

January 28, 2020
Honorable Chad Wolf
Acting Secretary
Department of Homeland Security
301 7th Street, S.W.
Washington, D.C. 20528

Re: Remain in Mexico / “Migrant Protection Protocols”

Dear Acting Secretary Wolf:

One year ago, the Department of Homeland Security (DHS) began implementing the policy it inexplicably labeled the “Migrant Protection Protocols” (MPP). Since then, our 23 legal, faith-based, humanitarian, and community organizations have struggled to provide at least some minimal legal and other assistance to a small portion of the many asylum seekers and migrants subjected to MPP. As detailed below, we urge the immediate termination of this harmful and illegal policy.

One year into this policy, we continue to be gravely concerned about the safety of the men, women, and children turned back by DHS officers to some of the most notoriously dangerous areas of Mexico to “wait” for many months for U.S. immigration court hearings. DHS is returning people fleeing persecution to areas essentially controlled by deadly cartels, ridden with corruption, plagued by kidnappings and high levels of violence – areas where they are targeted due to their nationalities and other characteristics. DHS returns asylum seekers to Mexico despite U.S. State Department [warnings](#) of widespread homicides, kidnappings, and other violence, overwhelmingly turning them back to Mexican states that are so dangerous the U.S. State Department has directed U.S. citizens not to travel there or reconsider visiting. In Nuevo Laredo, the U.S. consulate recently warned of even greater violence, [gunfights and blockades](#) throughout the city and on [highways](#). Asylum seekers turned back at the Nogales port of entry will now have to travel for hours through areas where a family of American mothers and children were recently massacred in order to reach MPP court in El Paso. [Reports](#) that migrants have been extorted by Mexican authorities on the route between Nogales and Ciudad Juárez underscore the absurdity of relying on Mexican officials for protection.

Day in and day out we learn of horrifying accounts of kidnappings, assaults, trafficking, and other attacks on asylum seekers waiting in Mexico. Over 800 cases of kidnappings and other attacks have been [tracked](#) so far by Human Rights First and others, but we know that the actual number is much larger as the vast majority of returnees have not been interviewed by researchers. Children suffer cruelly. In some cases, [families](#) have been [separated](#) through MPP. Many young children have suffered kidnapping, assaults during abductions, trauma from witnessing parents or other migrants tortured, and many live in fear of kidnappings, trafficking, and assaults. A man returned to Tijuana was brutally [killed](#). Asylum seekers are overwhelmingly afraid to report these incidents to Mexican authorities as Mexican officers are often complicit in, or turn a blind eye to, attacks or kidnappings targeting migrants. Asylum seekers have described cartel members walking uninhibited into spaces the Mexican government has designated as safe waiting areas in order to identify targets for kidnapping and other harm.

We understand DHS officials [expect](#) “NGO lawyers” to cross into Mexico to represent asylum seekers subjected to MPP, essentially risking their lives to represent asylum seekers who should, under U.S. law, be allowed to seek asylum from safety in the United States. While some of our already overstretched and under-funded non-profit organizations have attempted to provide limited legal help to some people in MPP, DHS is essentially compelling U.S. lawyers to cross into areas of Mexico that the State Department has warned suffer from widespread homicides, kidnappings, and other violence – largely areas U.S. citizens are directed not to travel or reconsider visiting. Private law firms are largely unable to take on these cases pro bono due to the security and other barriers. No non-profit attorneys are able, given the acute dangers, to cross into Nuevo Laredo to meet with potential clients turned back there by DHS, and few risk doing so in other dangerous MPP return locations.

Beyond the security risks, legal representation in these cases faces other obstacles – from the many hours it takes to travel to the border, and cross back and forth across the border, the lack of safe and confidential legal meeting space in Mexican return areas, the geographic distance between where people are returned and where they are assigned court, and questions relating to the propriety of U.S. lawyers conducting legal representation in a foreign country.

