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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AL OTRO LADO, INC., *et al.*,
Plaintiffs,
v.
ALEJANDRO N. MAYORKAS, *et al.*,
Defendants.

Case No.: 3:23-cv-01367-AGS-BLM
Hon. Andrew G. Schopler

**EXHIBIT 20 TO THE
DECLARATION OF STEPHEN M.
MEDLOCK IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL CLASS
CERTIFICATION**

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Disposable Lives: Pervasive Psychological Harm Inflicted by Asylum Barriers

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H.O.M.E. Executive Director

Asylum seekers face threats of death and dire choices. They flee harm in their home countries, face life-threatening circumstances en route, and upon arrival in northern Mexico, they encounter kidnapping, assault, rape, and extortion at the hands of cartels. They have reached the gates of the country where they had hoped they might be safe, yet their nightmares continue because their quest for safety places them at odds with U.S. border policies.

Humanitarian Outreach for Migrant Emotional Health (H.O.M.E.) is a mental health nonprofit whose licensed clinicians assess and document the emotional needs of persons seeking humanitarian protection in the United States. In this capacity, we often interview migrants in northern Mexico for the purpose of understanding their mental health needs. Our clients have fled torture, persecution, and unchecked violence in places where governments offered no protection. Now, within sight of the United States, they face similar harm yet again.

Since September 2020, H.O.M.E. clinicians have completed 183 mental health evaluations for migrants stranded on the Mexico side of U.S. ports of entry. Twenty-two of these (and counting) took place after May 11, 2023, when U.S. entry policies shifted. Our clients were referred by U.S. immigration attorneys, a migrant shelter director in Reynosa, a Mexican social service agency in Matamoros, and through community-referral.

The following report is a summary of our interview findings and the direct observations of the clinicians who conducted them, plus an expert analysis of these findings through the lens of scientific research. We will focus on our observations since May 11, 2023, and our alarm regarding the pervasive psychological harm inflicted by current policies.

Trauma in Real Time—The *Posttraumatic Distress* Misnomer

Although our interviews in Mexico focused on immediate needs, clients who described their reasons for migration invariably pointed to life-threatening circumstances. It is no secret that asylum seekers have exceptionally high rates of trauma, even by the strict American Psychiatric Association (APA) definition: events that threaten death, bodily integrity, or sexual violence (APA, 2022; Morales, Nguyen-Finn, Haidar, & Mercado, 2022).

But the dangers they fled are now compounded with new threats to survival. *Every* migrant we interviewed in this region reported they had survived a violent encounter or were in hiding because they feared one. Many of our clients have suffered kidnappings, assault, extortion, and rape in cities immediately outside U.S. ports of entry. The places they fled are too dangerous to return to, yet every hour they remain in the U.S./Mexico border region, they face new threats to



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their lives and safety. The term *posttraumatic stress disorder* is a misnomer here because their trauma is not *post*.

One classic PTSD symptom, *hypervigilance*, is also a misnomer. *Hypervigilance* refers to a survivor's excessive need to continually scan their environment and assess their safety level. But outside U.S. ports of entry, the threats are all too real, and our clients' vigilance is not *hyper*. When we presented a standardized test item, "suddenly scared for no reason," one client objected: "But I have reason!"

Lack of Access to the Asylum Process

H.O.M.E. has served asylum seekers in southern border regions through a series of devastating policy changes, all of which have limited their access to protection and infused a deep sense of hopelessness. This hopelessness was especially clear when we asked about attempts to use CBPOne, the app that U.S. policy has required since May, 2023. Most migrants we spoke with were anxiously focused on attempts to get an appointment with Customs and Border Protection (CBP). Some had been robbed of their phones by cartel kidnappers, and some had reached a level of hopelessness that precluded their ability to keep trying.

Even clients with urgent health or safety needs reported being turned away when they presented in person at a port of entry (POE). They were unable to access the asylum process, either by successfully obtaining an appointment or by presenting at POE without one. Despite weeks or months of trying, they have not been able to request protection. Our clients described this process and its effects on their lives.

