

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 counsel<sup>1</sup> -- 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

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<sup>1</sup> 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 hearing<sup>2</sup> or unfairly denied protection in addition to unspeakable trauma.<sup>3</sup>

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,

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<sup>2</sup> 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.

<sup>3</sup> 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