



March 10, 2021

To:

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

CC:

Antony J. Blinken, Secretary of State
Nathan Stiefel, Deputy Ombudsman for the Office of the Citizenship and Immigration Services Ombudsman
Tracy Renaud, Director of the U.S. Citizenship and Immigration Services

Subject: U.S. and Brazil relations regarding migration issues

Your Excellency,

The Brazilian organizations subscribed below, as well as other Latin American organizations who work to protect and promote migrants' and refugees' rights provided for under the international law, congratulate you for assuming office as the 46th President of the United States of America, and for working to immediately revoke anti-rights migration policies and legislation adopted by the previous administration and to reinstate good practices.

For the past month, the civil society has been following, with hope and relief, the express publication of a series of Executive Orders and Presidential Proclamations addressing immigration policy challenges with a more humane, effective and rights-based approach.

We especially emphasize our interest in the termination of the national emergency concerning the southern border of the United States and the interruption of the construction of a border wall with Mexico; the ending of discriminatory bans on entry to the United States of individuals from predominantly Muslim and African countries; the preservation and fortification of the Deferred Action for Childhood Arrivals (DACA); the inclusion of undocumented migrants in the country's censuses; the efforts for strengthening the U.S. asylum system; and, the reunification of families and the ending of child separation, among other important measures.

Moreover, we salute the government and Democratic members of Congress in advance for the initiative of introducing an immigration reform bill, which aims to build a path to citizenship, giving hope to millions of undocumented migrants living in the U.S. and contributes to the prosperity of the American society itself.

Considering that the United States has the power to positively influence other countries around the world in an expressive cooperative role, and that national policies that contradict international standards can have great impacts at the regional and international levels, we urge Your Excellency to pay attention to the major setbacks for the rights of migrants occurring in Brazil and to demand progress from the Brazilian authorities in diplomatic spaces.

The multidimensional crisis that we are experiencing due to the pandemic has aggravated, exacerbated, and deepened the pre-existing inequalities and vulnerabilities of the migrant population in Brazil. However, since 2019 the Brazilian government has issued decrees that authorize summary deportation and even the arrest of migrants, so the COVID-19 pandemic is only serving as a pretext to the continuation of these illegal and unconstitutional acts, that also violate several treaties.

Between March 18, 2020 and January 25, 2021, no less than 28 decrees placing restrictions on entry into Brazil were published. These decrees are strict and discriminatory against people coming from Venezuela and determine the suspension of asylum requests, immediate deportation, or repatriation and administrative, civil, and criminal liability of migrants as a consequence of non-compliance. These measures violate the principle of *non-refoulement*, the right to immediate access to the asylum application procedure and the principle of non-criminalization of migration, all of which are provided for in Brazilian migration and refugee laws. Also, summary and collective deportation and repatriation are illegal practices, as they are not provided for in Brazilian migration law.

In practice, the enforcement of these decrees has cruel effects. During August 2020, for example, dozens of people, including children, were deported in Brazil's Acre state border with Peru, being left on a bridge for days, without food, water, hygiene, or shelter, since they could not go back to Peru.¹ In January 2021, more than 50 Venezuelan indigenous people, among them 32 children, experienced threats of mass deportation. Thanks to a lawsuit filed by the Public Defender's Office that did not happen.² In fact, deportation rates increased more than 5,000% in Brazil in 2020, in comparison with 2019.³

While the government has denied the entry of asylum seekers and vulnerable migrants by land and water, tourists are entering by air and the land border with Paraguay is open because of economic interests. The government claims that the decisions are based on recommendations from the National Health Surveillance Agency (Anvisa), but the agency

¹ Flávia Mantovani. Justice releases entry of Venezuelans who spent weeks trapped in bridge between Brazil and Peru. Folha de S. Paulo, August 7, 2020. Available at: <https://www1.folha.uol.com.br/mundo/2020/08/justica-libera-entrada-de-venezuelanos-que-ficaram-semanas-presos-em-ponte-entre-brasil-e-peru.shtml>. Last accessed on January 28th, 2021.

² G1. RR Justice orders Venezuelan children to be sheltered even with a closed border. January 09th, 2021. Available at: <https://g1.globo.com/rr/roraima/noticia/2021/01/09/justica-de-rr-ordena-que-criancas-venezuelanas-sejam-acolhidas-mesmo-com-fronteira-fechada.ghtml>. Last accessed on January 26th, 2021.