- J___ tries regularly to get an appointment with U.S. border officials through the required CBPOne app, but without success. She tried to present in person at a port of entry, but border officials turned her away. Consequently, J___ feels helpless and is experiencing a level of depression that impacts her daily functioning.
- L___ (a recent kidnapping survivor) reported severe insomnia that keeps her awake until approximately 3:00am, yet she gets up at 4:00am to attempt her request for a CBP appointment through the CBPOne app. "I try and try. Every day. It's impossible."
- N_____ (a recent kidnapping survivor) wept when asked about her attempts to communicate with U.S. border officials. She and her husband try every day to get an appointment through the CBPOne app, but they have not been able to do so. In mid-May, a medical professional accompanied N_____ to the bridge leading to a port of entry to request urgent crossing for health reasons. CBP officials rejected the request and sent N_____ away to continue her attempts to get an appointment through the app.
- F_____ is losing hope of obtaining protection. "Every day we try with the CBPOne (application)," she explained. "Nothing. I'm afraid." F_____ and her family also tried to

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present in person at a port of entry. “I cried...,” she recalled, but the officers “said there was nothing they can do.”

- E_____ (a recent rape victim) explained that her attackers took her phone, so she has no way to access the CBPOne appointment system. She wept frequently during the interview and reported, “I can’t sleep. I can’t go out. Things come to my mind...”

The individuals we meet with in migrant camps and shelters report severe, trauma-related symptoms that include:

- Repeated flashbacks (re-experiences), especially of violent sexual acts.
- Sensations of disgust, vomiting (particularly for rape and sexual assault survivors).
- Physical reactions to triggers (such as difficulty breathing or trembling).
- Panic attacks.
- Daily terror of repeated sexual violence.
- Inability to leave their tent or room, even for food.
- Nightly insomnia, nightmares, and night terrors (sudden awakenings, screaming).

During a series of in-person interviews in Matamoros and Reynosa, H.O.M.E. administered the Refugee Health Screener 15 (RHS-15), a tool for identifying emotional distress (Hollifield et al, 2013). Without exception, every person to whom we presented the RHS-15 scored well above the limit for emotional distress. This was true even for one migrant who, when asked directly, denied any trauma events. Our findings confirm extant research that shows asylum seekers suffer high rates of PTSD, depression, hopelessness, self-blame, and suicide risk (Forte et al, 2018), and that long waits in Mexico add a new layer of psychological trauma (Silverstein, Long, Burner, Parmer, & Schneberk, 2021). Without a doubt, the distress levels we observed reflect the frightening conditions in which our clients wait for help.

Necropower – The Threat of Death Embedded in Barriers to Asylum

“Trauma” is not an adequate descriptor of the psychological conditions faced by endangered migrant populations. It is an accurate description, even by the narrow definition used for PTSD diagnosis, which requires (among other criteria) a personal encounter with “actual or threatened death, serious injury, or sexual violence” (APA, 2022, p. 271), encounters that are all too real and all too common for asylum seekers.

While waiting for a chance to request asylum protection, some migrants disappear or die. Many are repeatedly kidnapped, assaulted, raped, and extorted. Some are persecuted for their sexual orientation or gender identity. H.O.M.E. clinicians hear these reports directly from our clients, and our observations are in line with those of colleagues in other fields (Bermúdez-Tapia, 2023)

But migrants also face a collective psychological harm that permeates entire communities. The constant threat of physical violence our clients face is compounded by their knowledge that U.S. officials are indifferent (at best) to their survival. Some come to this awareness through an emotionally brutal encounter with an officer who turns them away at port of entry without listening to their plea for safety. Others deliberately avoid such encounters but cannot escape the



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gravity of knowing they would be rejected if they tried. Their lives do not matter. They are disposable.

