”**

Honduran asylum seeker (Piedras Negras, Mexico)<sup>417</sup>

**“In Ciudad Hidalgo we tried to receive medical support but [the people at the hospital] told us that the hospital was not for us because we’re migrants.”**

Venezuelan asylum seeker (Monterrey, Mexico)<sup>418</sup>

## 7.6.2 EDUCATION

Mexico’s Migration Law also recognizes the right to education regardless of migratory status.<sup>419</sup> Nevertheless, children seeking asylum struggle to attend formal schooling. Some schools will not admit them because they do not have documents.<sup>420</sup> Many shelters and local organizations try to offer classes to children so that they do not fall behind on their studies.

**“It would be better if we could ask for appointments from our homes. Here [in the shelter] we feel sad. The situation makes us feel bad. We’ve been here for three months now. I’m desperate. I cry a lot. My daughter wants to go back but we can’t. There are no classes. The children are at risk. We fled our home from one day to the next. My children weren’t admitted to school here. I can’t work either because I can’t leave my children alone anywhere.”**

Mexican asylum seeker (Tijuana, Mexico)<sup>421</sup>

Amnesty International heard from Mexican asylum seekers who struggled to register their children for school in other parts of the country especially when they did not have certain documents with them. Asylum seekers from outside Mexico experienced even greater challenges.<sup>422</sup>

## 7.6.3 EMPLOYMENT

Many asylum seekers struggle to find work in Mexico because they lack Mexican documents providing them with the right to work.<sup>423</sup> Due to the security situation in many of the cities in which asylum seekers are waiting for their CBP One appointments, asylum seekers are afraid to leave the shelters and therefore, are unable to work.<sup>424</sup> This was especially common in Piedras Negras and Reynosa.<sup>425</sup> A group of people at the Casa Betania shelter in Piedras Negras said, “It’s impossible

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<sup>414</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2.

<sup>415</sup> In-person interviews with shelters, October-November 2023.

<sup>416</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>417</sup> In-person interview with Honduran asylum seeker, Piedras Negras, Mexico, 3 November 2023.

<sup>418</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 30 October 2023.

<sup>419</sup> Mexico, Migration Law (previously cited), Art. 8.

<sup>420</sup> JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2.

<sup>421</sup> In-person interview with Mexican asylum seeker, Tijuana, Mexico, 27 November 2023.

<sup>422</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>423</sup> JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2.

<sup>424</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2.

<sup>425</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

to work here because you can't go out on the street.”<sup>426</sup> A Nicaraguan asylum seeker in Reynosa told the organization that he has not looked for work because he is afraid to leave the shelter he is staying in.<sup>427</sup> In Tijuana, where asylum seekers felt safer, they indicated that it was difficult for them to find work.<sup>428</sup> On the other hand, Amnesty International heard of positive initiatives promoted by the state of Nuevo León and the city of Monterrey which provide asylum seekers with employment, housing and access to education.<sup>429</sup> Asylum seekers stressed that they need to work to be able to support themselves while they wait for the appointment, as well as to be able to purchase internet to apply for the appointment.<sup>430</sup>

## 7.7 DISCRIMINATION

Black, LGBTIQ+, Indigenous and non-Spanish speaking asylum seekers face targeted discrimination and violence while waiting in Mexican border cities for their CBP One appointments.<sup>431</sup> Haitian asylum seekers interviewed by Amnesty International shared that they are discriminated against in Mexico and feel that they are treated differently from asylum seekers from other places.<sup>432</sup> A group of Chinese asylum seekers told the organization that there is a lot of discrimination in Mexico and they also felt that they were treated differently.<sup>433</sup>

Black asylum seekers are often targets of anti-Black violence and discrimination.<sup>434</sup> Black asylum seekers are often deprived of equal access to medical treatment, housing, safer shelters, humanitarian services, language access and protection from law enforcement.<sup>435</sup> Haitian Bridge Alliance has identified hundreds of Haitians seeking asylum arriving to the US-Mexico border with significant medical vulnerabilities which have at times resulted in preventable deaths.<sup>436</sup>

