

Congress of the United States
Washington, DC 20510

December 20, 2021

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Avenue, NW
Washington, DC 20528

Dear President Biden and Secretary Mayorkas:

We write to express our alarm about the reimplementing of the “Remain in Mexico” program or the Migrant Protection Protocols (MPP). We fully understand that the restart of this program was compelled by a court order, but an injunction does not relieve the Administration and the Department of Homeland Security (DHS) from an obligation to reduce the human cost of a program that Secretary Mayorkas himself [acknowledges](#) “fails to provide the fair process and humanitarian protections that individuals deserve under the law.” We applauded your Administration’s effort to safely process more than 13,000 individuals who were previously subjected to the policy into the U.S. and your decision to issue a new memorandum to [terminate](#) the Remain in Mexico program earlier this year. As such, we are particularly disappointed by your Administration’s decision to expand this program to new populations such as Haitian migrants, limit access to counsel to a 24-hour period in custody, and to expand to additional ports of entry in areas where shelters may not have adequate capacity. We are also concerned that the Administration has not announced any plan to prioritize processing for the migrants placed into MPP under the previous administration who still remain in Mexico, many who have been waiting years for court hearings. These choices suggest that your Administration has made a decision to normalize and expand a cruel “[deterrent](#)” policy that fails to actually address the root causes of migration and in fact, led to *increased* migrant recidivism rates. We ask that you immediately revise the announced expansion to the restart of MPP.

As your Administration has affirmed, the program causes unjustifiable and intolerable human costs. During its last implementation, Remain in Mexico denied approximately 68,000 people the ability to prepare their cases in the United States. People enrolled in MPP experienced a [98 percent denial rate](#) of claims, a rate at least [10 times higher](#) than for those allowed to enter the United States and seek asylum in safety. Asylum seekers enrolled in MPP received an [unusually high](#) number of *in absentia* removal orders because they were unable to [safely return](#) to the United States for their court hearing. It is incomprehensible that after one year in office, this Administration is now expanding this program to new populations while fully aware of these due process concerns.

Even more concerning are the humanitarian consequences of this program. There were over [1,500](#) publicly reported cases of violence against people returned to Mexico under MPP, including multiple incidents of rape, kidnapping, and murder. Today, U.S. Department of State travel advisories warn against travel in areas along Mexico’s northern border due to [crime and kidnapping](#). By placing new nationalities into this program, the Administration is knowingly subjecting even more vulnerable asylum seekers to these dangers. While no asylum seeker deserves to live in dangerous and deplorable conditions, we know these risks are even greater for Haitian migrants, who experience severe racial

discrimination in Mexico and language barriers that create additional obstacles to obtaining housing and employment. We urge the Administration to reconsider its inclusion of Haitians, and any nationality not covered by the scope of the court order. We are also troubled by reports that DHS has not announced a plan to limit returns when shelter capacity is reached in Mexico. We urge the Administration to limit returns at a port of entry unless shelter space or alternative housing is available. Finally, in light of the alarming consequences of the first implementation of Remain in Mexico, we urge the Administration to ensure that critical safeguards, including a robust oversight mechanism, are established immediately.

We continue to believe there is [no lawful, safe, or humane way](#) to carry out Remain in Mexico. On December 2, 2021, the union representing U.S. Citizenship and Immigration Services (USCIS) asylum officers condemned its reimplementation, which makes officers “[complicit in violations of U.S. federal law](#) and binding international treaty obligations of non-refoulement that they have sworn to uphold.” The same day, the [United Nations High Commissioner on Refugees](#) declared that the changes the Administration has made “are not sufficient to address the[] fundamental concerns” about the program. On December 6, a group of more than [50 Immigration Judges and Members of the Board of Immigration Appeals](#) criticized the restart, stating that “there has been no greater affront to due process, fairness, and transparency” than Remain in Mexico. In addition, more than [70 legal service providers](#) have already refused to participate in MPP because of its illegality and the inherent safety risks to migrants, lawyers, and humanitarian staff.

Given this reality, we are particularly disappointed that the Administration is making the same promise once made by the Trump Administration to resolve cases in 180-days. We know that our immigration courts will be unable to meet this goal given their current caseload, and we urge the Administration to take every step to reduce the amount of time that migrants wait in Mexico. We also urge the Administration to take every measure to prioritize the cases of individuals who have been waiting in Mexico for more than two years.

