

Haiti Justice Partnership (HJP)

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Submission to the United Nations Human Rights Council *Periodic Review of the United States of America* *Border Rights Working Group*

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The Impact of U.S. Immigration and Border Externalization Policies on Haitian and Other Black Refugees, Asylum-Seekers, and Migrants

Main Submitting Organization: Haiti Justice Partnership (HJP)

Founded in 1999, HJP advances the rule of law and promotes human rights in Haiti by supporting the country's legal education and engaging in human rights advocacy. HJP represents a more than two-decade-long collaboration between University of California College of the Law, San Francisco (UC Law SF) and École Supérieure Catholique de Droit de Jérémie (ESCDROJ), the first law school in Haiti dedicated to preparing students to serve the public interest. HJP has been supporting Haitian asylum-seekers stranded in Mexico since 2020.



Haiti Justice
Partnership

Other Submitting Organizations:

Al Otro Lado, Center for Gender & Refugee Studies, Human Rights First, and UndocuBlack Network



Endorsed by: Communities United for Status and Protection, Haitian Bridge Alliance, and the Institute for Justice & Democracy in Haiti



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I. Executive Summary

1. Immediately after taking office, President Donald Trump issued a series of executive orders and proclamations that suspended access to asylum¹ and deployed the military to the U.S.-Mexico border,² terminated humanitarian parole programs,³ and threatened tariffs on Mexico.⁴ New U.S. policies violate international and domestic law and have a devastating effect on Haitian and other Black refugees, asylum-seekers, and migrants (referred to collectively as “migrants” throughout). By suspending asylum processing at the southern border,⁵ the U.S. government has denied migrants the right to seek asylum, which is enshrined in international and domestic frameworks such as the Universal Declaration of Human Rights (UDHR), the Refugee Convention and Protocol (“Refugee Convention,” collectively), and the U.S. Refugee Act of 1980.⁶ Most concerning, U.S. policies violate *non-refoulement* obligations under the Refugee Convention, the Convention Against Torture (CAT), and U.S. law by returning asylum-seekers to their home countries and other countries where they face persecution, torture or other threats to their life or freedom.⁷
2. As seeking asylum in the United States is cut off, many migrants who would face harm if they returned to their country of origin have no choice but to seek protection in Mexico instead. However, Black migrants in particular face violence, discrimination, extortion, significant hurdles to refugee or other legal status, and many other vulnerabilities in Mexico. As such, many Haitians never intended to live in Mexico and many feel unsafe there and are therefore especially impacted by the closure of the border due to racial discrimination and cultural and language barriers.
3. This report contains information gathered from archival research, such as recent reports of violence and exploitation faced by migrants prepared by Human Rights First. It also includes primary data collected by Al Otro Lado (AOL) from 102 survey responses from Haitian migrants and their families from February through early April 2025 in Mexico City,⁸ as well as analysis from over fifty interviews with Haitian migrants in Mexico City in March 2025, conducted by the Haiti Justice Partnership (HJP) in collaboration with AOL, the Center for Gender and Refugee Studies (CGRS), and the UndocuBlack Network (collectively, “the delegation”).⁹
4. By systematically denying migrants the right to seek asylum, the United States externalizes its border into Mexico and attempts to evade international and domestic prohibitions against *refoulement* by returning them to a territory where they would face torture; cruel, inhuman or degrading treatment or punishment; and other irreparable harm, whether in Mexico or their home country as a result of Mexico’s inability to provide protection.¹⁰ Forcing individuals seeking asylum to wait in Mexico and pressuring Mexican officials to assist with keeping migrants from the U.S.-Mexico border exacerbates an already precarious situation for Haitian and other Black migrants in the country. The U.S. government’s actions violate its legal obligations under the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) among other international norms including state commitments to cooperate in their protection of migrants globally and in this hemisphere.¹¹

5. We urge the United States to immediately (a) restore access to asylum, (b) end its border externalization policies, (c) strengthen *non-refoulement* protections, and (d) work in collaboration with Mexico to improve access to legal status documentation, shelter and housing protections, medical services, and protection from violence for Haitian and other Black migrants in Mexico.

II. National And International Legal Framework

6. Article 14 of the UDHR establishes that “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”¹²
7. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol are rooted in the right to seek asylum established in the UDHR.¹³ The United States ratified the 1967 Refugee Protocol in 1968 and amended the Immigration and Nationality Act (INA) in 1980 to reflect it.¹⁴ This law, known as the Refugee Act of 1980, gives individuals fleeing persecution the legal right to seek asylum in the United States.¹⁵ The INA states: “Any [individual] who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an [individual] who is brought to the United States after having been interdicted in international or United States waters), irrespective of such [individual’s] status, may apply for asylum.”¹⁶ Under U.S. law, asylum is discretionary.¹⁷
8. However, the prohibition against *refoulement* to persecution or torture, codified in separate statutes, is mandatory. In addition to U.S. statutes, the United States is prohibited from *refoulement* pursuant to Article 33 of the Convention, which states that “No Contracting State shall expel or return (“*refouler*”) a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened...”¹⁸ The United States therefore may not return a refugee to a territory where their life or freedom is threatened.¹⁹ Additionally, the Convention requires access to an asylum process for people seeking protection, which must include an individualized determination of whether each person meets the definition of a refugee.²⁰
9. Article 3 of CAT, which the United States ratified in 1994, likewise prohibits *refoulement* “to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”²¹
10. The United States has ratified ICCPR and ICERD. Article 26 of ICCPR prohibits discrimination on “any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,”²² while ICERD prohibits racial discrimination.²³