**“Discrimination and racism are things that will always be there.”**

Haitian asylum seeker (Reynosa, Mexico)<sup>437</sup>

LGBTIQ+ individuals face widespread violence and discrimination in Mexico.<sup>438</sup> Under the Final Rule, LGBTIQ+ asylum seekers must now wait for CBP One appointments for undetermined amounts of time in Mexico where they are likely to face the same dangers that they are fleeing from.<sup>439</sup> LGBTIQ+ asylum seekers interviewed by Amnesty International in Tijuana shared that they experience discrimination Mexico which impacts their well-being and access to healthcare and

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<sup>426</sup> In-person interviews with asylum seekers, Piedras Negras, Mexico, 3 November 2023.

<sup>427</sup> In-person interview with Nicaraguan asylum seeker, Reynosa, Mexico, 7 November 2023.

<sup>428</sup> In-person interviews with asylum seekers, Tijuana, Mexico, 28 November 2023.

<sup>429</sup> In-person interviews with staff at Casa Monarca shelter, Monterrey, Mexico, 1 November 2023; El Financiero, “Migrantes, opción para cubrir demanda de mano de obra en Nuevo León”, 12 May 2022, [elfinanciero.com.mx/monterrey/2022/05/12/migrantes-opcion-para-cubrir-demanda-de-mano-de-obra-en-nuevo-leon/](https://elfinanciero.com.mx/monterrey/2022/05/12/migrantes-opcion-para-cubrir-demanda-de-mano-de-obra-en-nuevo-leon/).

<sup>430</sup> In-person interviews with asylum seekers, October-November 2023.

<sup>431</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 4; HRF, *Inhumane and Counterproductive* (previously cited), pp. 31-32; HBA, *Lives at Risk* (previously cited), p. 3; Human Rights First, *Refugee Protection Travesty: Biden Asylum Ban Endangers and Punishes At-Risk Asylum Seekers*, July 2023, [humanrightsfirst.org/wp-content/uploads/2023/07/Refugee-Protection-Travesty-Asylum-Ban-Report-July-2023-1.pdf](https://humanrightsfirst.org/wp-content/uploads/2023/07/Refugee-Protection-Travesty-Asylum-Ban-Report-July-2023-1.pdf), pp. 37-42.

<sup>432</sup> In-person interviews with Haitian asylum seekers, Matamoros, Reynosa & Tijuana, Mexico, 7, 9 & 27 November 2023.

<sup>433</sup> In-person interview with Chinese asylum seekers, San Diego, USA, 28 November 2023.

<sup>434</sup> HRF, *Inhumane and Counterproductive* (previously cited), pp. 31-32; HRF, *Refugee Protection Travesty* (previously cited), pp. 38-39; Black Alliance for Just Immigration, “*There is a Target on Us*” – *The Impact of Anti-Black Racism on African Migrants at Mexico’s Southern Border*, 2021, [baji.org/wp-content/uploads/2021/01/The-Impact-of-Anti-Black-Racism-on-African-Migrants-at-Mexico.pdf](https://baji.org/wp-content/uploads/2021/01/The-Impact-of-Anti-Black-Racism-on-African-Migrants-at-Mexico.pdf).

<sup>435</sup> HBA, *Lives at Risk* (previously cited), p. 3.

<sup>436</sup> HRF, *Inhumane and Counterproductive* (previously cited), p. 31.

<sup>437</sup> In-person interview with Haitian asylum seeker, Reynosa, Mexico, 6 November 2023.

<sup>438</sup> HRF, *Refugee Protection Travesty* (previously cited), p. 41.

<sup>439</sup> HRF, *Refugee Protection Travesty* (previously cited), p. 41.

employment opportunities.<sup>440</sup> Staff at the Casa Arcoiris shelter said that the impact is that many LGBTIQ+ asylum seekers do not leave the shelter because there is so much discrimination.<sup>441</sup>

## 7.8 ACCOUNTABILITY AND ACCESS TO JUSTICE

Most people seeking asylum do not present complaints about the human rights violations that they experience in Mexico because in many cases the police, INM or other state authorities are involved or do not take actions to protect them.<sup>442</sup> They fear retaliation, deportation or further human rights violations. Further, they normally encounter other barriers to access justice, such as lack of knowledge of the law, language barriers and lack of legal advice.

