

Biden administration reinstating Trump's anti-immigrant "Remain in Mexico" policy

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The Biden administration is preparing to restart a policy at the southern border that was used by former President Donald Trump to keep asylum seekers from the entering the country from Mexico.

In a court filing on October 14, Biden officials said they would relaunch the Migrant Protection Protocols (MPP)—also known as Trump's "Remain in Mexico" policy—in mid-November if the Mexican government accepts the return of asylum seekers to its territory.

The restart of the policy will include the construction of soft-sided "tent courts" at border crossings in Laredo and Brownsville, Texas at a cost of \$14 million where asylum seekers would appear before videoconference hearings exactly the same way it was done during the Trump administration.

Biden's acting assistant secretary for immigration policy Blas Nuñez-Neto told the court that "substantial progress" had been made in talks with Mexico to move forward with the revived MPP program, according to the *Washington Post*.

The Biden administration ended MPP soon after taking office. In April, the Republican-controlled states of Texas and Missouri responded by filing lawsuits in the Northern District of Texas saying that ending the program led to a harmful surge of illegal immigrants.

In August, a U.S. District Court judge ordered the Biden administration to resume MPP, stating that the program was terminated improperly. The Biden White House appealed the ruling to the Supreme Court, but a 6-to-3 majority of the high court denied the application and upheld the lower court ruling.

The Supreme Court ruling was presented by Justice Samuel Alito who declared, "The applicants have failed to show a likelihood of success on the claim that the memorandum rescinding the Migrant Protection Protocols was not arbitrary and capricious."

However, the Trump administration, which launched the program in January 2019, had itself largely dropped the use of MPP in March 2020 at the outset of the COVID-19 pandemic and began using a public health code called Title 42 to apprehend and deport those crossing the border and blocking any chance to request asylum.

In preparing to restart the "Remain in Mexico" policy, Biden's Department of Homeland Security (DHS) issued a statement that said it was "taking necessary steps to comply with the court order, which requires us to reimplement MPP in good faith."

The DHS statement went on, "Significantly, Mexico is a sovereign nation that must make an independent decision to accept the return of individuals without status in Mexico as part of any reimplementation of MPP. Discussions with the Government of Mexico concerning when and how MPP will be reimplemented are ongoing."

During the 2020 presidential campaign, candidate Joe Biden tweeted in March 2020, "Donald Trump's 'Remain in Mexico' policy is dangerous, inhumane, and goes against everything we stand for as a nation of immigrants. My administration will end it."

While it might appear that Biden is having his arm twisted by the courts to adopt Trump's immigration policies, the reality is that the Democratic Party administration has been willingly pursuing the same anti-immigrant border policies of the previous White House for months.

For example, Biden has been using Title 42 to detain and immediately deport migrants attempting to cross the border on the grounds that they pose a public health risk. Just like the Trump White House did, Biden's Secretary of Homeland Security Alejandro Mayorkas is cynically using the pandemic in order to implement a

right-wing immigration policy that violates both international and US law.

As Mayorkas told *Yahoo News* on October 12, “It is not an immigration policy that we in this administration would embrace. But we view it as a public health imperative as the Centers for Disease Control has so ordered. We’re in the midst of a pandemic. For anyone to think it’s business as usual I think would be, frankly, ignoring a pandemic that has taken more than 700,000 American lives.”

Meanwhile, on Tuesday, Biden’s nominee for the leadership of the U.S. Customs and Border Protection (CBP), Chris Magnus, testified at his confirmation hearing and fully supported the Title 42 expulsions and swift actions at the border to prevent asylum seekers from entering the US. Magnus is currently the police chief in Tucson, Arizona and was seeking to impress both the Democrats and Republicans on the Senate Finance Committee with his law-and-order credentials.

When he was asked about the fact that a total of 1.6 million migrants have been arrested for “unlawful US-Mexico border crossings” this year alone, Magnus told the committee, “I agree, we have some significant challenges at the border, the numbers are very high, and it is something that has to be addressed, clearly we have a broken system.”

According to DHS statistics, the Biden administration has carried out 1.8 times the number of Title 42 apprehensions and deportations of migrants at the southern border between February and August (690,209) as the Trump administration carried out during the same time frame in 2020.

While U.S. District Court Judge Emmet Sullivan ruled on September 16 that Title 42 could no longer be used to block asylum seekers from entering the country, the Biden administration has repeatedly argued in court in defense of the Trump policy. The White House is currently appealing Judge Sullivan’s ruling in the U.S. Court of Appeals for Washington D.C.

Title 42 is a clause in the Public Health Services Law of 1944 that “allows the government to prevent the introduction of individuals during certain public health emergencies” and has been rarely used until it was made the cornerstone of the Trump administration’s xenophobic attack on immigrants arriving at the border as part of travel restrictions put in place in the early months of the pandemic.

On October 2, State Department senior advisor Harold Koh sent a letter of resignation to the Biden White House, saying that the use of Title 42 is “inhumane” and “continues to violate our legal obligation not to expel or return individuals who fear persecution, death, or torture, especially migrants fleeing from Haiti.”

In his scathing letter, Koh wrote, “In my judgment, Title 42 is currently being implemented in a manner that violates the Refugee Convention’s Article 33 prohibition against direct expulsion or return to persecution. ... There have also been disturbing reports that some migrants were not even told where they were being taken when placed on deportation flights, learning only when they landed that they had been returned to their home country or place of possible persecution or torture.”

Matthew Reynolds, United Nations High Commissioner for Refugees (UNHCR) representative to the US and the Caribbean, said in a public statement, “Individuals or families aboard those flights who may have urgent protection needs risk being sent back to the very dangers they have fled in their countries of origin in Central America without any opportunity to have those needs assessed and addressed.” Reynolds said that some flights where non-Mexicans are being expelled to the deep interior of Mexico constitutes “a troubling new dimension in enforcement of the COVID-related public health order known as Title 42.”



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