These conditions are a form of sociopsychological abuse with alarming consequences. They are *necroharms*, a level of collective trauma that comes from knowing one's entire community has been dehumanized to the point that no one's survival matters. It brings humiliation, abandonment, and a sense of being disposable. *Necropower*, defined as "processes exacerbating the potentiality for death" (Wilson, Burnstan, Calderon, and Csordas, 2023, p. 1) is embedded in U.S. border policies, and migrants face the psychological injury of knowing they are seen as unworthy of survival by leaders of the very country they had hoped would protect them.

Migrants face the knowledge that their lives are devalued, their personhood is racialized, and they are expected to live in constant fear of being harmed or killed. The necroharm of asylum policy inflicts such severe mental suffering that Iliadou (2023) compared it to torture. "Necropolitics is not only linked with outright death but defines the power of exposing entire populations through abandonment to a permanent condition of social injury, pain and suffering...an atmosphere of everyday terror" (p. 302). This is precisely our observation of migrant populations in these dangerous regions: They face everyday terrors, *and* they know these terrors exist because U.S. authorities do not value their lives.

Conclusion

The clinical interviews that H.O.M.E. mental health professionals conduct among migrants in northern Mexico consistently reveal unthinkable, life-threatening trauma and collective necroharms against entire populations. Lack of access to the U.S. asylum process compounds our clients' danger and their psychological distress.

Since we began in September 2020, psychological conditions have continually worsened, and migrants' despair has deepened with each new asylum barrier. They see their disposability in the eyes of authority holders, and a sense of disposability now permeates their own thinking.

The only appropriate response is the immediate cessation of harm. As healthcare professionals, H.O.M.E. asks our government to abide by core moral and ethical principles by 1) doing no harm and 2) valuing the humanity of persons who seek protection.



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References

- American Psychiatric Association. (2022). *Diagnostic and statistical manual of mental disorders* (5th ed., text rev.). <https://doi.org/10.1176/appi.books.9780890425787>
- Bermúdez Tapia, B. A. (2023). From Matamoros to Reynosa: Migrant Camps on the U.S.-Mexico Border. *Contexts*, 22(1), 30-37. <https://doi.org/10.1177/15365042221142833>
- Forte, A., Trobia, F., Gualtieri, F., Lamis, D. A., Cardamone, G., Giallonardo, V., Fiorillo, A., Paolo Girardi, P., & Pompili, M. (2018). Suicide risk among immigrants and ethnic minorities: A literature overview. *International Journal of Environmental Research and Public Health*, 15(7), 1438. <https://doi.org/10.3390/ijerph15071438>
- Hollifield, M., Verbillis-Kolp, S., Farmer, B., Toolson, E. C., Woldehaimanot, T., Yamazaki, J., Holland, A., St. Cair, J. & SooHoo, J. (2013). The Refugee Health Screener-15 (RHS-15): development and validation of an instrument for anxiety, depression, and PTSD in refugees. *General Hospital Psychiatry*, 35(2), 202-209. <https://doi.org/10.1016/j.genhosppsy.2012.12.002>
- Iliadou, E. (2023). Necroharm: the normalisation and routinisation of social death in refugee camps on the Greek Island of Lesbos. *Mortality*, 28(2), 299-313. <https://doi.org/10.1080/13576275.2023.2185128>
- Morales, F. R., Nguyen-Finn, K. L., Haidar, M., & Mercado, A. (2022). Humanitarian crisis on the U.S.-Mexico border: Mental health needs of refugees and asylum seekers. *Current Opinion in Psychology*, 101452. <https://doi.org/10.1016/j.copsyc.2022.101452>
- Silverstein, M. C., Long, R. F., Burner, E., Parmar, P., & Schneberk, T. W. (2021). Continued trauma: a thematic analysis of the asylum-seeking experience under the Migrant Protection Protocols. *Health Equity*, 5(1), 277-287.
- Wilson, B. K., Burnstan, A., Calderon, C., & Csordas, T. J. (2023). “Letting die” by design: Asylum seekers’ lived experience of postcolonial necropolitics. *Social Science & Medicine*, 320, 115714. <https://doi.org/10.1016/j.socscimed.2023.115714>