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Indigenous Peoples' Rights

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Surface Reforms by US Fail to Address Serious Abuses of Asylum Seekers

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(Washington, DC) The decision to revive the Remain in [Mexico](#) program at the [US](#) border will once again put asylum seekers at risk of kidnapping, extortion, rape, and other abuses, Human Rights Watch said today. It will also violate their right to seek asylum in the United States.

While the program has been revised under the Biden administration, there is little reason to believe the government agencies tasked with carrying out Remain in Mexico will be able to do so in a rights-respecting manner. Border enforcement agencies on both sides of the border [have been implicated in the wide array](#) of abuses endemic to the program and [continue to operate with near total impunity](#).

Under the Remain in Mexico program, the United States and Mexico have knowingly put thousands of asylum seekers lives in danger, said [Ari Sawyer](#), US border researcher at Human Rights Watch. There is no way a program designed to postpone the right to seek asylum by making people wait in dangerous places can operate in a rights-respecting way. The governments of the United States and Mexico should reverse course immediately.

The US and Mexican governments announced that, starting December 6, 2021, they would begin enrolling asylum seekers, including non-Spanish speakers such as Haitians, Brazilians, and Indigenous people in Remain in Mexico and sending them to seven Mexican border cities to await the outcome of their asylum applications.

The revised program fails to address the fact that many of those sent to Mexico under the program are systematically targeted for violence by criminal groups in Mexican border cities and sometimes by Mexican police and immigration agents. While the [US government claims](#) it will improve the screening process, that process still depends on US Customs and Border Protection (CBP) agents referring asylum seekers to an interview with an asylum officer.

Human Rights Watch has found that, both [in the context of Remain in Mexico](#) and [outside of it, agents routinely fail](#) to make those legally required referrals. The program has compounded existing failings of the US immigration court system, including lack of access to counsel, barriers to legal representation, lack of transparency, and limited legal protections.

The program will also continue sending asylum seekers to two cities in the state of Tamaulipas, which is particularly dangerous. The state has been the site of mass executions of migrants [by criminal groups](#) and [state police officers](#). Both US and [Mexican authorities acknowledge](#) that people are regularly kidnapped when traveling near the US border in Tamaulipas. The US State Department has issued a [Do Not Travel advisory](#) for that state, saying that heavily armed members of criminal groups often patrol areas of the state and operate with impunity particularly along the border region. Human Rights Watch and others have repeatedly said the [US government should not](#) send asylum seekers there.

Under the previous iteration of the program, both governments said they would only place Spanish-speaking asylum seekers in the program, although Human Rights Watch found that CBP agents subjected non-Spanish-speaking asylum seekers, including Indigenous people, to the program. Many non-Spanish-speaking asylum seekers sent to Mexico by the Biden administration have faced discrimination and have had trouble working and accessing services.

From January 2019 to January 2021, the administration of former President Donald Trump sent [more than 71,000 asylum seekers](#), including tens of thousands of children and people with disabilities or chronic health conditions, to Mexico under the Remain in Mexico program. The Biden administration officially terminated Remain in Mexico in June. President Biden called the program [dangerous and inhumane](#), and a [Department of Homeland Security memorandum](#) explaining the governments decision acknowledged its [endemic flaws](#), and unjustifiable human costs.

The Biden [administration said](#) it is compelled to restart the program due to [a federal court order](#) but that it will do so with humanitarian improvements. These include resolving most asylum cases within six months, ensuring that asylum seekers have access to counsel, and

ensuring that particularly vulnerable individuals will not be enrolled in the program. It also promises that those sent to Mexico will have access to safe and secure shelters and transportation to and from the US border and will be able to obtain work permits and access health care and other services in Mexico.

Both the US and Mexico promised many of these so-called improvements under the first iteration of the program, but they never materialized. The US government [returned asylum seekers to torture](#) in Mexico, despite acknowledging its obligation not to under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

The US also previously committed not to send asylum seekers from vulnerable groups to Mexico, but Human Rights Watch found that border agents failed to screen for vulnerabilities or else [knowingly returned especially vulnerable asylum seekers](#) to Mexico, including lesbian, gay, bisexual and transgender (LGBT) people, people with disabilities or chronic health conditions, and pregnant women. The [Mexican government](#) also failed to identify people with disabilities or chronic health conditions the United States had sent to Mexico under the program.

When it initially agreed to the program, the Mexican government promised to provide for the safety of asylum seekers waiting in Mexico, and to ensure that they would have access to work, health care, education, and the justice system. However, [Human Rights Watch found](#) that the Mexican government failed to provide these protections, leaving thousands stranded in Mexico unable to support themselves or use basic services and with no recourse when they suffered abuses from criminal cartels or Mexican authorities.

The Biden administration also said it would ensure asylum seekers in the program have access to counsel. In the past, Human Rights Watch found that the program has prevented meaningful access. Attorneys [told Human Rights Watch](#) that risks to their security and logistical issues prevented them from traveling to Mexico and that asylum seekers often lack fixed addresses and phone numbers.

In the past, only about 10 percent of asylum seekers in the program had legal representation. Many lawyers are now refusing to allow the administration to place their names on the lists of pro-bono counsel given to asylum seekers, [saying they refuse](#) to be complicit in a program that violates US and international human rights law.

Neither the US nor the Mexican government have provided any details of how they intend to fulfill their commitments under the revised program or explained why they failed to do so in the past.

The Lpez Obrador administration said in [a November statement](#) that it would only agree to reinstate Remain in Mexico if the Biden administration addressed certain humanitarian concerns, including a commitment not to place asylum seekers from vulnerable groups in the program and to provide funding for economic development programs in Central America.

In December, the [Mexican government said](#) it had agreed to restart the program because the Biden administration had addressed these concerns. Neither statement addressed the [widely documented abuses](#) against people in the program by Mexican police and immigration agents. Previously, Mexican President Andrs Manuel Lpez Obrador has denied that abuses took place under the program and claimed that it produced [very good results](#).

President Lpez Obrador is clearly just paying lip service to the human rights concerns surrounding the re-implementation of the Remain in Mexico program, said [Jos Miguel Vivanco](#), Americas director at Human Rights Watch. If he were truly concerned with ending the horrific abuses asylum seekers have suffered under the program, he would have clearly and unequivocally refused to participate from day one.

Children and Families Sent to Harm by the US Remain in Mexico Program

US Returns of Asylum Seekers to Mexico

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