³ Viviane Souza and Isabela Leite. Deportations of foreigners grow 5,708% in Brazil in 2020. G1, February 21, 2021. Available at: <https://g1.globo.com/mundo/noticia/2021/02/21/deportacoes-de-estrangeiros-crescem-5708percent-no-brasil-em-2020.ghtml>. Last accessed on February 25th, 2021.

said it never recommended tougher restrictions to people from Venezuela and the selective openness with Paraguay.⁴

Our government's alignment with the practice of summary deportations, without the guarantees of due process and the right to defense, even had an impact on Brazilians living irregularly in the United States, when the Trump administration forcibly and collectively deported more than a hundred Brazilian migrants, between October 2019 and January 2020, with the approval of president Bolsonaro. We respectfully ask Your Excellency to not perpetuate such an extreme practice.

As a result of the restrictions imposed by the 28 border closure decrees, Brazil has been increasingly militarizing its borders. Recently, hundreds of migrants (almost 500), mainly Haitians, have tried to leave Brazil through the north border with Peru, but they were facing a lot of difficulties to pass to the neighboring country and were staying on a bridge in a situation of extreme vulnerability.⁵ In response, the Ministry of Justice has issued a decree determining that the National Public Security Force is preventing the exit of migrants from Brazil,⁶ contrary to Article 13 of the Universal Declaration of Human Rights. A federal judge issued a decision making it possible for the National Force to remove the migrants from the bridge coercively, but they left it voluntarily, even though they don't have any resources to stay in Brazil anymore. The Public Defender's Office and Civil Society Organizations worked hard to preserve the migrants' rights in this situation.

Furthermore, accordingly to the Public Defender's Office and the Ministry of Defense, the Brazilian army commanding Operation Welcome⁷ at the border with Venezuela is denying assistance and shelter to undocumented migrants who entered the country during the pandemic. This is illegal under our migration law, as it guarantees that any migrant, regardless of their migratory status, can have access to health and social assistance.

The migrant population is also currently facing the following issues in Brazil: shelters where it is not possible to follow biosecurity protocols, returns without dignity, increased xenophobia, dismissed workers, food crisis, barriers to the access to health, social assistance and emergency income and the abuse of power. In short, there is a widespread violation of the fundamental rights of migrants and refugees that enter Brazil.

The Brazilian government has recently confirmed its lack of commitment to the rights of migrants and refugees, since Brazil has not joined the UN's HRC Joint Statement on the Human Rights of Migrants, especially in the context of the COVID-19 pandemic, which was

⁴ Patrícia Campos Mello. Brazil bars Venezuelans on the border based on nonexistent guidance from Anvisa. Folha de S. paulo, February 25, 2020. Available at: <https://www1.folha.uol.com.br/mundo/2021/02/brasil-barra-venezuelanos-na-fronteira-com-base-em-orientacao-inexistente-da-anvisa.shtml>. Last accessed on February 26, 2020.

⁵ Jacqueline Fowks. Fleeing the pandemic in Brazil, Haitians are repressed on the border with Peru. El País, February 20, 2021. Available at: <https://brasil.elpais.com/brasil/2021-02-20/fugindo-da-pandemia-no-brasil-haitianos-sao-reprimidos-na-fronteira-com-o-peru.html>. Last accessed on February 25, 2021.

⁶ Sandra Manfrini. Justice corrects ordinance on the use of National Force in Acre. UOL, February 22, 2021. Available at: <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2021/02/22/justica-corrige-portaria-sobre-uso-da-forca-nacional-no-acre.htm>. Last accessed on February 25, 2021.

⁷ Humanitarian task force coordinated by the federal government, with special involvement of the Armed Forces, destined to assist vulnerable Venezuelan migrants that cross the border with Roraima state.

signed by 95 countries, including the United States. It is also important to emphasize that the current government was responsible for the exit of Brazil from the Global Compact for Migration. It is necessary to demand that Brazil be more coherent in its international positions and in its national policies on the subject, also because the country currently holds the position of president of the UNHCR's Executive Committee.

Therefore, we aim, with the help of the new American government, to demand an end to all forms of violence and abuse carried out against migrants and their families, to promote and protect their basic rights as human beings, regardless of their nationalities, also through supranational responses for effective migration alternatives.

Most respectfully,

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