The astounding suggestion by DHS officials that asylum seekers stranded in Mexico can receive adequate representation by talking to attorneys by “[telephone](#)” reflects a total lack of understanding of the complexity of asylum legal representation and the traumatic nature of recounting torture, sexual assaults and other persecution in the course of legal conversations. Asylum seekers often have very limited access to telephones, and often no confidential spaces for legal calls. Indeed, attorneys report clients falling silent on some calls because they become aware that cartel members or others are surveilling them during these calls.

In addition to these barriers to legal representation, MPP’s massive due process deficiencies include its use of tent courts and the Fort Worth Immigration Adjudication Center which shield MPP proceedings from outside observation, and the refusal to permit attorneys to conduct legal presentations akin to those routinely conducted in other immigration courts.

The faith-based, community, health and other organizations that provide minimal humanitarian assistance to a small portion of the asylum seekers stranded in Mexico also face serious risks to their safety as they cross the border into areas plagued by violence and cartels. Most return cities are simply too dangerous for organized humanitarian or legal U.S. volunteer efforts. The Mexican government has overwhelmingly NOT provided safe shelter, food, or medical care to the vast majority of asylum seekers and migrants subjected to MPP – including children and adults with serious health issues who should be exempted under MPP. The dangers, crime and targeting is so severe that many parents fear sending their children to [schools](#) in Mexico. Even [religious](#) workers assisting asylum seekers and migrants in Mexico have been threatened, harmed and in at least one case abducted and presumed killed.

We have been shocked to hear U.S. officials assert that this program is a “success,” pointing to a drop in the numbers approaching the U.S. border. Far from being a success, this program is a humanitarian, legal and due process catastrophe. It terrorizes asylum seekers, endangers U.S. citizen attorneys, humanitarian staff, religious and volunteers pushed to cross into highly dangerous places, and ensures that many refugees eligible for asylum will be denied protection

due to its many legal representation, due process, and safety deficiencies. It should be no surprise that many asylum seekers are not appearing in immigration court. Many have told us they are afraid to travel to MPP court and fear remaining longer in areas of Mexico where they can reach their MPP hearings. Some have been kidnapped, raped or assaulted on their way to and from MPP court or only narrowly escaped such ordeals. While many have decided to abandon bona fide asylum claims and return home given the threats in Mexico, some we fear have simply disappeared or been killed.

This program is not only inhumane and dangerous, but it is also illegal. Congress passed laws to ensure asylum seekers are not turned away at the border when they have credible fears of persecution. Through MPP, Trump administration and DHS officials are violating and evading U.S. asylum laws and treaties. As the union representing DHS asylum officers [explained](#), “MPP abandons our tradition of providing a safe haven to the persecuted and violates our international and domestic legal obligations.”

We urge you to immediately halt this program and instead direct your officers to comply with U.S. asylum laws and treaties prohibiting return to torture and persecution. Many of our groups have issued [recommendations](#) for effectively managing displacement and asylum cases in ways that uphold U.S. law and treaties. Our faith-based, humanitarian and legal organizations stand ready to provide orientation, shelter, legal and other services to asylum seekers in the U.S. to effectively and safely assist those in need as part of a true humanitarian management effort.

Sincerely,

Al Otro Lado
Border Kindness
Catholic Charities of Southern New Mexico
Catholic Legal Immigration Network, Inc. (CLINIC)
Centro Legal de la Raza
FamiliaTQLM
Florence Immigrant & Refugee Rights Project
HIAS
Human Rights First
HOPE Border Institute
Immigrant Defenders Law Center
Immigrant Legal Defense
Innovation Law Lab
Jewish Family Service of San Diego
Kino Border Initiative
Las Americas Immigrant Advocacy Center
Lawyers for Good Government
National Immigrant Justice Center
Santa Fe Dreams Project
Sister Rosemary Welsh, RSM, Sister of Mercy, Laredo, Texas
Team Brownsville, Inc.
Texas Civil Rights Project
Transgender Law Center