

February 22, 2021

Norris Cochran
Acting Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dr. Rochelle Walensky, MD, MPH
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Acting Secretary Cochran and Director Walensky:

As organizations that represent and advocate for migrants, refugees, and immigrant children as well as organizations committed to science-based governmental decision-making, we write to express our grave concern about reports that the Centers for Disease Control and Prevention (CDC) and the Department of Health and Human Services (HHS) have decided to continue for now the widely discredited and illegal misuse of public health authority started by the administration of former President Donald Trump to advance discriminatory immigration policy objectives. This policy [contravenes](#) US obligations under international law. We write to reiterate [pleas](#) by public health experts to urgently rescind the CDC's [order](#) and remove or revoke the HHS [regulation](#) to restore public trust that the CDC's actions are based on science, not political whims.

Last week, the CDC left largely in place—after a [required](#) review—the unlawful CDC [order](#) under which the US government has blocked and expelled asylum seekers and children to danger in violation of US refugee and anti-trafficking laws and treaties, [deciding](#) only to temporarily exempt unaccompanied children from the expulsion policy. The administration of President Joe Biden [confirmed](#) last week that it will continue to use this order and a related HHS [regulation](#) to expel and block people en masse despite [overwhelming opposition](#) to the expulsion policy by epidemiologists and other public health experts and widespread [reports](#) of asylum seekers who were expelled to life-threatening danger. For example, [Nicaraguan activists](#) were delivered into the hands of the government that they said had tortured them. In the past two weeks, the Biden administration has already expelled [hundreds](#) of Haitian asylum seekers and migrants to danger in [Mexico](#) and [Haiti](#), among other illegal expulsions. Confirming that the “vast majority” of asylum seekers and migrants would continue to be expelled, the administration [said](#) that “now is not the time to come.”

The anti-immigrant and anti-refugee agenda of the Trump administration was fully evident long before the Covid-19 pandemic. After the outbreak, it soon became clear that the architects of the policies to block access to asylum [would use the pandemic](#) to co-opt and misuse public health authority granted to

the CDC under US law to achieve this aim. Immediately seizing on the Covid-19 pandemic, the Trump White House rammed through CDC and DHS administrative actions to authorize expulsions of asylum seekers and children over the [objections](#) of senior [CDC](#) medical [experts](#). A former White House aide described this pressure campaign as a “Stephen Miller special.” Leading epidemiologists and other public health experts repeatedly [called](#) on the Trump administration to end these [specious](#) bans and expulsions, describing them as “xenophobia masquerading as a public health measure” and explaining that rational, science-based public health measures can and should be used to both protect public health and safeguard the lives of people seeking asylum.

On February 2, President Biden issued an [executive order](#) that directed HHS and CDC to promptly review and determine whether to terminate, rescind, or modify the CDC [order](#) and HHS [regulation](#) that purport to authorize the summary expulsions. It also directed DHS to take steps to restore the processing of asylum claims at the border. The executive order therefore left intact—and directed your agencies to promptly address—the unlawful policies that enable DHS to expel asylum seekers and children with their parents seeking protection at our borders. The CDC was also [required](#) by the terms of the order itself to review it by February 10 to “ensure that [it] remains necessary to protect the public health,” but failed to rescind it despite overwhelming [evidence](#) that it has no scientific basis as a public health measure. It is critical that your agencies rescind or revoke these policies to put an end to illegal expulsions and allow the administration to restore safe asylum processing. We welcome the CDC’s formal decision to temporarily [exempt](#) unaccompanied children from expulsion under these policies as it continues its review; however, families and adults seeking protection continue to be expelled en masse to persecution and torture in the countries they fled or to extreme danger in Mexican border regions.

The UN Refugee Agency (UNHCR) released [guidance](#) on March 16, 2020 calling for border measures relating to Covid-19 to be non-discriminatory, and limited to those necessary, proportionate, and reasonable to the aim of protecting public health. It further stated that a “blanket measure” barring asylum seekers at risk of refoulement—such as the US government’s expulsions of asylum seekers—is discriminatory and does not meet international standards. As UNHCR’s Assistant High Commissioner for Protection [explained](#) when she condemned expulsions of refugees and asylum seekers at borders in a statement focused on pushbacks from Europe: “[t]he right to seek asylum is a fundamental human right. The Covid-19 pandemic provides no exception.”

Public health and medical experts at leading public health schools, medical schools, hospitals and other institutions wrote to you in late January 2021 urging the CDC to rescind the current [order](#), which the experts concluded has “no scientific basis as a public health measure,” and to adopt rational, science-based [measures](#) to safeguard public health while processing asylum seekers and children at the border during the Covid-19 pandemic. These measures include the use of masks, personal protective equipment, ventilation, testing and social distancing and the avoidance of detention. DHS, along with HHS, should act quickly to increase capacity to implement testing and other appropriate public health measures.

We urge you to immediately rescind the CDC administrative actions that have formed the basis for unlawful expulsions and issue official guidance on appropriate, science-based public health measures for border processing. Such a step is essential for the United States to comply with its obligations to asylum seekers under US and international law, as well to begin rebuilding the reputation of the CDC as a science-based organization.

Sincerely,

Al Otro Lado
Aldea - The People's Justice Center
Alianza Americas
Alliance San Diego
Ansara Family Fund
Asylum Seeker Advocacy Project (ASAP)
AsylumWorks
Bellevue Program for Survivors of Torture
Border Kindness
Bridges Faith Initiative
Center for Gender & Refugee Studies
Center for Victims of Torture
Church World Service
Columbia Law School Immigrants' Rights Clinic
Detention Watch Network
Espacio Migrante
Esperanza Immigrant Rights Project
First Focus on Children
Florence Immigrant & Refugee Rights Project
Freedom for Immigrants
Georgia Asylum and Immigration Network (GAIN)
Haitian Bridge Alliance
Hispanics in Philanthropy
Hope Border Institute
Human Rights First
Human Rights Initiative of North Texas
Human Rights Watch
Immigration Hub
Institute for Justice & Democracy in Haiti (IJDH)
International Refugee Assistance Project
International Rescue Committee
International Tribunal of Conscience of Peoples in Movement
Justice Action Center
Kids in Need of Defense

Kino Border Initiative
Latin America Working Group (LAWG)
Lutheran Immigration and Refugee Service
Michigan United
Mississippi Center for Justice
National Immigrant Justice Center
National Immigration Law Center
National Network for Immigrant & Refugee Rights
NETWORK Lobby for Catholic Social Justice
NM CAFE
Northern Illinois Justice for Our Neighbors
Oxfam America
Physicians for Human Rights
Project Blueprint
Sojourners
South Bay People Power
Southern Border Communities Coalition
The Georgia Human Rights Clinic
UDC Law Immigration & Human Rights Clinic
VECINA
Washington Office on Latin America
Witness at the Border
Women's Refugee Commission
Young Center for Immigrant Children's Rights