

TO:

Hon. Joseph R. Biden, Jr.
President of the United States

July 20, 2022

Hon. Kamala D. Harris
Vice President of the United States

CC:

Hon. Merrick B. Garland
Attorney General

Hon. Alejandro Mayorkas
Secretary of the Department of Homeland Security

Hon. Antony Blinken
Secretary of the Department of State

Re: Immediate Actions that the Biden Administration Should Take to Prevent Further Harm under Remain in Mexico Following the Supreme Court Decision

Dear President Biden and Vice President Harris:

In light of the Supreme Court's ruling in [Biden v. Texas](#), which concluded that the Biden administration acted within its authority to end the Remain in Mexico policy, otherwise known as the Migrant Protection Protocols (MPP), the undersigned immigrant and refugee rights organizations and service providers urge the administration to take immediate action to wind down the policy and redress the harm suffered by those subjected to it. Given the Supreme Court ruling that the Texas district court erred in enjoining the termination of Remain in Mexico, that order should not have any effect. However, additional people continue to be returned to potential harm in Mexico under the policy.

As Homeland Security Secretary Mayorkas rightly concluded in his extensive memorandum reterminating MPP, the policy imposed "[substantial and unjustifiable](#) human costs on the individuals who were exposed to harm while waiting in Mexico" and "there are [inherent problems](#) with the program that no amount of resources can sufficiently fix." We applauded this correct analysis and your administration's principled commitment to end this rights-violating policy launched by the prior administration. Indeed, because MPP termination and the treatment of individuals previously subjected to MPP have always been on separate tracks, we do not believe the administration was legally obligated in August 2021 to stop its phased wind-down and processing program. Regardless of what happened then, there is now no impediment to activating an expeditious and organized process under which people subjected to MPP have a meaningful opportunity to pursue asylum within the United States, as elaborated below. Individual cases are outside the scope of the Administrative Procedure Act (APA) claims that will eventually be decided by the district court.

To prevent further human costs and harms of MPP, we urge your administration to immediately uphold its commitment to ending this inhumane policy by taking additional steps, including:

- Request that the Supreme Court expeditiously transmit the certified judgment of the decision to the U.S. Court of Appeals for the Fifth Circuit;
- Immediately cease the return of any individuals to Mexico under the policy;
- Act swiftly to coordinate with shelters, international organizations, and local nongovernmental organizations to create an expeditious and organized process by which people subjected to both iterations of MPP have a meaningful opportunity to pursue their asylum claims from the safety of the United States;
- Facilitate the transportation of individuals placed into MPP who remain in Mexico and other countries in the region to the U.S. to pursue their immigration proceedings;
- Provide individuals previously returned to Mexico under MPP who currently are located in the U.S. the opportunity to have meaningful access to the U.S. asylum system and due process, including Indigenous language interpretation, without being forced to return to danger in Mexico; and
- Dismantle Trump-era tent “courts” located in Brownsville and Laredo that are run by DHS contractors and have resulted in [due process violations](#).

Despite your administration’s attempt to implement safeguards, severe human rights violations and fundamental due process problems continue in the latest iteration of Remain in Mexico, [confirming](#) your administration’s conclusion that the policy is inherently flawed. Asylum seekers returned to Mexico under the policy have been [kidnapped](#). [Vulnerable individuals](#) have been subjected to the policy in violation of Department of Homeland Security guidance. Legal representation for asylum seekers returned to Mexico remains virtually non-existent, with only 5 percent of the more than 5,000 people placed in the re-implemented MPP [assisted by counsel](#)—a dramatically lower rate than for asylum seekers not subjected to MPP and allowed to enter the United States while their immigration court proceedings are pending. The true human cost of MPP will likely never be known, given the severe barriers the policy creates for people seeking refuge in the United States.

As the DHS re-termination memo notes, MPP also “[undercuts](#) the Administration’s ability to implement critically needed and foundational changes to the immigration system.” The policy has created significant strains on local resources and community-based organizations and presents operational challenges for immigration officials on both sides of the border. This includes pulling CBP officials from other critical duties, such as processing requests at ports of entry to seek asylum in the United States, and diverting U.S. asylum officers tasked with MPP screenings from their primary duty of adjudicating asylum applications.

