

September 30, 2021

The Honorable Joseph R. Biden
President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20016

The Honorable Troy Miller
Acting Commissioner
U.S. Department of Homeland Security
U.S. Customs and Border Protection
1300 Pennsylvania Ave. NW
Washington, D.C. 20229

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2231 Crystal Drive
Suite 350
Arlington, VA 22202
p/ 703-310-1130
f/ 703-769-4241

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RE: DHS Policy and Treatment Towards Haitian Migrants

Dear President Biden, Secretary Mayorkas, and Acting Commissioner Miller:

The U.S. Committee for Refugees and Immigrants, and Haitian Bridge Alliance, as well as the undersigned 81 organizations write to condemn the new "Strategy to Address Increase in Migrants in Del Rio" adopted by the Department of Homeland Security (DHS) on September 18, and to request that DHS immediately rescind the strategy in its entirety and fully restore asylum access for Haitians and other migrants at the southern border. The policy, and the cruel and unacceptable actions of border patrol agents who were documented chasing and whipping migrants on horseback, are both inhumane and illegal. The Biden administration has promised to make immigration [fair and humane](#), and to [address racism in U.S. policy](#). This new policy of rounding up, pushing back, detaining, deporting, and whipping Haitian migrants negates the administration's promises and must be ended immediately.

Haiti is currently experiencing extraordinary turmoil and danger, as the Biden administration recently acknowledged through its redesignation of Temporary Protected Status to Haitians already residing in the United States on or before July 29. According to the [Federal Register notice](#) by the State Department and DHS just over one month ago,

“Haiti is grappling with a deteriorating political crisis, violence, and a staggering increase in human rights abuses... Haiti faces the challenges of ‘rising food insecurity, and malnutrition... waterborne disease epidemics, and high vulnerability to natural hazards, all of which have been further exacerbated by the coronavirus disease.’”

This assessment was made *before* the 7.2 magnitude earthquake that hit Haiti in August, killing over 2,200 people and damaging or destroying over 120,000 homes. Years of multiple crises in Haiti have caused Haitians to flee in search of safety.

The [policy outlined by DHS](#) in the Strategy to Address Increase in Migrants in Del Rio orders border patrol and ICE agents to “ensure that irregular migrants are swiftly taken into custody, processed, and removed.” It also states that DHS will accelerate removal flights to Haiti within 72 hours. The strategy uses Title 42 as part of its authority for these policies, and frames expulsions in reference to both individuals and families. This strategy violates both domestic law and international human rights. In addition, the strategy is inhumane and rooted in a history of racist and biased immigration policies against Haitians. For these reasons, the strategy must be rescinded immediately and Haitians arriving at the U.S.-Mexico border must be allowed and encouraged to exercise their right to seek asylum.

The Strategy is Illegal and in Violation of Human Rights

The Biden administration has been using Title 42 as an excuse to deport asylum-seekers without due process from the beginning. Despite a recent federal court ruling that the use of Title 42 for this purpose is illegal, and that the administration must stop [using it against family units](#), the administration has decided to appeal this ruling and continue deportations using Title 42. Although the administration has constantly tried to justify Title 42 as a public health matter, numerous public health experts have decried the policy as having no basis in public health. DHS must not continue to invoke Title 42 without any rational basis to deport Haitians and their families to danger without the chance to seek asylum.

Not only is DHS continuing to rely on a policy with an invalid and illegal rationale to deport Haitians, but these deportations violate Haitians’ and other asylum-seekers’ basic human right to seek asylum at U.S. borders. According to [U.S. law](#), any person who “arrives in the United States (*whether or not at a designated port of arrival...*), irrespective of such [person’s] status, may apply for asylum” (emphasis added). Even Haitians who are not arriving at ports of entry have the right to seek asylum under U.S. law.

In addition to the right to seek asylum, these vulnerable migrants have the right not be returned to a place where their lives or liberty would be in danger. This principle of *nonrefoulement* is enshrined in multiple international human rights conventions, including the 1951 Refugee Convention¹ and the Convention Against Torture². Deporting Haitians back to Haiti without any regard for their safety after deportation is a clear violation of the principle of *nonrefoulement*.

The Strategy is Inhumane

Haitians arriving at the U.S.-Mexico border have fled dangerous and desperate situations of persecution, political upheaval, poverty, gang violence, and natural disaster exacerbated by climate change in their home country. When they are expelled, many face the same persecution or other life-threatening dangers they fled in Haiti, or [they are expelled to Mexico](#). Once in Mexico, they do not have legal status and [cannot legally work](#). They are unable to access basic services and are vulnerable to harassment by gangs that target migrants.

¹ The UN Convention and Protocol Relating to the Status of Refugees (1951) states: “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

² The UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1984) states: “No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

Migrants pushed back into border cities in Mexico [have reported being](#) “sexually assaulted, abducted for ransom, extorted, robbed at gunpoint, and subjected to other crimes.” The situation is even more dire for Haitians, as anti-Black racism is rampant and attacks against Black asylum-seekers in Mexico [continue to escalate](#).

It is not only the conditions to which Haitians are returned that make this strategy inhumane; U.S. border patrol agents have been using excessive force to drive Haitians back to Mexico using barbaric methods such as [whipping them](#). Those who are expelled by plane are not spared either, as it is becoming common practice for migrants to be fully restrained in both handcuffs and leg cuffs for long deportation flights, often without the ability to even use the restroom or [meet other basic needs](#). This kind of treatment is barbaric and must be immediately ended.

