

September 23, 2021

ATTORNEY GENERAL RAOUL LEADS COALITION VOICING CONCERN OVER DISPARATE TREATMENT OF HAITIAN REFUGEES

Raoul, AGs Call for Fair, Compassionate Treatment of Haitian Refugees Fleeing Crisis

Chicago — Attorney General Kwame Raoul along with District of Columbia Attorney General Karl Racine, Minnesota Attorney General Keith Ellison, Nevada Attorney General Aaron Ford, New York Attorney General Letitia James and U.S. Virgin Islands Attorney General Denise George, today led a coalition of 18 attorneys general in sending a letter to President Joe Biden and Secretary Alejandro Mayorkas of the Department of Homeland Security expressing concern over the treatment of thousands of Haitian refugees currently seeking humanitarian aid along the border in Texas. Raoul and the coalition also urged the administration to reevaluate its rush to unfairly expel refugees to Haiti.

[In their letter](#), Raoul and the coalition are calling on the Biden administration to ensure that federal officials treat Haitian refugees with dignity and compassion. The attorneys general also are urging the administration to exercise its authority to give Haitian nationals seeking refuge in the United States the same due process other immigrants and refugees receive by assessing each Haitian refugee on a case-by-case basis, rather than continuing a disparate immigration policy that rushes the repatriation of Haitian refugees to a country that has suffered from political unrest after the assassination of their president and a humanitarian crisis on the heels of a devastating earthquake and tropical storm.

“The images of the treatment of Haitian refugees at the border are appalling and upsetting. It is also particularly disturbing that these refugees could face greater harm because they were deprived of the due process other immigrants receive, and instead are being almost immediately repatriated to a country in crisis,” Raoul said. “Haitian refugees who have fled trauma and extreme hardship after several devastating natural disasters and political upheaval following the assassination of their president deserve to be treated with compassion and fairness while seeking refuge in the United States. As an Attorney General and as the proud son of Haitian immigrants, I am calling on our federal government to do better.”

In recent days, photographs and video have emerged of U.S. immigration officials using inhumane tactics, including charging at and attempting to whip Haitian refugees, in Del Rio, Texas. This comes as thousands of refugees continue to flee Haiti as the country faces unprecedented political upheaval following this summer’s presidential assassination and struggles to rebuild critical infrastructure after a destabilizing August earthquake.

In today’s letter, Raoul and the coalition commend the federal government’s commitment to investigating the inhumane tactics of U.S. immigration officials in Texas and for its recent decision to increase the number of refugees who will be allowed into the United States. However, Raoul and the coalition also express concern over the continuation of a summary deportation policy that is forcing many Haitian refugees seeking asylum or other humanitarian assistance in the United States to return to Haiti without any consideration of the legitimacy of their claims for asylum.

Raoul and the coalition assert that Haitian refugees deserve the same due process as all other individuals attempting to immigrate or flee to the United States, and the circumstances of every Haitian seeking refuge in the United States should be assessed on a case-by-case basis. The attorneys general argue that this individualized evaluation should factor in both the time a person has been away from Haiti and the

circumstances he or she will likely face if forced to return amid Haiti's current humanitarian and governance crises.

Raoul and the coalition note that the federal government has several tools at its disposal to address the dire conditions Haitian refugees are facing in Del Rio, including the president's ability to exercise discretionary refugee admission authority during a humanitarian crisis. In the event of an unforeseen emergency refugee situation, the president has authority to designate a number of refugees to be admitted into the United States that is separate from the annual cap on immigrants allowed into the U.S. Raoul and the attorneys general point out that the admission of Haitian refugees is justified by the grave humanitarian concerns currently facing the people of Haiti.

Raoul and the coalition also suggest that the administration could invoke country-specific measures to allow these migrants to legally remain in the United States while conditions in their country of origin are too hazardous for them to safely return. Additionally, the U.S. attorney general may parole a refugee into the United States. Raoul and the coalition argue that the administration should exercise its discretion, which the law expressly provides, to demonstrate compassion and fairness in the treatment of those Haitians seeking refuge in our country.

Joining Attorneys General Raoul, Racine, Ellison, Ford, James and George in sending the letter are the attorneys general of California, Connecticut, Iowa, Maine, Massachusetts, Michigan, New Mexico, Oregon, Rhode Island, Vermont, Virginia and Washington.



