

September 17, 2021

Hon. Joseph R. Biden, Jr.
President of the United States
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Hon. Alejandro N. Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington, DC 20528

Hon. Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

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

In the wake of multiple federal court decisions holding that your administration's policies are likely unlawful, we, the 71 undersigned organizations, are appalled that you have chosen to file a notice of appeal in the *Huisha-Huisha* litigation, resisting an [order](#) to process the protection claims of families with children who seek asylum. This decision serves as a particularly disturbing step in what is emerging to be a clear pattern of failure to uphold the refugee laws enacted by Congress. We write to urge you to immediately change course before you further tarnish this administration's record and inflict even more harm on families, children and adults seeking our country's protection. We call on the administration to immediately end its embrace, defense, and advancement of illegal and cruel Trump administration policies that harm families and people seeking protection and bolster xenophobic rhetoric by treating people seeking protection as threats. Instead, we urge your administration to restore access to U.S. asylum at ports of entry and also to immediately stop blocking and expelling asylum seekers and migrants to life-threatening dangers.

On September 16, a federal district court [held](#) that the government likely does not have authority under U.S. law to implement the Title 42 policy, which subjects people to "[real](#) threats of violence and persecution" by returning them to danger in Mexico or the countries they fled, and enjoined the use of the policy against families. Rather than respect human rights and restore asylum in compliance with this ruling, the administration has already filed a notice of appeal in this case. Earlier this month, another federal district court [held](#) that the government's policy of turning back people seeking protection at ports of entry is likely unlawful under the Immigration

and Nationality Act. Your administration must reverse course and accept these court rulings, immediately take steps to restart asylum processing, and permanently end these policies, which were designed to deter and punish people seeking safety in the United States and betray our values and legal obligations towards refugees.

Rather than abiding by campaign [promises](#) to uphold the legal right to seek asylum and treat migrants humanely, your administration has embraced and escalated the unlawful Title 42 policy created by the Trump administration to use public health as a pretext to evade U.S. refugee laws. In August 2021, your administration issued a new Centers for Disease Control and Prevention (CDC) [order](#) extending the policy and relying on much of the same [dangerous and false](#) rhetoric that the Trump administration relied on in its CDC orders.

The human toll of the Title 42 policy during your first eight months in office is enormous. Since January 2021, there have been at least [6,356](#) public and media reports of violent attacks—including rape, kidnapping, trafficking, and assault—against people blocked from requesting asylum protection at the U.S.-Mexico border and/or expelled to Mexico. The U.N. Refugee Agency (UNHCR) and other international bodies have [repeatedly condemned](#) the use of Title 42 to return refugees to danger in violation of international law and urged the United States to restore access to asylum. Leading public health experts have [warned](#) the administration time and time again that the policy has no scientific basis as a public health measure and urged the use of rational science-based [measures](#) to process asylum seekers and migrants to safety. In its [ruling](#) enjoining the use of Title 42, the district court also emphasized that the government’s public health arguments were specious.

This month, the Department of Homeland Security (DHS) [expelled](#) dozens of Haitian families and adults to danger in Haiti under Title 42, despite ongoing turmoil following the assassination of the country’s president in July and a major earthquake in August, and [flew](#) more than 6,000 Guatemalan migrants and asylum seekers directly to the danger they had fled in Guatemala without an opportunity to apply for U.S. asylum. Since August, DHS has also [expelled](#) asylum seekers and migrants directly to southern Mexico, where Mexican immigration authorities forced them to cross the border into remote areas of Guatemala. These expulsions to southern Mexico sparked public condemnation from [UNHCR](#), which warned that this practice “increases the risk of chain *refoulement*—pushbacks by successive countries—of vulnerable people in danger, in contravention of international law and the humanitarian principles of the 1951 Refugee Convention.”

We further call on your administration to take all necessary legal [steps](#) to end the Migrant Protection Protocols (MPP), most importantly by immediately making a public commitment to issue a new policy memo that provides a fuller explanation for the decision to terminate MPP and that resolves any perceived Administrative Procedure Act (APA) issues identified by the district court in its [ruling](#) requiring the government to restart this shameful program. The APA

was the singular concern cited by the Supreme Court in its decision upholding the district court's preliminary injunction, and the administration's failure to date to commit to issuing a new policy memo raises serious concerns over whether you intend to use the legal challenge as cover to backtrack on your commitment to fulfill your campaign promise to end MPP.

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, including asylum seekers who were [brutally murdered](#). In addition to subjecting individuals to life-threatening dangers under MPP, the program [violated](#) the due process rights of asylum seekers and migrants by stranding them in Mexico without access to legal counsel, forcing them to risk their lives to attend their court hearings—there have been numerous reports of asylum seekers in MPP [being kidnapped](#) while attempting to reach immigration court—and requiring many to prepare their cases while facing unrelenting fear and insecurity. It is clear that there is [no way](#) to make MPP lawful, humane, safe, or rights-respecting. The administration should take all lawful and necessary steps to preserve the MPP wind down and continue processing individuals previously subjected to MPP into the United States while taking immediate steps to address the District Court's concerns to terminate the policy once and for all.

Policies that turn back, block, expel, and force asylum seekers and migrants to wait in danger are unlawful, as now confirmed by multiple federal courts, and we entreat your administration to immediately stop inflicting violence on people seeking safety in our country by permanently ending these policies and restoring asylum in compliance with U.S. and international refugee laws.

Sincerely,

ADL (Anti-Defamation League)
African Communities Together
Aldea - The People's Justice Center
Alliance San Diego
America's Voice
American Friends Service Committee
American Immigration Lawyers Association
Asylum Seeker Advocacy Project (ASAP)
Bellevue Program for Survivors of Torture
Border Angels
Border Kindness
Border Organizing Project
Bridges Faith Initiative
Capital Area Immigrants' Rights Coalition
CARECEN SF - Central American Resource Center of Northern California

Catholic Charities of Southern New Mexico
Catholic Legal Immigration Network, Inc.
Center for Justice and International Law (CEJIL)
Center for Victims of Torture
Church World Service
Detention Watch Network
Familia: Trans Queer Liberation Movement
First Focus on Children
Florence Immigrant & Refugee Rights Project
Grassroots Leadership
Haitian Bridge Alliance
HIAS
Hope Border Institute
Houston Immigration Legal Services Collaborative
Human Rights First
Human Rights Initiative of North Texas
Immigrant Defenders Law Center
Immigration Equality
International Mayan League
International Refugee Assistance Project (IRAP)
International Rescue Committee
Japanese American Citizens League
Jesuit Refugee Service/USA
Jewish Activists for Immigration Justice of Western MA
Justice Action Center
Justice in Motion
Karen Organization of San Diego
Kino Border Initiative
Latin America Working Group (LAWG)
Lawyers for Good Government (L4GG)
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project (NIPNLG)
National Network for Immigrant & Refugee Rights
NETWORK Lobby for Catholic Social Justice
Oasis Legal Services
Oxfam America
Physicians for Human Rights
Project Blueprint
Refugees International

Safe Harbors Network
San Diego Immigrant Rights Consortium
South Bay People Power
Student Clinic for Immigrant Justice
Tahirih Justice Center
The Advocates for Human Rights
Transgender Law Center
Unified U.S. Deported Veterans resource Center
Unitarian Universalist Refugee & Immigrant Services & Education
VECINA
Vera Institute of Justice
Washington Office on Latin America (WOLA)
Witness at the Border
Women's Refugee Commission
Young Center for Immigrant Children's Rights