**“Mexico is the worst because of the roadblocks. At every checkpoint uniformed people ask you for money ... We haven’t filed complaints about anything we’ve been through because there’s no way to do so. In Mexico there should be more protection for migrants.”**

Venezuelan asylum seeker (Monterrey, Mexico)<sup>443</sup>

**“You can’t even file a complaint, the police themselves are corrupt. How are we going to do it?”**

Ecuadorian asylum seeker (Reynosa, Mexico)<sup>444</sup>

In 2017, WOLA reported a 99% impunity rate for crimes committed against migrants in Mexico.<sup>445</sup> While this statistic is dated, the situation has not changed.

Mexico has the obligation to protect the human rights of asylum seekers in transit through the country. The information collected by Amnesty International, as well as numerous reports by local and international organizations, demonstrate that Mexico is extremely dangerous for asylum seekers and that violent and discriminatory acts are often committed against them by both state and non-state actors. Mexico has failed to protect and guarantee the human rights of asylum seekers within its territory, as well as to effectively investigate and hold responsible the perpetrators of these violations.

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<sup>440</sup> In-person interviews with asylum seekers, Tijuana, Mexico, 29 November 2023; HRF, *Inhumane and Counterproductive* (previously cited), pp. 33-35.

<sup>441</sup> In-person interview with staff at Casa Arcoiris, Tijuana, Mexico, 29 November 2023.

<sup>442</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023; JRS, *Accompaniment at the U.S.-Mexico Border* (previously cited), p. 2.

<sup>443</sup> In-person interview with Venezuelan asylum seeker, Monterrey, Mexico, 1 November 2023.

<sup>444</sup> In-person interview with Ecuadorian asylum seeker, Reynosa, Mexico, 6 November 2023.

<sup>445</sup> WOLA, *Access to Justice for Migrants in Mexico: A Right That Exists Only on the Books*, July 2017, [wola.org/wp-content/uploads/2017/07/Access-to-Justice-for-Migrants\\_July-2017.pdf](https://wola.org/wp-content/uploads/2017/07/Access-to-Justice-for-Migrants_July-2017.pdf), p. 4.

# 8. IMPACTS ON ASYLUM SEEKERS

The mandatory use of the CBP One application forces people seeking asylum to wait in Mexico in precarious and often dangerous situations for undetermined amounts of time while waiting to be allocated a CBP One appointment. As indicated above, the uncertainty about when asylum seekers will receive an appointment causes them a great deal of stress, frustration and worry, impacting their physical and mental wellbeing.<sup>446</sup> The physical and psychological impacts on asylum seekers are compounded by the extreme violence they experience while travelling through Mexico and while waiting at the border for their CBP One appointments.<sup>447</sup>

Mexican asylum seekers find themselves at even greater risk. While the Final Rule's rebuttable presumption of asylum ineligibility does not apply to them, the fact that Mexican officials block access to ports of entry results in Mexican asylum seekers having to wait in the country they are fleeing persecution from for CBP One appointments.<sup>448</sup> Moreover, CBP has imposed a limit on the daily number of available appointments for Mexicans creating additional challenges for them in securing CBP One appointments.<sup>449</sup>

Increasing wait times for CBP One appointments and uncertainty about when people seeking asylum will be given an appointment, compounded by the dangerous and difficult situation in Mexico and Mexican authorities blocking access to ports of entry has forced many asylum seekers to make the decision to cross into the United States without CBP One appointments.<sup>450</sup> It has also resulted in family separation as some parents have sent their children to enter the United States as unaccompanied children, rather than having them wait in unsafe conditions at the border.<sup>451</sup>

**“There are people who decide to cross irregularly into the United States after waiting months for a CBP One appointment.”**

Staff, Borderline Crisis Center (Tijuana, Mexico)<sup>452</sup>

**“It's maddening but you have to hang in there. Some people get desperate and go and turn themselves in.”**

Mexican asylum seekers (Tijuana, Mexico)<sup>453</sup>

CBP indicated that “the appointment process provides a safe, orderly and humane process for

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<sup>446</sup> In-person interviews with asylum seekers, October-November 2023; HBA, *Lives at Risk* (previously cited), pp. 10-11.