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September 23, 2021

Via E-mail and U.S. Mail

President Joseph Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

Re: Haitian Refugees

Dear President Biden and Secretary Mayorkas:

We, the Attorneys General of Illinois, the District of Columbia, Nevada, New York, the U.S. Virgin Islands, California, Connecticut, Iowa, Maine, Massachusetts, Michigan, Minnesota, New Mexico, Oregon, Rhode Island, Vermont, Virginia, and Washington write to you concerning the urgent circumstances facing thousands of Haitian migrants currently seeking the humanitarian aid of the United States at our borders. Like many Americans, we were grateful to learn that your administration will investigate the tactics of U.S. immigration officials on horseback who were recently filmed and photographed charging at—and apparently attempting to whip—Haitian migrants as they sought to bring food to their families massed under a bridge in Del Rio, Texas.¹ We trust that this investigation will result in the cessation of these inhumane tactics, which do not reflect the values of our nation and our respective states. Likewise, we commend the

¹ See Alexandra Petri, *Homeland Security Investigates Border Patrol's Treatment of Haitian Immigrants*, N.Y. TIMES (Sept. 20, 2021), <https://www.nytimes.com/2021/09/20/us/politics/haitians-border.html>.

administration for its recent decision to greatly increase the number of refugees who will be allowed into the United States in the coming fiscal year.²

While we are confident that your administration will address the alarming practices recently used to apprehend Haitian migrants at the border, we remain deeply concerned by the administration's continuation of a summary deportation policy (ostensibly supported by 42 U.S.C. § 265 and related rules) that is sending many Haitians back to a country facing one of the worst series of crises in its history. Haiti is experiencing unprecedented political upheaval from this summer's presidential assassination and is struggling yet again to rebuild after a destabilizing earthquake. These unexpected events have prompted a new influx of Haitian nationals seeking refuge in our country. We understand that the administration must constantly reconsider and formulate responses to a challenging crisis that is unfolding day by day. However, individuals seeking asylum or other humanitarian assistance in our country deserve our respect and compassion, and they should not be treated differently from other migrants based on their country of origin. Haitians deserve the same due process as all others attempting to immigrate or flee to the United States. The circumstances of every Haitian seeking refuge here should be assessed on a case-by-case basis. This individualized evaluation should factor in both the time a person has been away from Haiti and the circumstances he or she would likely face if compelled to return to a nation in the midst of dire humanitarian and governance crises.

We support and encourage the Administration to use the several tools available to address the critical conditions for the Haitians who have sought refuge under the bridge in Del Rio. In immigration matters, the Supreme Court has repeatedly affirmed "the deference traditionally accorded the President in this sphere."³ For example, the President may set a number of refugees to be admitted to the United States separate from the annual cap after determining that "an unforeseen emergency refugee situation exists," and that admission of those refugees "is justified by grave humanitarian concerns."⁴ The administration also could invoke country-specific measures to allow these migrants to legally remain in the United States while conditions in their country of origin are too hazardous for them to safely return.⁵ On an individual level, the Attorney General may parole a migrant into the United States if he "determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States."⁶

We also respectfully urge your administration to reconsider relying on 42 U.S.C. § 265 and related rules to justify expelling Haitian nationals to Haiti. As one federal court recently held, citing Title 42 to expel foreign nationals already in the United States on public health grounds defies the language of the statute and overrides clear humanitarian protections for refugees in the law.⁷

² See Mica Rosenberg & Lisa Lambert, *Biden Administration Seeks to Lift U.S. Refugee Cap to 125,000*, REUTERS (Sept. 20, 2021), <https://reut.rs/3EHHWmG>.

³ *Trump v. Hawaii*, 138 S. Ct. 2392, 2409 (2018).

⁴ 8 U.S.C. § 1157(b).

⁵ See, e.g., 86 FR 41863, *Designation of Haiti for Temporary Protected Status* (Aug. 3, 2021); 86 FR 9531, *Reinstatement of Deferred Enforced Departure and Continuation of Employment Authorization and Automatic Extension of Existing Employment Authorization Documents for Eligible Liberians* (Feb. 16, 2021).

⁶ 8 U.S.C. § 1182(d)(5)(B).

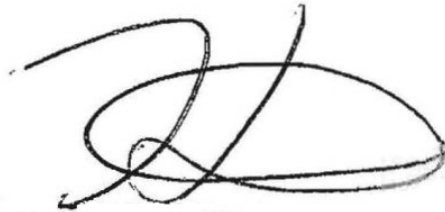
⁷ See *Huisha-Huisha v. Mayorkas*, Civ. Action No. 21-100, 2021 WL 4206668 (D.D.C. Sept. 16, 2021).

As Attorneys General, we understand the need to respond to an evolving crisis while following the law. We urge the administration to exercise its discretion—discretion that the law expressly provides—to demonstrate compassion and fairness in the treatment of those Haitians seeking refuge in our country.

Respectfully,



KWAME RAOUL
Illinois Attorney General



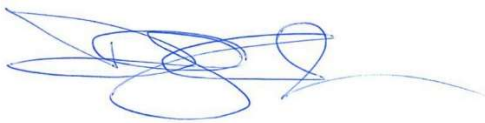
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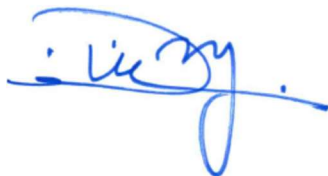
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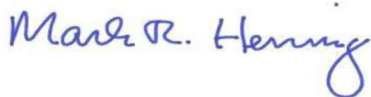
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