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Written statement* submitted by International Association of Democratic Lawyers (IADL), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* Issued as received, in the language(s) of submission only.

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Human Rights violations in the United States of America: Emergency at the Southern Border

The International Association of Democratic Lawyers (IADL), together with the International Committee of its affiliate the National Lawyers Guild, call the attention of the Human Rights Council to the massive and systematic human rights violations taking place at the United States of America southern border with Mexico. The United States government's intense border militarization and associated policies are leading to the further severe victimization of people fleeing violence, including children, at the border and beyond, through the expansion of immigration detention, the separation of families and the curtailment of asylum rights.

On their path to the southern border, asylum seekers have already experienced significant human rights violations and severe trauma. Many asylum seekers report horrific threats of violence at the hands of gangs or cartels as well as acquiescence, inaction or further violence from police in countries that they cross along the way. Women in particular often report threats and experiences of sexual violence and rape. Many asylum seekers have experienced physical violence, including beating and shootings. The road north is also treacherous, and asylum seekers have been subject to kidnaps for ransom from other gangs and cartels.

On January 28, 2019, the US government began implementing a policy called "Migrant Protection Protocols" (MPP). Despite the name, however, this policy leaves migrants, especially vulnerable people, at further risk to their safety. This policy seeks to prevent asylum seekers from entering and remaining in the United States after making a request for protection, instead forcing them to remain in Mexico.

People seeking asylum are fleeing violence and persecution. Under this policy, rather than receiving protection, they are exposed to further violence and harm. Migrant families who have traveled through Mexico and remained in the border areas have been subjected to kidnaps for ransom, beatings and rape, particularly at the hands of cartels.

The cross-border danger is further highlighted by the denial of legal access to asylum seekers being forced to wait in Mexico. Two US lawyers from Al Otro Lado, a cross-border legal organization cooperating with IADL's affiliate the National Lawyers Guild to provide support to asylum seekers, were denied entry to Mexico in January 2019. Asylum seekers are also being given complex documents that are not explained. While they are directed to legal services organizations, they are told by US officials that visits with attorneys will be at their own cost. Migrants seeking asylum from Central America rarely have the funds to pay for a private lawyer. Meanwhile, activists and volunteer lawyers are struggling to distribute their information to affected migrants. Further, lawyers have documented that US border officials are not asking some of the most basic questions relevant to asylum seekers, such as whether they are afraid or have reason to be afraid of being returned to Mexico.

While the text of the guidance says that exemptions are available to "vulnerable people", even LGBT asylum seekers have been deported despite a documented risk of being targeted for violence. US Officials have also threatened to return families with children.

Migrants returned to Mexico are at risk of homelessness, as they are directed to shelters or to find lodging. Shelters have been surprised and overwhelmed by the sudden presence of large members of returned people, and they are already at capacity. Thousands of people who arrived with the 2018 migrant caravan from Central America remain within Tijuana even before the implementation of the new policy.

Those migrants who do enter the United States also face significant risks. One of the most widely condemned policies that has been implemented by the US government has been the separation of thousands of children from their families entering the United States. The US, the only country in the world that has failed to ratify the Convention on the Rights of the Child, still violated its obligations under international human rights conventions by separating children from their parents, detaining them in immigration detention and, in some cases, pressuring their parents to accept deportation in order to be reunited with their children.

According to available data, approximately 8,000 families were separated from the border. These included families who were separated despite entering at official ports of entry and

requesting protection. While the US government suspended the policy of family separation, it has followed upon that policy with ever-increasing repressive measures targeting asylum seekers at the southern border. Seeking asylum is not a crime; in fact, it's a recognized right. Furthermore, families victimized by the family separation policy have been deported from the United States and did not receive a fair opportunity to make asylum claims without the intense pressure placed upon them by forcible family separation and the detention of children. The US government has also emphasized a commitment to criminally prosecute people who cross the border without authorization, despite the country's commitment under the Refugee Convention and Protocol to not impose criminal penalties on refugees who present themselves to authorities and show cause for their entry.

Furthermore, observers at the border have documented cases in which US officials have falsely told asylum seekers that they could not apply for asylum at that port of entry. In addition, asylum seekers are being sent away and told they must return later, restricting access to asylum and subjecting vulnerable people to considerable risk. People presenting themselves at ports of entry to seek asylum have been repeatedly returned under the so-called "metering" policy. Such pushbacks of asylum seekers violate the US' obligations under international refugee law and the rights of individual migrants to seek asylum from persecution or credible threats of persecution. In many cases, these forced returns of asylum seekers violate the principle of non-refoulement, the prohibition on returning migrants to a country where they may face further severe violations of their human rights.

People who do enter and make credible claims of asylum are being subject to immigration detention on a regular basis and to being separated from their children. These asylum seekers are often detained indefinitely with no opportunity for parole or release pending repeatedly delayed hearings. This form of indefinite, arbitrary detention constitutes cruel, inhuman or degrading treatment prohibited under international law. Despite federal courts rejecting these policies in the United States, the government has repeatedly sought new mechanisms to pursue its most repressive policy objectives. This includes proposals to detain indefinitely migrant children and their families.

These US government policies on migration have caused severe harm to thousands of people. They are not incidental or accidental violations of human rights, but clearly have been planned deliberately in an attempt to deter asylum seekers from requesting protection in the United States.

We also highlight the fact that many migrants have been forced to flee their countries at least in part due to human rights crises directly related to US policy, such as its support for the 2009 coup in Honduras. Police torture, summary executions and forced disappearances have all been documented under the post-coup government. While the US government disparages and violates the rights of asylum seekers, it has continued to strongly support the Honduran government. US foreign policy in Latin America and around the world has been a primary driver of refugee flows, as people are forced to migrate from their countries fleeing circumstances of violence, repression and war. In addition, US international economic policies have imposed massive pressures on Central American economies, leading to a further upsurge in violence and gang activity and, thus, forced migration.

We urge the United States to uphold its obligations under the UN Refugee Convention and its domestic law to protect the human rights of asylum seekers and all migrants and to initiate without further delay criminal investigations into the violating practices in use at the border.

We call on the Human Rights Council and its mechanisms to follow up on the dire human rights situation at the US southern border and to take all necessary steps to guarantee the respect of international human rights law by US authorities.

We recognize that these policies are also an attempt to encourage a global rollback of the rights of migrants and asylum seekers, who are already at severe risk around the world. We urge all member states to review their own policies on migration so as to reject policies of militarization and criminalization and instead protect the human rights of vulnerable people.