<sup>447</sup> MSF, “La salud de personas migrantes está gravemente afectada” (previously cited).

<sup>448</sup> US Federal Register, *Circumvention of Lawful Pathways* (previously cited).

<sup>449</sup> Communication from CBP, 9 April 2024.

<sup>450</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 5; HRF, *Inhumane and Counterproductive* (previously cited), pp. 38-43.

<sup>451</sup> HBA, *Lives at Risk* (previously cited), p. 9.

<sup>452</sup> In-person interview with staff at Borderline Crisis Center, Tijuana, Mexico, 27 November 2023.

<sup>453</sup> In-person interview with Mexican asylum seekers, Tijuana, Mexico, 27 November 2023.



people to access the United States instead of taking the dangerous journey to cross between ports of entry.”<sup>454</sup> However, according to Human Rights First, “like other strategies at metering and blocking access to ports of entry, the asylum ban spurs irregular crossings by at-risk people who cannot safely wait.”<sup>455</sup> According to CBP, the irregular crossing of asylum seekers into the United States steadily rose at the end of 2023, with over 242,000 encounters in November and more than 301,000 encounters in December.<sup>456</sup> While one of the stated objectives of the Final Rule is to stop irregular crossings and ensure that asylum seekers enter the United States safely via ports of entry, CBP statistics demonstrate that the Final Rule has not been overly effective in achieving this. The number of irregular crossings from May 2023 to February 2024 only decreased by around 6% compared to the ten preceding months (July 2022 to April 2023).<sup>457</sup> The provisions of the Final Rule, including the mandatory use of the CBP One application, continue to force asylum seekers to take difficult and dangerous routes to enter the United States because their access to US ports of entry is conditioned upon having a CBP One appointments and they are not safe in Mexico. Members of Congress have stated that “the difficulties with CBP One increase the likelihood that asylum seekers will rely on cartel-backed smugglers to enter the United States instead of applying through legal pathways.”<sup>458</sup>

**“We were in Mexico City for two months. We did the CBP One registration and tried daily for the appointment. We decided to cross into the United States because we no longer had the money to keep waiting in Mexico. We didn’t have any other option. We knew it was risky, but we couldn’t stay on the streets anymore.”**

Afghan asylum seeker (San Diego, USA)<sup>459</sup>

According to the Missing Migrants Project:

Over the past two decades, the border crossing between Mexico and the US has become the site of a grave human rights crisis, where thousands of people have gone missing and lost their lives during migration. From crossing the Sonoran Desert in the Southwestern U.S. and North-western Mexico, with its scorching heat and few water sources, to attempts to cross the deep Rio Grande / Río Bravo (demarcating the border between Mexico and Texas) and its often-strong currents, there are numerous physical and environmental factors which pose risks to people’s lives.<sup>460</sup>

Asylum seekers in Tijuana are forced to cross between ports of entry and sometimes become “stuck” between the border walls or in the desert for multiple days in extremely harsh conditions without access to food or water.<sup>461</sup> On the US side of the border in Brownsville, Texas (border with Matamoros), the Texas National Guard has placed multiple rows of concertina wire. Asylum seekers who cross the Rio Grande become stuck between the river and the wire.<sup>462</sup> On 4 October 2023, more than 2,000 mostly Venezuelan asylum seekers attempted to cross the river near Ciudad

<sup>454</sup> Communication from CBP, 9 April 2024.

<sup>455</sup> HRF, *Inhumane and Counterproductive* (previously cited), p. 8.

<sup>456</sup> CBP, “Southwest Land Border Encounters” (previously cited).

<sup>457</sup> CBP, “Southwest Land Border Encounters” (previously cited).

<sup>458</sup> Congress of the United States, Letter to DHS (previously cited), p. 2.

<sup>459</sup> In-person interview with Afghan asylum seekers, San Diego, USA, 28 November 2023.