Finally, we request that the Administration and DHS stop relying on this xenophobic policy and prioritize the expansion of legal pathways to the United States and refugee protections in the Western Hemisphere. Until robust legal pathways are available, the United States must restart safe and orderly access to our asylum system and stop returning asylum seekers to danger in violation of our laws. After four years of cruel, exclusionary, and anti-immigrant policies, returning to failed deterrence policies will not address regional migration.

Thank you in advance for your consideration and cooperation with this urgent request. We look forward to working with you in the coming days and weeks.

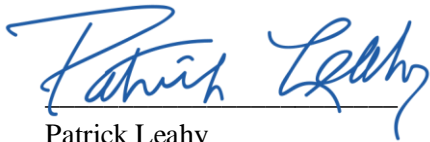
Sincerely,



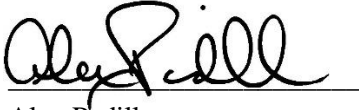
Robert Menendez
United States Senator



Veronica Escobar
Member of Congress



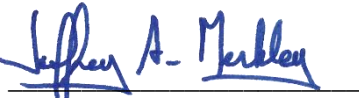
Patrick Leahy
United States Senator



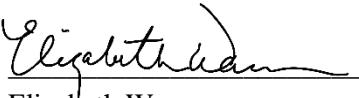
Alex Padilla
United States Senator



Ron Wyden
United States Senator



Jeff Merkley
United States Senator



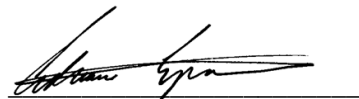
Elizabeth Warren
United States Senator



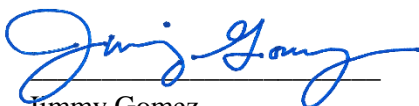
Martin Heinrich
United States Senator



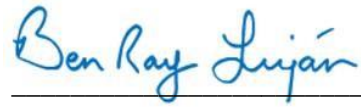
Edward J. Markey
United States Senator



Adriano Espaillat
Member of Congress



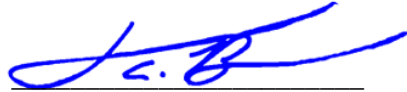
Jimmy Gomez
Member of Congress



Ben Ray Luján
United States Senator



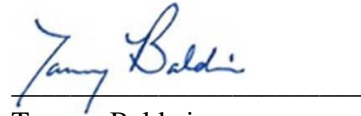
Patty Murray
United States Senator



Cory A. Booker
United States Senator



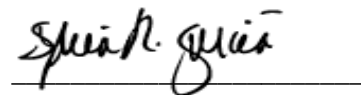
Mazie K. Hirono
United States Senator



Tammy Baldwin
United States Senator



Bernard Sanders
United States Senator



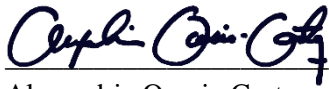
Sylvia R. Garcia
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Grace Napolitano
Member of Congress



Juan Vargas
Member of Congress



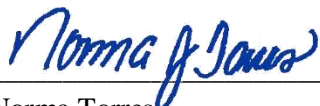
Alexandria Ocasio Cortez
Member of Congress



Albio Sires
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Eleanor Holmes Norton
Member of Congress



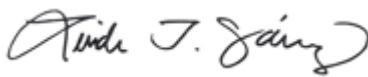
Norma Torres
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James P. McGovern
Member of Congress



Henry C. "Hank" Johnson
Member of Congress



Linda T. Sánchez
Member of Congress



J. Luis Correa
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Madeleine Dean
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Raul Grijalva
Member of Congress



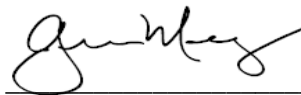
Joaquin Castro
Member of Congress



Rashida Tlaib
Member of Congress



Jesús G. "Chuy" García
Member of Congress



Grace Meng
Member of Congress



Nanette Diaz Barragán
Member of Congress



Marilyn Strickland
Member of Congress



Tony Cárdenas
Member of Congress