News

A U.S. Customs and Border Protection official is seen Feb. 22 in Ciudad Juarez, Mexico. (CNS/Jose Luis Gonzalez, Reuters)

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Seven weeks after the U.S. government rolled out its "Remain in Mexico" plan in the El Paso sector of the U.S.-Mexico border, statistics collected by the Hope Border Institute showed a stark reality which seemed to justify advocates' concerns about the program.

About 2,800 asylum-seekers from Guatemala, Honduras and El Salvador had been returned to Ciudad Juárez, Mexico, to await their turn in a U.S. asylum court, but only one immigration judge, Nathan Herbert, was assigned to process their cases, and only three local organizations were available to provide free or low-cost legal services.

As those organizations reached capacity, the percentage of migrants with legal representation in the Remain in Mexico program, also known as Migrant Protection Protocols, had plummeted to some 13 percent. Many were staying in shelters with limited access to phones, especially international calling, which made it hard to communicate with U.S. legal service providers.

Perhaps most concerning, 71% of migrants being placed in the program expressed fear of persecution in Mexico if forced to return, but only 7% were cleared to stay in the U.S. instead.

Hope Border, which is rooted in Catholic social teaching and promotes justice and solidarity in the El Paso-Ciudad Juárez-Las Cruces region, was able to collect these statistics because — barring a few times they were excluded due to space constraints — they've been present for every single Remain in Mexico case in the El Paso sector, collecting data and stories.

Policy research analyst Edith Tapia presented their findings in a May 21 webinar which also featured Don Kerwin, executive director of the Center for Migration Studies of New York.

Kerwin described the Remain in Mexico program as part of a series of actions the U.S. has taken to reduce access to asylum and abdicate responsibility for protecting vulnerable migrants, including funding Mexico to prevent asylum-seekers from reaching the border, "metering" ports of entry to limit how many people request asylum each day and enacting the "zero tolerance" policy that led to family separation.

Kerwin said the U.S. should act like the sovereign nation it is and take responsibility for humanitarian needs rather than force nonprofits to pick up the burden.

But after a federal appeals court overturned a San Francisco court's injunction on the program, allowing it to continue indefinitely while a case against it is in progress, there seems to be no sign of Remain in Mexico ending. Also in place since late January at the San Ysidro port of entry and since March at the Calexico port, the program has already returned about 6,000 people, the Department of Homeland Security said May 21.

Meanwhile, advocates' predictions about dangerous conditions in Mexico, vulnerable people being returned and access to counsel are becoming reality.

Ciudad Juárez is accustomed to migrants passing through, Tapia said, but not to thousands staying for weeks or months as they wait to present themselves at a port of entry, or wait for the conclusion of their asylum case.

Before intensified metering, Remain in Mexico and shifts in popular migration routes created an intense backlog in the area; only one shelter, Casa del Migrante, existed in Ciudad Juárez. Today, over a dozen churches and other buildings are "stepping up" to house immigrants but it is "simply not enough," Tapia said.

Those returned under Remain in Mexico receive permission to stay in the country temporarily, but have a hard time supporting themselves without legal status or permission to work, Tapia said. Immigrants from Central America are also often perceived as good targets for theft, extortion and other crimes.

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>
> —Edith Tapia

On May 3, three Honduran migrants were murdered in Ciudad Juárez. According to Hope Border's website, a mother and 5-year-old daughter were kidnapped in early May after expressing fear of returning to Mexico.

Two cousins were recently mistaken for smugglers, kidnapped, beaten and threatened, Tapia said. In order to convince the kidnappers that they were merely

migrants, they had to provide personal information that is being used to threaten their families.

Despite evidence of dangerous conditions, migrants who fear returning to Mexico have to show that they're "more likely than not" to be victimized. A May 2 Vox article quoted asylum officers who feel pressured to send asylum-seekers back to Mexico — even when the officers don't believe the migrants will be safe — or who have had their decisions to let people stay in the U.S. reviewed and overturned.

Migrants aren't asked if they fear returning to Mexico and won't even receive an interview unless they are knowledgeable or lucky enough to mention their fear at the proper time.

Hope Border is concerned that those who might be especially vulnerable because of their situation or past victimization in Mexico aren't being allowed to stay. Among those sent back to Mexico, 46% are families and Hope Border has also identified a transgender woman and 13 pregnant women, six of whom were returned to Mexico even after a second hearing.

In another case, a Central American couple was kidnapped in Mexico and held for two months. Upon arriving at the U.S. border, the couple expressed fear of returning to Mexico but only the pregnant wife was paroled into the U.S. while the husband was forced to return.

This isn't the only case of families being split up, Tapia said. Although most cases don't involve parents separated from biological minor children, Hope Border identified 15 percent of Remain in Mexico cases as involving family separation. Most included separation from siblings or grandparents who may be lifelong caregivers or sources of support even if they don't fit the U.S. definition of a nuclear family, said Tapia.

Tapia met a young woman, barely 18, who fled an abusive stepfather with her 14-year-old sister. The younger sister was sent to live with a brother in the U.S. while the 18-year-old was sent back to Mexico alone.

As more people are placed in the Remain in Mexico program, concerns about backlogs are growing, with some court dates already scheduled as late as 2020, Tapia said. On May 10, Mexican Mother's Day, a woman chose to be deported with her children because she couldn't stand the asylum process any longer.

"We fear that more cases and more people will ultimately give up something that they have the right to do: the right to seek protection," Tapia said.

Hope Border is also concerned that the courtroom isn't physically big enough for the increasing number of cases, and that advocates aren't given enough space and time to offer "Know Your Rights" presentations before hearings, one of the few ways they can offer legal aid without taking on entire time-consuming asylum cases.

Another way legal aid is being offered is through providers serving in a "friend of the court" role, facilitating communication and making sure asylum-seekers and judges get their questions answered on the record.

But in about 60 cases, migrants haven't shown up to court at all. Neither of the leading theories — that they were confused about their court date or that they gave up because of difficulties pursuing a case — are good news for those concerned about facilitating access to asylum.

While the judge was at first reluctant to order in absentia removal orders without understanding why migrants missed court dates, he's now ordered at least 17 removed. A deportation order comes with a bar of 10 or more years on being allowed to enter the U.S. legally, Tapia said.

She ended the May 21 webinar by asking participants to call for the U.S. government to end Remain in Mexico, support efforts to defund the program, and to "share stories and information with your networks."

"We hear a lot of misinformation coming from this agency and from this government, and we simply have to fight back, and just also humanize the impacts of these policies," Tapia said.

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