<sup>460</sup> Missing Migrants Project, “Migration Within the Americas”, [missingmigrants.iom.int/region/americas](https://missingmigrants.iom.int/region/americas); No More Deaths, *El Paso Sector Migrant Death Database*, 2024, [elpasomigrantdeathdatabase.org/wp-content/uploads/2024/03/El-Paso-Sector-Migrant-Death-Database.pdf](https://elpasomigrantdeathdatabase.org/wp-content/uploads/2024/03/El-Paso-Sector-Migrant-Death-Database.pdf).

<sup>461</sup> In-person and online interviews with asylum seekers & organizations, August-November 2023.

<sup>462</sup> Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 5.

Juárez and were stranded for hours between the river and US border wall.<sup>463</sup> In Piedras Negras, Coahuila, approximately 200 to 300 people attempt to cross the Rio Grande each day.<sup>464</sup> Asylum seekers used to cross the river right below the international bridge between Mexico and the United States, however, the municipalities came to an agreement and asylum seekers are now forced to cross the river at a more dangerous spot. The “Grupo Enlace” brings people seeking asylum to the place where they can cross. There are criminal groups in the area that charge asylum seekers a fee to cross the river.<sup>465</sup> In January 2024, MSF reported that a woman and two boys drowned attempting to cross the river.<sup>466</sup> Since it started recording in 2014, the Missing Migrants Project has recorded the deaths of over 2,980 people who have died trying to cross the border from Mexico into the United States.<sup>467</sup> In 2024, 46 individuals have drowned trying to cross to US-Mexico border and two individuals have died from harsh environmental conditions or lack of food and water close to the border wall in Tijuana.<sup>468</sup>

**“My sister crossed by the river. She almost drowned. She went with her two daughters. She waited four months for the appointment but never got it.”**

Honduran asylum seeker (Piedras Negras, Mexico)<sup>469</sup>

Amnesty International heard from many service providers and organizations that, as a result of the extortions, scams and kidnappings that asylum seekers suffer on their journey to and throughout Mexico, as well as having to financially support themselves in Mexico for undetermined periods of time, by the time they eventually enter into the United States, their finances have been completely exhausted.<sup>470</sup>

Not only do asylum seekers crossing irregularly into the United States put themselves in dangerous situations to do so, but they are also likely to be presumed to be ineligible for asylum in accordance with the Final Rule.<sup>471</sup> Many asylum seekers do not know about the Final Rule and the impacts that their manner of entry into the United States will have on their eventual asylum claim. Even when they do know about the consequences of the ban, their decisions are driven by urgent safety and protection needs. The United States must uphold the right of all individuals to seek asylum, cannot penalize asylum seekers for their manner of entry into the country and must ensure that asylum seekers are not returned to places where their lives may be at risk.

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<sup>463</sup> EFE, “Operation in northern Mexico strands 2,000 migrants at Rio Grande border”, 4 October 2023, [efe.com/en/latest-news/2023-10-04/operation-in-northern-mexico-strands-2000-migrants-at-rio-grande-border/](https://efe.com/en/latest-news/2023-10-04/operation-in-northern-mexico-strands-2000-migrants-at-rio-grande-border/).

<sup>464</sup> In-person interview with staff at Frontera Digna shelter, Piedras Negras, Mexico, 2 November 2023; Strauss Center, *Asylum Processing at the U.S.-Mexico Border: February 2024* (previously cited), p. 8.

<sup>465</sup> In-person interview with staff at Frontera Digna shelter, Piedras Negras, Mexico, 2 November 2023.

<sup>466</sup> MSF, “Norte de México: MSF aboga por medidas que respeten la vida de las personas migrantes”, 17 January 2024, [msf.mx/actualidad/norte-de-mexico-msf-aboga-por-medidas-que-respeten-la-vida-de-las-personas-migrantes/](https://msf.mx/actualidad/norte-de-mexico-msf-aboga-por-medidas-que-respeten-la-vida-de-las-personas-migrantes/).

<sup>467</sup> Missing Migrants Project, “Migration Within the Americas” (previously cited).

