

Congress of the United States
Washington, DC 20515

February 16, 2022

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden:

We write to express our deep concern over the treatment of Black migrants. In September 2021, as large numbers of Haitians entered the United States at the Texas border at Del Rio, we saw disturbing images and videos of border patrol agents using horses and horse reins against Black people at the border—who were carrying nothing but food and water. For many, this incident conjured images of our country’s treatment towards enslaved Black people and highlighted longstanding concerns regarding the disparate treatment of Black migrants by immigration enforcement officials. We would like to work with your Administration to chart a new way forward rooted in equal treatment and protection of human rights.

Our country has a long history of inhumane treatment of Black migrants, which is particularly evident in the historic mistreatment of Haitians. In 1981, the United States began interdicting Haitian refugees in the high seas and over the course of the next decade sent some 25,000 asylum seekers back to an island suffering under the rule of brutal U.S.-backed dictatorships.¹ In 1991, the first Bush Administration opened a detention camp in Guantanamo Bay for over 300 HIV-positive Haitian men, women and children, including those who were possibly exposed to HIV/AIDS.² This policy was challenged in court and resulted in a settlement requiring the resettlement of those detained in the United States.³ In 2011, even after Haiti was designated for Temporary Protected Status (TPS) following a catastrophic earthquake and a massive cholera epidemic, deportations to Haiti continued, leading to at least one death.⁴

Unfortunately, Black migrants continue to face disparate and often inhumane treatment at every stage of the immigration enforcement process. For example, although Black immigrants comprise just 5.4 percent of the unauthorized population in the United States, and 7.2 percent of

¹ Brief of Haitian Bridge Alliance, Institute for Justice & Democracy in Haiti, Ira Kurzban, and Irwin Stotzky as Amici Curiae in Support Of Plaintiffs’ Motion For Summary Judgment, *Al Otro Lado, Inc. v. Wolf*, Case No. 3:17 cv02366,

https://www.americanimmigrationcouncil.org/sites/default/files/litigation_documents/challenging_custom_and_border_protections_unlawful_practice_of_turning_away_asylum_seekers_amicus_brief_hba.pdf.

² Ratner, Michael, *How We Closed the Guantanamo HIV Camp: The Intersection of Politics and Litigation*, COLUMBIA LAW REVIEW (1998), <https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/Ratner%20How%20we%20Closed%20Guantano%20camp.pdf>

³ Gonzalez, Barbara, *Deported Haitian Man Dies in Jail*, CBS MIAMI, Feb. 1, 2011; Semple, Kirk, *Haitians in U.S. Brace for Deportations to Resume*, THE NEW YORK TIMES (Dec. 19, 2010).

⁴ *Id.*

the total noncitizen population, they were 10.6 percent of all immigrants in removal proceedings between 2003 and 2015.⁵ Similarly, a recent report from researchers at the University of California found that those detained from Africa and the Caribbean—predominantly Black regions—made up just 4 percent of those in U.S. Immigration and Customs Enforcement custody from 2012 to 2017, but 24 percent of all solitary confinement detentions.⁶ Black migrants are also likely to remain in detention longer than other migrants and pay significantly higher bonds for release.⁷ In 2020, horrifying reports emerged that migrants from Cameroon and the Democratic Republic of Congo were not given a fair opportunity to seek asylum and were forcibly coerced into signing voluntary departure orders after protesting inhumane detention conditions.⁸

We are deeply concerned that recent removals and expulsions of migrants to Haiti reflect a continuation of this disparate treatment. Last year, the Administration redesignated Haiti for TPS, halting deportations for eligible Haitians, due to “security concerns, social unrest, an increase in human rights abuses, staggering poverty, and lack of basic resources, which are exacerbated by the COVID-19 pandemic.” The conditions used to justify TPS for Haitian migrants remain. Haiti is in the midst of a deteriorating political, climate, and economic crisis. In fact, Haitians now face the compounding challenge of increasing food insecurity, malnutrition, waterborne disease epidemics, and high vulnerability to natural hazards, all of which have been exacerbated by the COVID-19 pandemic.

On September 23rd, 2021, U.S. special envoy to Haiti, Daniel Foote, resigned, citing the “inhumane and counterproductive decision to deport thousands of Haiti refugees” from the border.⁹ This was a clarion call for all of us who are frustrated with our current policy in Haiti. Haiti simply cannot safely accept the repatriation of its nationals, which is why we are so deeply concerned with the large-scale removals and expulsions of individuals back to Haiti. To that end, we are concerned that the Administration’s use of the Title 42 authority is depriving legitimate asylum seekers the opportunity to pursue their claims, contrary to our obligations under international and domestic law.¹⁰

⁵ *The State of Black Immigrants*, The Black Alliance for Just Immigration (BAJI) and New York University School of Law Immigrants’ Rights Clinic, <https://oir.sccc.gov/sites/g/files/exjcpb1026/files/sobi-deprt-blk-immig-crim-sys.pdf>.