As recent [tragedies](#) at the border make painfully clear, it is urgent that this administration take every available step to fully restore access to asylum at the U.S.-Mexico border, including at ports of entry. Policies blocking asylum at the border have had a devastating toll on those seeking safety, including [Black](#), [Indigenous](#), and [LGBTQI](#) persons.

Anything less than a swift and principled end to Remain in Mexico will undermine the administration’s credibility; set a terrible example for other countries, including those that host the vast majority of the world’s refugees; reward and embolden efforts to stop lawful administration actions; and bolster the unfounded narratives peddled by those seeking to portray people seeking protection as threats to the

United States. As we did when your administration ended the first iteration of MPP, we stand ready to support you in bringing this policy to an end once and for all. We urge you to do so expeditiously.

Sincerely,

Afghan-American Foundation
African Communities Together
Al Otro Lado
Aldea - The People's Justice Center
Alianza Americas
American Civil Liberties Union
American Friends Service Committee
American Immigration Council
American Immigration Lawyers Association
Americans for Immigrant Justice
Amnesty International USA
Angry Tias and Abuelas of the RGV
Asylum Seeker Advocacy Project (ASAP)
Bethany Christian Services
Border Kindness
Border Network for Human Rights
Border Organizing Project
Bridges Faith Initiative
California Collaborative for Immigrant Justice
Casa del Migrante - Tijuana
Catholic Legal Immigration Network
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Church World Service
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Community Asylum Seekers Project
Community Change Action
Detention Watch Network
Diocesan Migrant & Refugee Services, Inc.
Disciples Immigration Legal Counsel
Disciples Refugee & Immigration Ministries
Doctors for Camp Closure
El Instituto para las Mujeres en la Migración (IMUMI)
ECDC
Espacio Migrante
Fellowship Southwest
First Focus on Children
Florence Immigrant & Refugee Rights Project

Fordham Law School Feerick Center for Social Justice
Freedom for Immigrants (FFI)
Freedom Network USA
Government Accountability Project
Haitian Bridge Alliance
HIAS
Hispanic Federation
Home is Here NOLA
Hope Border Institute
Human Rights First
Immigrant Defenders Law Center
Immigrant Legal Advocacy Project
Immigrant Legal Resource Center
Immigration Equality
Immigration Hub
Innovation Law Lab
International Mayan League
International Refugee Assistance Project (IRAP)
International Rescue Committee
Jesuit Refugee Service/USA
Jewish Family Service of San Diego
Justice Action Center
Justice for Migrant Women
Justice in Motion
Kino Border Initiative
La Raza Community Resource Center
Las Americas Immigrant Advocacy Center
Latin America Working Group
Lutheran Immigration and Refugee Service
Make the Road New York
Migrant Center for Human Rights
MomsRising
National Center for Youth Law
National Council of Jewish Women
National Education Association
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project (NIPNLG)
New York Immigration Coalition
New York Justice for Our Neighbors, Inc.
Oasis Legal Services
Oxfam America
Physicians for Human Rights
Project Lifeline

Public Counsel
Quixote Center
RAICES
Rainbow Bridge Asylum Seekers
Refugee Congress
Refugee Health Alliance
Refugees International
Rian Immigrant Center
San Diego Immigrant Rights Consortium
Save the Children
SIREN
Sisters of the Presentation
South Asian Americans Leading Together (SAALT)
Southern Poverty Law Center
T'ruah: The Rabbinic Call for Human Rights
Tahirih Justice Center
Taylor Levy Law
The Advocates for Human Rights
The Black Alliance for Just Immigration (BAJI)
The Leadership Conference on Civil and Human Rights
The Sidewalk School
The Young Center for Immigrant Children's Rights
U.S. Committee for Refugees and Immigrants (USCRI)
Union for Reform Judaism
United Church of Christ Justice and Local Church Ministries
United Stateless
Vera Institute of Justice
Washington Office on Latin America (WOLA)
Westchester Jewish Coalition for Immigration-WJCI
Wind of the Spirit Immigrant Resource Center
Witness at the Border
Women's Refugee Commission