



**Welcome the stranger.  
Protect the refugee.**

**Statement submitted to the U.S. House of Representatives Committee on Homeland Security**

**Hearing on “The Way Forward for Border Security”**

**March 6, 2019**

HIAS - the American Jewish community’s global refugee organization, has been assisting refugees and immigrants for nearly 140 years. HIAS was founded to assist Jewish refugees arriving at Ellis Island. In 1904, we expanded our work and began providing legal assistance to immigrants facing deportation. Today, we provide comprehensive legal services to those of all backgrounds seeking safety in the U.S.

Guided by our Jewish value of welcoming the stranger, and by the Jewish tradition of B’tzelem Elohim, the idea that all people deserve to have their human rights and dignity respected, HIAS remains on the front lines of refugee protection. At the U.S.-Mexico border, through our Border Fellows program, we have placed pro bono attorneys with legal service organizations in San Diego, California and El Paso, Texas. Our fellows provide legal representation to asylum seekers, including those in detention. For example, in San Diego, HIAS’ Border Fellow is working on the case of a child who was born HIV positive. His mother passed away when he was very young, and his father left the family. The child, now 15 years old, is in a detention center while our Border Fellow works to have him reunited with his brother.

In January 2019, the Department of Homeland Security (DHS) implemented Migrant Protection Protocols (MPP), also known as the “Remain in Mexico” program, at the San Ysidro port of entry. MPP requires that asylum seekers wait in Mexico while their case moves through U.S. immigration courts.<sup>1</sup> As justification for this protocol, DHS asserted that this system will help secure our borders by ensuring that asylum seekers do not disappear into the country or use fraudulent claims to gain access to the U.S.<sup>2</sup> In actuality, this unprecedented program makes it nearly impossible for asylum seekers to access the protections they are entitled to under both U.S. and international law. .

**Under American immigration law, people who arrive at the U.S. border have the right to seek asylum, and are permitted to remain in the U.S. while their claim is processed.<sup>3</sup> The Remain in Mexico program raises serious concerns about access to legal representation, due process rights of asylum seekers, and the ability of attorneys to represent their clients effectively and fairly.**

HIAS’ Border Fellows report that the Remain in Mexico program is making it extremely challenging for them to find and contact their clients, and nearly impossible to find confidential and secure places to meet and speak with them. The Remain in Mexico program also has created challenges for attorneys who have

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<sup>1</sup> U.S. Department of Homeland Security, *Policy Guidance for Implementation of the Migrant Protection Protocols*, [https://www.dhs.gov/sites/default/files/publications/19\\_0129\\_OPA\\_migrant-protection-protocols-policy-guidance.pdf](https://www.dhs.gov/sites/default/files/publications/19_0129_OPA_migrant-protection-protocols-policy-guidance.pdf)

<sup>2</sup> U.S. Department of Homeland Security, *Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration*, <https://www.dhs.gov/news/2018/12/20/secretary-nielsen-announces-historic-action-confront-illegal-immigration>

<sup>3</sup> Immigration and Nationality Act (8 USC 1158), <http://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title8-section1158&num=0&edition=prelim>

to make the trip to Mexico - a process that can take hours - and raises questions about the ability of legal counsel to represent clients and practice law while not in the U.S.

HIAS also has concerns about the impact this program will have on the arrivals at other ports of entry. For example, in El Paso, TX, reported to be one of the next ports of entry where Remain in Mexico will soon also be implemented, the asylum approval rate is already at around 3%, and access to counsel can mean the difference between life and death.<sup>4</sup>

In 2018, prior to implementation of the Remain in Mexico program, HIAS staff met with humanitarian aid workers in Mexico's northern border region. It was clear that they were under-resourced and overwhelmed, and that many asylum seekers were going without access to safe housing or the support or resources they needed. These problems have only grown since Remain in Mexico was put in place.

At HIAS, we know that a border wall or Remain in Mexico will not deter families seeking safety from coming to the U.S. Instead, it will impede life-saving access to safety, most immediately for those asylum seekers waiting in Mexico, but also for those who are forced to choose longer and more dangerous routes to reach El Paso and other ports of entry.

We ask that members of the Homeland Security committee demand that the Administration put an immediate end to programs and policies that violate U.S. and international law and put people who are pursuing their legal right to seek asylum at risk.

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<sup>4</sup> TRAC Immigration, El Paso Immigration Court Processing, [https://trac.syr.edu/phptools/immigration/court\\_backlog/court\\_proctime\\_outcome.php](https://trac.syr.edu/phptools/immigration/court_backlog/court_proctime_outcome.php)