



Preliminary Injunction on the “Remain in Mexico” Policy?

Credit: Mohammed Salem Reitures

What is the Remain in Mexico policy?

On January 25th, the Department of Homeland Security (DHS) issued the [Migrant Protection Protocols](#)¹, or the “Remain in Mexico” policy. The new policy outlined instances where the U.S. government would return certain asylum-seekers to Mexico to wait during the duration of their pending cases in the U.S. immigration court system. To learn more about the Remain in Mexico policy, read our backgrounder [here](#).²

Where is this currently policy operating?

The policy began at the San Ysidro port of entry in January 2019 has since been [expanded](#)³ to the Calexico port of entry as well as to the El Paso port of entry.

Is there ongoing litigation regarding this issue?

Yes. On February 14, 2019 several immigration advocacy groups and eleven migrant plaintiffs [challenged](#)⁴ the Remain in Mexico policy in federal court and urged that it be halted and terminated. The plaintiffs allege that the policy is contrary to law and violates provisions of the Administrative Procedures Act (APA).

What is the recent update regarding the litigation?

On April 8, 2019, the United States District Court for the Northern District of California, found that the groups were likely to succeed on their challenge and [granted](#)⁵ a preliminary injunction or temporary pause preventing DHS from expanding the policy through the duration of the lawsuit.

Who does the preliminary injunction effect?

First and foremost, the eleven migrants who were named plaintiffs will be allowed to enter and remain in the United States pending their asylum case. Next, as of April 12th DHS may not apply this policy while the preliminary injunction remains in effect. This means that the MPP policy is on hold for now. No additional individuals should be forced to wait for their asylum claim in Mexico while the preliminary injunction is in place.

Who is left out of the preliminary injunction?

Unfortunately, the preliminary injunction does not address the hundreds of individuals who have been returned to Mexico since end of January and are not named plaintiffs.

When does the preliminary injunction go into effect?

The ordered injunction will go into effect at 5:00 p.m., PST, on April 12, 2019 in order to permit DHS to exercise their right to seek a stay from the Court of Appeal and on Tuesday, April 9, the Administration announced its intention to appeal the injunction.

What does this mean for those who arrive at the border and encounter DHS after the April 12th start of the preliminary injunction?

As before the implementation of this policy, asylum seekers arriving after April 12th will be either (a) detained or (b) paroled in the United States.

Where does the Catholic Church stand on the MPP or “Remain in Mexico” policy?

The Catholic Church recognizes both the right of the people to migrate, as well as the sovereign right of nations to protect their borders. As direct service providers, however, Catholic entities witness firsthand vulnerability of those presenting themselves at the border to seek asylum. Bishops along the [U.S./Mexico border](#) as well as the [USCCB and CRS](#) have [urged](#)⁶ the Administration to reverse the policy which, “needlessly increases the suffering of the most vulnerable and violates international protocols.”

What can you do to help people affected by this policy?

1. [Pray](#)⁷ to Help Migrant Families.
2. Learn More about this Policy [here](#)⁸.
3. Help Entities at the Border- Consider volunteering with [Catholic Charities Diocese of San Diego](#)⁹, [Annunciation House in El Paso](#)¹⁰, [Catholic Charities of the Rio Grande Valley](#)¹¹, or donating to [Catholic Charities of Southern Arizona](#)¹².
4. Advocate-under this policy, asylum seekers were sent back to Mexico to wait throughout the duration of their court proceedings in dangerous conditions– sign our [action alert](#)¹³ to keep pressure up and ensure our government does not return to this policy .

Endnotes

- 1 Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration, DEP'T OF HOMELAND SECURITY (Dec. 20, 2018), <https://www.dhs.gov/news/2018/12/20/secretary-nielsen-announces-historic-action-confront-illegal-immigration>.
- 2 *Frequently Asked Questions: Remain in Mexico Policy*, JUSTICE FOR IMMIGRANTS, https://justiceforimmigrants.org/wp-content/uploads/2019/02/Remain-in-Mexico_en.pdf.
- 3 Maria Sacchetti, *Federal judge blocks Trump administration program forcing asylum seekers to remain in Mexico while awaiting court hearings* (Apr. 9, 2019), THE WASHINGTON POST, available at https://www.washingtonpost.com/immigration/federal-judge-blocks-trump-administration-program-forcing-asylum-seekers-to-remain-in-mexico-while-awaiting-court-hearings/2019/04/08/68e96048-5a42-11e9-a00e-050dc7b82693_story.html?utm_term=.22b3c8a36c53.
- 4 *Innovation Law Labs et al., v. Nielsen*, Case No.3:19cv0080, Dkt. No. 1 (N.D. Cal.Feb.14, 2019), available at <https://www.aclu.org/legal-document/innovation-law-lab-v-nielsen-complaint>.
- 5 *Innovation Law Labs et al., v. Nielsen*, Case No.3:19cv0080RS, Dkt. No. 73 (N.D. Cal. Apr.8, 2019), available at <https://www.politico.com/f/?id=00000169-fee3-d8fd-a7e9-ffe314940002>.
- 6 *USCCB Migration Chairman and CRS President Issue Statement Supporting Texas-Mexico Border Bishops' Statement on Recent U.S. Government Asylum Policy* (Mar.13, 2019), JUSTICE FOR IMMIGRANTS, available at <https://justiceforimmigrants.org/statements/usccb-migration-chairman-and-crs-president-statement-supporting-texas-mexico-border-bishops-statement-on-recent-u-s-government-asylum-policy/>.
- 7 *Prayer for Migrant Families*, JUSTICE FOR IMMIGRANTS, https://justiceforimmigrants.org/wp-content/uploads/2019/04/M5969_NMW_Prayer_Eng.pdf.
- 8 *Frequently Asked Questions: Remain in Mexico Policy*, JUSTICE FOR IMMIGRANTS, https://justiceforimmigrants.org/wp-content/uploads/2019/02/Remain-in-Mexico_en.pdf.
- 9 *Volunteer*, CATHOLIC CHARITIES DIOCESE OF SAN DIEGO, <https://www.ccdsd.org/about/volunteer/>.
- 10 *Volunteer*, ANNUNCIATION HOUSE, <https://annunciationhouse.org/volunteer/>.
- 11 CATHOLIC CHARITIES OF THE RIO GRANDE VALLEY, <http://www.catholiccharitiesrgv.org/volunteer.aspx>
- 12 *Donate*, CATHOLIC COMMUNITY SERVICES, <https://www.ccs-soaz.org/donate>.
- 13 *Ask the Dep't of Homeland Security to Rescind the "Remain in Mexico" Policy and Support Asylum Seekers by Following Existing Law*, JUSTICE FOR IMMIGRANTS, <https://justiceforimmigrants.org/action-alerts/ask-the-department-of-homeland-security-to-rescind-the-remain-in-mexico-policy-and-support-asylum-seekers-by-following-existing-law/>.

