

**Statement for the Record by the Center for Gender & Refugee Studies (CGRS)
“Remain in Mexico”
Senate Committee on Homeland Security & Government Affairs
January 16, 2025**

For over 25 years, the [Center for Gender & Refugee Studies](#) (CGRS) has defended the human rights of refugees seeking asylum in the United States. We are keenly aware of the deficiencies of the “Remain in Mexico” program, having led the legal challenges to it as part of our strategic litigation efforts to ensure meaningful access to the U.S. asylum system and protect due process.

We appreciate this opportunity to provide a statement for the record to assist the Senate Committee on Homeland Security and Government Affairs in its examination of the Remain in Mexico policy, formally known as the “Migrant Protection Protocols” (MPP).

Damage Caused by the Remain in Mexico Policy

The MPP policy was in effect from January 2019 to January 2021, and again from December 2021 to August 2022. It required people seeking asylum to wait in Mexico for months or years, while their cases moved through the U.S. immigration court process. Almost 70,000 people were subjected to MPP and forced to endure perilous conditions in Mexico without access to the basic necessities of life, much less access to counsel who could help them navigate the complicated U.S. asylum process.

Nearly all of them were exposed to grave dangers in Mexico including kidnapping, rape, and murder at the hands of cartels, gang members, and Mexican officials. The dire conditions in Mexico were and continue to be extensively documented by [human rights organizations](#) and [individual experts](#). The same dangers impeded the ability of [U.S.-based organizations](#) and [pro bono attorneys](#) to serve potential clients trapped in Mexico.

Only seven percent of people placed in MPP were able to obtain a lawyer, compared with 60 percent of asylum seekers applying inside the United States. Evidence showed that many people were kidnapped at the time of their hearing and had their cases denied through no fault of their own. Of the more than 42,000 cases that had been completed by December 2020, only a [miniscule number](#)—523—were granted asylum.

In 2021, the Biden administration recognized the severe harms inflicted by Remain in Mexico and began processing certain categories of people who had been enrolled in MPP into the United States; the administration eventually terminated the policy entirely.¹ Citing official data, Department of Homeland Security (DHS) Secretary Alejandro Mayorkas [conceded](#) that the high percentage of completed MPP cases resulting in *in absentia* removal orders raised serious concerns about the program’s implementation, including whether individuals subjected to MPP had an adequate opportunity to seek relief and whether conditions in Mexico led individuals to abandon meritorious claims for protection. In [DHS’s own words](#), MPP:

impos[ed] substantial and unjustifiable human costs on migrants who were exposed to harm while waiting in Mexico.... Significant evidence indicates that individuals were subject to extreme violence and insecurity at the hands of transnational criminal organizations that profited from putting migrants in harm’s way while awaiting their court hearings in Mexico.

¹ DHS’s wind-down of MPP was abruptly halted in August 2021, following the injunction issued by the U.S. District Court for the Northern District of Texas against the Biden administration’s initial termination memo.

CGRS is deeply familiar with the cruelty and illegality of MPP, having challenged many aspects of its first iteration in [Innovation Law Lab v. Mayorkas](#) and [Immigrant Defenders Law Center v. Mayorkas](#). In both cases, we and our co-counsel represent individual plaintiffs who have experienced the horrors of Remain in Mexico firsthand and legal service providers who have struggled to represent them.

In April 2019, the U.S. District Court for the Northern District of California [granted a preliminary injunction](#) in [Innovation Law Lab v. Mayorkas](#), which would have temporarily halted the policy. The Ninth Circuit Court of Appeals initially stayed the injunction—allowing MPP to remain in effect—but [restored it in February 2020](#), ruling unequivocally that MPP violates both U.S. law and treaty obligations. The Trump administration then appealed to the Supreme Court, which put the injunction on hold as it considered the case, leaving the policy in place until the Biden administration formally terminated it in June 2021. Following the termination, the Supreme Court sent the case back to the district court, which vacated the injunction as moot.

In [Immigrant Defenders Law Center v. Mayorkas](#), we [continue to challenge](#) the ongoing harms of MPP on individuals whose cases were terminated or who received final orders of removal in MPP proceedings and remain stranded outside the United States and continue to be deprived of security, stability, and meaningful access to legal representation, making it virtually impossible for them to pursue their claims for protection.

Lessons Learned

MPP was widely criticized by U.S. legal experts, [DHS employees](#), and international bodies, including the [United Nations High Commissioner for Refugees](#), and the [Inter-American Commission on Human Rights](#). They confirmed that, by returning asylum seekers to dangerous conditions and undermining their ability to mount a successful asylum case, MPP violated the United States' *non-refoulement* obligations under the 1967 Refugee Protocol and the Convention Against Torture—that is, our promise not to return people to persecution or torture. These commitments are reflected in both statutory law and federal regulations.

The MPP policy thus failed to comply with U.S. or international law, or to fulfill even the most minimal moral obligation to people in distress. Instead, it subjected tens of thousands of vulnerable people to grave danger, while making a mockery of due process. At the same time, MPP increased congestion and chaos at the border by processing people through ports of entry and border immigration courts multiple times instead of dispersing them more evenly geographically after the initial border encounter.

Conclusion

Failed policies from the past like MPP should not be re-instituted in any form, and we would once again challenge any such attempt in court. Resumption of the policy would waste government resources in seeking to defend a policy already found contrary to law. Instead, the United States must invest the resources, including providing access to counsel, that will allow fair and efficient adjudication of asylum claims and enable an orderly process at the border.