

August 30, 2021

By Email

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

Hon. Merrick B. Garland
Attorney General, U.S. Department of Justice

Hon. Antony Blinken
Secretary, U.S. Department of State

Hon. Alejandro N. Mayorkas
Secretary, Department of Homeland Security

CC: Amb. Susan Rice
Domestic Policy Council

Advisor Jake Sullivan
National Security Council

Harold H. Koh
U.S. Department of State

Lucas Guttentag
U.S. Department of Justice

RE: Urgent Actions the Biden Administration Must Take Following Supreme Court Decision on MPP

Dear President Biden, Attorney General Garland, Secretary Blinken, and Secretary Mayorkas,

We, the undersigned 108 organizations, are profoundly disappointed by the Supreme Court's [decision](#) on August 24 to refrain from blocking a U.S. District Court [decision](#) on the misnamed Migrant Protection Protocols ("MPP"). Although we disagree with these rulings, we urge the Department of Homeland Security ("DHS") to take all necessary legal steps to immediately issue a new policy memo that provides a fuller explanation for the decision to terminate MPP and that resolves any Administrative Procedures Act ("APA") issues identified by the U.S. District Court. Taking this step is the quickest and most secure way to bring an end to MPP consistent with the court's order.

There is no lawful, safe, or humane way to carry out MPP. Unfortunately, the U.S. District Court failed to grasp this. We believe that a new DHS memo can help clarify that the agency did in fact put a great deal of thought into its rescission of MPP, and that the agency's decision was neither arbitrary nor capricious but a sound exercise of judgement after extensive review of both the MPP program's numerous problems and its fundamental lack of necessity.

MPP prevented over [70,000](#) people from preparing their asylum cases inside the United States -- where they would have had access to U.S. legal counsel¹ -- and instead returned them to extreme danger in Mexico. There they were subject to extensively documented kidnapping, sexual assault, torture, trafficking, and other violent attacks. During the two years that MPP was in effect, there were over [1,500](#) publicly reported cases of violent attacks against people returned to Mexico under MPP, and some of the undersigned human rights organizations have come across many more cases that were never reported.

Since the Biden administration took office, there have been another [6,356](#) reports of kidnapping, rape, torture, and other attacks against migrants blocked at ports of entry or expelled to Mexico by DHS and

¹ As of December 2020, [97%](#) of individuals in MPP whose cases had been decided did not have an attorney. By contrast, in non-MPP proceedings, only [9%](#) of non-detained asylum seekers whose cases concluded in Fiscal Year 2018 did not have legal representation at any point during their proceedings.

forced to endure the same dangers as individuals forcibly returned to Mexico under MPP. Under MPP, many asylum seekers were targeted for the same reason they fled their home countries, including women, LGBTQ, and Black asylum seekers, who were forced to endure widespread violence, discrimination, and targeted attacks in Mexico. Restarting this disgraceful policy would lead to countless more brutal attacks.

MPP was one of many Trump administration policies designed to deter asylum seekers from requesting protection at our border by forcing them to live in squalid conditions and face unrelenting danger in Mexico while waiting for their U.S. immigration hearings. By forcing migrants to wait for months or [over a year](#) for a court hearing; risk their lives just to attend their court hearings by walking to a Port of Entry in a dangerous Mexican border town, often in the dead hours of the morning when they are easier prey for criminal organizations; cutting off access to legal counsel; and subjecting them to [farical court proceedings](#) riddled with due process violations, MPP [caused](#) many asylum seekers to be unable to attend their hearing² or unfairly denied protection in addition to unspeakable trauma.³

Extensive territorial [control](#) by cartels and [complicity](#) by Mexican government agents in [violent attacks and kidnappings](#) against vulnerable asylum seekers and migrants makes clear that the U.S. government cannot re-implement MPP without subjecting vulnerable individuals to pervasive violence.

The Biden administration rightfully suspended new enrollments in MPP on its first day in office to conduct a study of the lawfulness and advisability of this program. After more than four months of evaluation, the administration formally [terminated](#) the policy on June 1. We commended the administration for taking these steps to end this failed Trump administration policy and redress its harms by working with human rights organizations on the wind down process, by allowing over 13,000 individuals previously subjected to MPP to continue their asylum cases inside the U.S., and by moving to reopen those cases that had been unlawfully denied. We urge the administration to take all lawful and necessary steps to preserve the MPP wind down and continue processing individuals previously subjected to MPP into the United States.