<sup>468</sup> Missing Migrants Project, “Missing Migrants Project Data”, [missingmigrants.iom.int/downloads](https://missingmigrants.iom.int/downloads); CBP, “Father and daughter die after they are found floating in the Rio Grande near Eagle Pass, Texas”, 13 February 2024, [cbp.gov/newsroom/national-media-release/father-and-daughter-die-after-they-are-found-floating-rio-grande](https://cbp.gov/newsroom/national-media-release/father-and-daughter-die-after-they-are-found-floating-rio-grande); CBP, “Woman dies after fall from International Border Fence near Otay Mesa Port-of-entry”, 29 March 2024, [cbp.gov/newsroom/national-media-release/woman-dies-after-fall-international-border-fence-near-otay-mesa](https://cbp.gov/newsroom/national-media-release/woman-dies-after-fall-international-border-fence-near-otay-mesa).

<sup>469</sup> In-person interview with Honduran asylum seeker, Piedras Negras, 2 November 2023.

<sup>470</sup> In-person and online interviews with asylum seekers and organizations, August-November 2023.

<sup>471</sup> US Federal Register, Circumvention of Lawful Pathways (previously cited).

# 9. CONCLUSIONS AND RECOMMENDATIONS

Following the end of Title 42, using the CBP One mobile application became mandatory for people seeking international protection in the United States, otherwise they will be considered ineligible for asylum in accordance with the Circumvention of Lawful Pathways Final Rule. CBP has stated that CBP One is a “key component of DHS’s efforts to incentivize noncitizens to use lawful, safe, humane, and orderly pathways and disincentivize attempts to cross between ports of entry.”<sup>472</sup> As well as that the “use of the CBP One app to schedule appointments at land ports of entry has increased CBP’s capacity to process migrants more efficiently and orderly while cutting out unscrupulous smugglers who endanger and profit from vulnerable migrants.”<sup>473</sup> However, Amnesty International has determined that the introduction of CBP One has not achieved the Final Rule’s objective of reducing irregular border crossings.

Most asylum seekers Amnesty International interviewed were attempting to use the application to schedule appointments to enter into the United States. However, wait times continue to increase as there are more asylum seekers than available daily appointments. Uncertainty about how long it will take for asylum seekers to be allocated CBP One appointments causes them unnecessary stress, worry and frustration. The long delays and lack of information have resulted in some people crossing irregularly into the United States. Despite multiple updates to the application, asylum seekers continue to experience technological errors and crashes. The mandatory use of CBP One conditions the ability to seek asylum on having a cellphone, consistent access to stable internet, proficiency in English, Spanish or Haitian Creole, the ability to read and write, and having some technological skills. People seeking asylum with circumstantial vulnerabilities experience even greater challenges to use the application. Not all asylum seekers are able to use the CBP One application. Consequently, some asylum seekers decide to cross irregularly into the United States where they will likely be ineligible for asylum in accordance with the Final Rule, unless they can meet one of its limited exceptions.

While Amnesty International welcomes the Biden Administration’s interest in adopting measures to ensure more efficient processing of asylum claims, the mandatory use of the CBP One application as the exclusive manner of entry into the United States to seek international protection violates international human rights and refugee law. Everyone has the right to seek asylum and states must adopt measures to guarantee this right.

The mandatory use of the CBP One application to seek asylum in the United States has also resulted in asylum seekers having to wait for undetermined amounts of time in dangerous and difficult situations in Mexico. People seeking asylum travelling through the country and waiting for appointments are subject to violence, extortion, kidnapping, discrimination and sexual and gender-

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<sup>472</sup> CBP, “CBP Releases January 2024 Monthly Update” (previously cited).

<sup>473</sup> CBP, “CBP One™ Mobile Application” (previously cited).

based violence perpetrated by both state and non-state actors. Most asylum seekers stay in shelters and informal encampments with inadequate living conditions, and they have limited access to healthcare, education and employment. Mexican authorities control access to US ports of entry and only let those with CBP One appointments cross. Mexico must uphold the right of individuals to seek international protection. Mexico must also protect the rights of asylum seekers as they travel through the country and while waiting at the US-Mexico border. Amnesty International has determined that Mexico is failing to protect, respect and fulfil the rights of asylum seekers, including by failing to hold state and non-state actors accountable for the acts of violence committed against them.

Taking into consideration the opinions of people seeking asylum, shelters and organizations, as well as the United States' and Mexico's human rights obligations under international law, Amnesty International makes the following recommendations.