The Strategy has Discriminatory Roots

Despite U.S. financial and political support for the Duvalier regime of the 1960s-1980s, as well as the hotly contested extension of recently-assassinated president Jovenel Moïse’s presidency, both of which have caused turmoil in Haiti and led to the movement of refugees, U.S. immigration law has not borne responsibility for the devastation caused to the Haitian people. The United States has consistently blocked and expelled Haitian migrants fleeing oppression and violence. The [U.S. government](#) expelled Haitians under the Duvalier regime, created a rapid expulsion program to deport Haitians in 1978, incarcerated Haitians at disproportionate rates to other immigrants in the 1980s, returned Haitians apprehended at sea by the thousands between 1981 and 1991, and excluded Haitians from immigration relief efforts in the 1990s.

Under previous presidential administrations, new policies were created that targeted Haitians. In the final months of the Obama administration, an unofficial implementation of a ‘metering’ policy occurred when thousands of Haitians crossing from Mexico into the United States to seek asylum were [turned away in lieu of formal inspection](#) or processing. The Obama administration utilized an explanation of crowding at particular points of entry at the border to justify these actions. The Trump administration subsequently implemented metering as an [official immigration policy in 2018](#). In 2017, the Trump administration tried to terminate TPS for Haiti, but was forced to reinstate it by two federal courts who ruled the termination was fueled by racism. In 2018, the administration removed Haitians from eligibility for temporary work visa programs and ended a Haitian family reunification program. In 2020, under the guise of public health, the Trump administration began expelling Haitians back to danger at alarming rates using Title 42, a policy that the Biden administration continues to support and attempt to uphold. In fact, there have been [more Title 42 expulsions](#) in the first few weeks of the Biden administration than during an entire year of Trump’s administration. Even as the administration acknowledged the “extraordinary” conditions making Haiti unsafe for return and thus eligible for TPS, DHS resumed and increased expulsions to the country.

Haitians have continuously been targeted for discrimination and exclusion by U.S. immigration policies, despite their desperate need to find safety and their human right to seek it. This administration must not continue this discrimination, allowing Haitians to be expelled to extreme danger.

The Strategy Must be Rescinded and Asylum Access Restored Immediately

The strategy recently implemented by DHS to address the influx of Haitian migrants in Del Rio is illegal, immoral, and a continuation of the failure of the United States to treat Haitians and all migrants with respect and dignity. The undersigned 83 organizations demand that the administration immediately rescind the strategy, end the use of Title 42, stop expulsion flights of Haitians and all other migrants who have not had the chance to seek asylum, and restore all of the rights and benefits owed to asylum-seekers under both international and U.S. law.

Sincerely,



Eskinder Negash
President and CEO of USCRI

And the following organizations,

ABISA

African Communities Together

African Diaspora for Good Governance

Aldea – The People’s Justice Center

Alianza Americas

Alianza Nacional de Campesinas

Americans for Immigrant Justice

America’s Voice

Amnesty International USA

ADL (Anti-Defamation League)

Asian Americans Advancing Justice | AAJC

Asian Americans United

Asylum Seeker Advocacy Project (ASAP)

Bellevue Program for Survivors of Torture

Bethany Christian Services

Carribbean Community in Philadelphia

Catholic Legal Immigration Network, Inc.

Catholic Social Services- Archdiocese of Philadelphia

Center for Popular Democracy

Center for Victims of Torture

Chris Woodward

Church World Service

Coalition for Humane Immigrant Rights (CHIRLA)

Detention Watch Network

Disciples Refugee & Immigration Ministries

Dorcas International Institute of RI

Earthjustice

Faith in New Jersey
Farmworker Justice
First Focus on Children
Florence Immigrant & Refugee Rights Project
Friends Committee on National Legislation
FWD.us
Haitian Bridge Alliance
Hav
Hello Neighbor
HIAS Pennsylvania
Hispanic Federation
Human Rights First
Immigrant and Refugee Community Organization - IRCO
Immigrant Justice Network
International Institute of Los Angeles
International Institute of New England
International Refugee Assistance Project (IRAP)
Japanese American Citizens League Philadelphia Chapter
JUNTOS
Justice Action Center
Latin America Working Group
Laundry Workers Center
Mississippi Center for Justice
MomsRising
National Council of Jewish Women
National Immigration Law Center
National Immigration Project (NIPNLG)
Nationalities Service Center
NETWORK Lobby for Catholic Social Justice
New Jersey Alliance for Immigrant Justice
New Jersey Consortium for Immigrant Children
New York Immigration Coalition
Northern Nevada International Center

Oasis Legal Services
Oxfam America
Philadelphia Haitian American Chamber of Commerce (PHACC)
Project Blueprint
Project Lifeline
Reformed Church of Highland Park
Refugee Congress
Refugee Council USA
RefugePoint
Robert F. Kennedy Human Rights
Star pest controls
Tahirih Justice Center
Think Tank-Jamaica Diaspora Northeast USA
UndocuBlack Network
Unfinished Community
Union for Reform Judaism
United African Organization
United Voices for Philadelphia
United We Dream Network
Wind of the Spirit Immigrant Resource Center
Witness at the Border
Young Center for Immigrant Children's Rights