Any [return to MPP or an MPP-like policy](#) or practice that requires people seeking humanitarian protection to return and wait in Mexico while their cases are processed would be a travesty and we urge the administration to do everything in its power to prevent this from happening. We also urge the Biden administration to take immediate steps to end the [cruel](#) and unlawful Title 42 expulsions and immediately restore access to asylum at the border, including at ports of entry.

We invite you to sit down with our organizations to engage in a stakeholders' conversation on how the administration can comply with the court's order in good faith while exercising its authority to ensure that asylum seekers and migrants are safely processed into the United States.

Thank you for your time and consideration of this important issue.

Sincerely,

² While at least [44%](#) of all MPP cases resulted in an in absentia order (much more depending on the calculation used), [17%](#) of non-detained removal cases from 2008-2018 [resulted](#) in an in absentia order. This stark difference illustrates the barriers individuals face in MPP just to attend their court hearings.

³ Approximately [1%](#) of individuals in MPP were granted relief, an egregiously low grant rate that demonstrates the due process barriers inherent in the policy.

ADL (Anti-Defamation League)
African Communities Together
Al Otro Lado
Aldea - The People's Justice Center
America's Voice
American Friends Service Committee
American Gateways
American Immigration Council
Americans for Immigrant Justice
Angry Tias and Abuelas of the RGV
Annunciation House, INC.
Arizona Justice For Our Neighbors
ASISTA
ASNS's Resource Center Matamoros
Asylum Seeker Advocacy Project (ASAP)
Austin Region Justice for Our Neighbors
Bay Area Border Relief
Bellevue PSOT
Border Angels
Border Kindness
Border Organizing Project
California Collaborative for Immigrant Justice
Capital Area Immigrants' Rights Coalition
Catholic Legal Immigration Network, Inc.
Center for Civic Policy
Center for Gender & Refugee Studies
Center for Victims of Torture
Central American Resource Center of Northern CA - CARECENSF
Church World Service
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Columbia Law School Immigrants' Rights Clinic
Congregation of Divine Providence
Connecticut Shoreline Indivisible
Daughters of the Holy Spirit
Desert Support for Asylum Seekers
Diocesan Migrant & Refugee Services, Inc.
Espacio Migrante
Familia: Trans Queer Liberation Movement
Fellowship Southwest
First Focus on Children
Florence Immigrant & Refugee Rights Project
Geopaz. Instituto Geografia para la paz AC (IGP)

Government Accountability Project
Haitian Bridge Alliance
HIAS
Hispanic Federation
Hope Border Institute
Houston Immigration Legal Services Collaborative
Human Rights First
Human Rights Initiative of North Texas
Humanitarian Outreach for Migrant Emotional Health (H.O.M.E.)
Humboldt Park United Methodist Church, Chicago
Immigrant Allies of Marshalltown
Immigration Equality
Immigration Hub
Institute for Justice & Democracy in Haiti (IJDH)
Interfaith Welcome Coalition - San Antonio
International Rescue Committee
Jewish Activists for Immigration Justice of Western MA
Jewish Family Service of San Diego
Just Neighbors
Justice Action Center
Justice For Our Neighbors - North Central Texas
Justice for Our Neighbors El Paso
Latin America Working Group (LAWG)
Los Angeles LGBT Center
Madres e Hijos
Mississippi Center for Justice
National Council of Jewish Women
National Immigrant Justice Center
National Immigration Law Center
National Justice for Our Neighbors
National Network for Immigrant & Refugee Rights
National Partnership for New Americans
New York City Anti-Violence Project
New York Immigration Coalition
Northwest Immigrant Rights Project
Oasis Legal Services
Oxfam America
Project Blueprint
Project Corazon, Lawyers for Good Government
Public Counsel
RAICES
Refugee Council USA
Refugees International (RI)
Rocky Mountain Immigrant Advocacy Network

San Diego Immigrant Rights Consortium
Save the Children
Sisters of Mercy of the Americas - Justice Team
Sisters of the Sacred Heart of Jesus
Southern California Immigration Project
Tahirih Justice Center
The Advocates for Human Rights
The Children's Partnership
The Sidewalk School
Transgender Law Center
U.S. Committee for Refugees and Immigrants
UCSF Health and Human Rights Initiative
Unitarian Universalist Service Committee
UNITED SIKHS
United Stateless
United We Dream Network
Washington Office on Latin America (WOLA)
Wind of the Spirit Immigrant Resource Center
Witness at the Border
Women's Refugee Commission
Young Center for Immigrant Children's Rights