## 9.1 RECOMMENDATIONS

### 9.1.1 TO THE UNITED STATES

Guarantee the right of individuals to seek asylum, including by immediately rescinding the Circumvention of Lawful Pathways Final Rule and abandoning the mandatory use of the CBP One mobile application.

Guarantee the right of *non-refoulement* of persons in need of international protection. Invest in systems to process asylum seekers at the border without delay or detention, including increasing the number of daily CBP One appointments across all ports of entry.

Make the following changes to the CBP One mobile application: allocate appointments in order of registration; add additional languages; address translation errors in Haitian Creole and Spanish versions; address recurring technological issues and errors; create a more accessible mechanism to respond to questions; and permit the editing of registrations.

Provide up-to-date information about the CBP One application and the Circumvention of Lawful Pathways Final Rule in multiple forms and languages to ensure that all people seeking asylum have meaningful access to information on how to use the application.

Immediately cease the deployment of facial recognition technologies for identification (1:n) of asylum seekers.

Ensure that any rights violations stemming from the use of unnecessary and disproportionate artificial intelligence-driven surveillance tools, such as facial recognition, are investigated and remedied effectively.

End any agreements with the Government of Mexico that allow or facilitate the return of asylum seekers to persecution without meaningful access to asylum assessments.

Ensure that access to US ports of entry is not restricted and refrain from requesting or encouraging Mexican authorities to block access to ports of entry.

Provide asylum seekers with support to pursue their asylum claims in US communities with access to housing, social services, legal supports and interpretation services.

Increase funding available to humanitarian and community-based organizations that provide shelter and services to asylum seekers on both sides of the US-Mexico border.

## 9.1.2 TO MEXICO

Stop collaborating with the United States Government in the implementation of policies that violate the human rights of migrants and asylum seekers.

Guarantee the right of individuals to seek asylum, including by ensuring that asylum seekers are able to access US ports of entry.

Guarantee the right of *non-refoulement* of persons in need of international protection.

Immediately implement measures to ensure the safety and security of asylum seekers transiting through Mexico. This should include public policies to prevent crimes against them, such as providing security to migrants in high-risk areas and ending impunity. Immediately implement measures to ensure that asylum seekers are able to move freely throughout Mexico.

Strengthen the mechanisms to combat corruption and promote accountability of public servants through investigations and, when applicable, administrative, disciplinary or criminal sanctions.

Immediately investigate the allegations of violence, extortion, kidnappings, sexual and gender-based violence and disappearances of asylum seekers and when applicable criminal sanctions.

Ensure asylum seekers have access to education and to healthcare, including victims of sexual and gender-based violence without discrimination nor fear of deportation.

Guarantee the right to access to justice for migrants without discrimination nor fear of deportation. Ensure that they are provided with humanitarian visas according to the Mexican Migration Law.

Prosecute and punish bus companies implementing discriminatory practices in the sale of bus tickets.

Take measures to guarantee dignified living conditions while migrants are waiting in Mexico.

Develop and provide permanent training programs to public servants regarding the rights of migrants.

Establish public programs which raise awareness of the rights of migrants to prevent and combat discrimination and xenophobia.

Increase funding available to humanitarian and community-based organizations that provide shelter and services to migrants in Mexico.

**AMNESTY INTERNATIONAL  
IS A GLOBAL MOVEMENT  
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WHEN INJUSTICE HAPPENS  
TO ONE PERSON, IT  
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# CBP ONE – A BLESSING OR A TRAP?

Following the termination of Title 42 and in accordance with the Circumvention of Lawful Pathways Final Rule, people seeking asylum are now required to use the CBP One mobile application to schedule a time to arrive at participating ports of entry along the US-Mexico border in order to present their asylum claims. The mandatory use of CBP One in order to seek asylum in the United States violates the rights of asylum seekers. The application poses significant obstacles for individuals who do not have access to mobile devices or the internet, or who are otherwise unable to access or use the application. Asylum seekers are now forced to wait in Mexico for prolonged and undetermined lengths of time where they are at serious risk of kidnapping, extortion, sexual and gender-based violence and discrimination.