⁶ Spencer Woodman, *U.S. isolates detained immigrants from majority-black countries at high rate, study finds*, INTERNATIONAL CONSORTIUM OF INVESTIGATIVE JOURNALISTS (Apr. 20, 2021), <https://www.icij.org/investigations/solitary-voices/u-s-isolates-detained-immigrants-from-majority-black-countries-at-high-rate-study-finds/>.

⁷ *Black Immigrant Lives are Under Attack*, RAICES TEXAS, <https://www.raicestexas.org/2020/07/22/black-immigrant-lives-are-under-attack/>.

⁸ Julian Borger, *US Ice officers 'used torture to make Africans sign own deportation orders'*, THE GUARDIAN (Oct. 22, 2020), <https://www.theguardian.com/us-news/2020/oct/22/us-ice-officers-allegedly-used-torture-to-make-africans-sign-own-deportation-orders>.

⁹ *Resignation letter from U.S. special envoy for Haiti, Daniel Foote* (Sep. 21, 2021), <https://www.washingtonpost.com/context/read-resignation-letter-from-u-s-special-envoy-for-haiti-daniel-foote/3136ae0e-96e5-448e-9d12-0e0cabfb3c0b/>.

¹⁰ See, e.g., *The Refugee Act of 1980*, Pub. L. No. 96-212 (Mar. 17, 1980) incorporating non-refoulement obligations set forth in *1951 Convention relating to the Status of Refugees*, opened for signature July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137; *1967 Protocol relating to the Status of Refugees*, open for signature Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267.

We urge you to break this cycle and respond to the recent rise in migration with a human-rights centered approach and compassionate policies that reaffirm our commitment to inclusivity. For Haitians in particular, we must also be accountable for our political decisions and the decades of intervention by the United States, including a military occupation from 1915 to 1934, that has contributed to the political destabilization, impoverishment, and ecological vulnerability of Haiti—forces that compel Haitians to seek safety and refuge outside of their country.¹¹

It is time to undo the United States' draconian immigration policies, particularly policies introduced under the Trump Administration, such as the use of Title 42, that circumvent our humanitarian obligations. In addition to stopping removals to regions such as Haiti that face serious insecurity, we also urge you to take steps to address the systemic challenges Black migrants face to receiving equal treatment. As a starting point, we recommend the Department of Homeland Security, in concert with the Department of Justice's Executive Office for Immigration Review (EOIR), conduct a wholistic review of the disparate treatment of Black migrants throughout our immigration system, make available to the public the results of this review and take steps to remedy disparities at each step of the immigration enforcement process. It is essential that we recommit ourselves to reversing anti-Black policies, including by adopting a human-rights centered approach to supporting immigrants and people seeking asylum in the United States.

Sincerely,



Cori Bush
Member of Congress



Cory A. Booker
United States Senator



Edward J. Markey
United States Senator



Jerrold Nadler
Member of Congress

/s/

Sheila Jackson Lee
Member of Congress



Charles E. Schumer
United States Senator

¹¹ David Suggs, *The long legacy of the US occupation of Haiti*, THE WASHINGTON POST (Aug. 06, 2021), <https://www.washingtonpost.com/history/2021/08/06/haiti-us-occupation-1915/>



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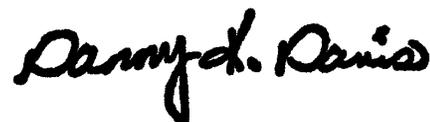
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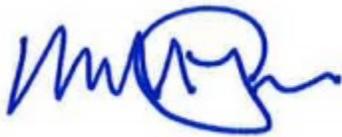
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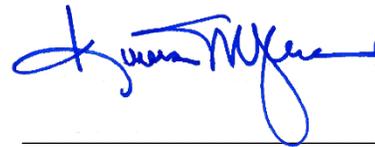
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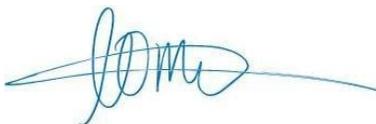
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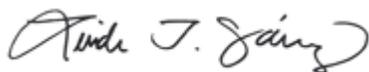
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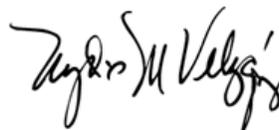
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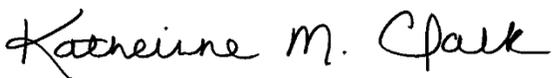
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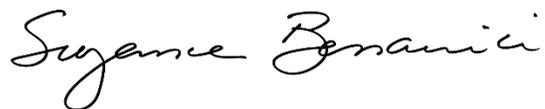
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