III. Failures of Implementation: Significant Violations of the Right to Asylum

A. The U.S. Government’s History of Externalization of its Border and Consequent Evasion of its Legal Obligations

11. The United States' most recent Universal Periodic Review (UPR) took place during the 36th session of the UPR Working Group in November 2020.²⁴ Recommendations included adhering to basic international treaty obligations and U.S. law, such as ensuring a regular individualized process and timely adjudication for asylum requests.²⁵ The United States dismissed the recommendations and concerns of stakeholders and the High Commissioner²⁶ and has continued to evade its responsibility to asylum-seekers by leveraging immigration enforcement by proxy to Mexico through externalization.
12. Externalization is the practice where States attempt to enforce their immigration policies by implementing measures "in locations beyond their territorial borders to obstruct, deter or otherwise avert the arrival of refugees, asylum-seekers and other migrants."²⁷ Externalization allows countries like the United States to *claim* compliance with international obligations while, in reality, abdicating responsibility to other countries, like Mexico.²⁸
13. The United States has evaded its obligations to offer protection to asylum-seekers by effectively denying access to the system. Its policies denying access to asylum, whether at or outside designated ports of entry; pushing migrants away from its territorial border; and pressuring Mexico to prevent migrants from reaching the U.S. border contravene U.S. law, the Refugee Convention, and CAT.
14. Since 2016, the United States has implemented policies that block, ban, deport, and/or expel asylum-seekers to Mexico. Most of these policies, listed below, were found to be unlawful by U.S. courts.
 - (a) Metering limited and controlled the number of asylum-seekers allowed to approach ports of entry. The policy resulted in pushbacks to Mexico without access to the U.S. asylum process. In 2024, the Ninth Circuit held that metering was unlawful because it withheld the legal duty of border officers to inspect and process asylum-seekers at ports of entry along the U.S.-Mexico border.²⁹
 - (b) The Migrant Protection Protocols (MPP) returned migrants to dangerous Mexican border towns to wait for their U.S. immigration proceedings. A federal court enjoined MPP, but the case was vacated as moot while on appeal to the Supreme Court and the parties reached settlement benefitting individual plaintiffs and closing the case.³⁰ MPP was found unlawful by the highest court that considered the policy on the merits.³¹
 - (c) Title 42 policies were used to block and summarily expel people at the border under the pretext of public health. A federal court of appeals affirmed a lower court ruling blocking this use of Title 42 on multiple grounds including that the government failed to screen individuals for persecution or torture before expulsion.³²
 - (d) The Circumvention of Lawful Pathways rule (CLP) banned asylum based on manner of entry into the United States and transit route, conditioned access to asylum on securing a limited, lottery-based appointment through the deficient CBP One mobile app, and by doing so, denied access to asylum to people who did not speak one of the app's limited languages, including most African and Indigenous asylum-seekers, as well as others unable to use it due to access barriers. Litigation challenging CLP is pending.³³

- (e) The Securing the Border asylum ban denied equal access to asylum by suspending asylum processing at the border and barring application for anyone who could not secure a CBP One appointment. Litigation challenging this asylum ban is also pending.³⁴
 - (f) Several policies implemented under the current administration that are discussed below, collectively referred to as “the January 2025 border closure policies.”
15. Human Rights First has tracked reports of over 17,000 asylum-seekers and migrants who survived kidnapping, murder, torture, rape, and other serious harms while they were stranded in Mexico after having been turned away at the U.S. border, effectively blocked from presenting at the U.S. border, or returned to Mexico under some of these policies.³⁵ Haitians and other Black migrants subjected to these unlawful policies face unique harms, including violence and discrimination when stranded in or pushed back to Mexico, disparate treatment and abuse in detention, and language barriers that impede access to the asylum system.³⁶ In addition, a greater proportion of Black migrants were subject to the metering policy and Title 42 expulsions. For example, metering was initially adopted to block a sharp influx of Haitians seeking asylum at ports of entry and was later expanded to other migrants. In May 2022, Haitians made up six percent of the migrant population crossing the border but represented sixty percent of those forced onto expulsion flights under Title 42.³⁷ Conversely, white Ukrainians were largely granted exceptions to Title 42 and permitted to enter the country.³⁸
 16. Other forms of externalization have included U.S. pressure on the Mexican government to prevent migrants from reaching the U.S. border to request asylum. Since January 2024, Mexico has ramped up efforts to intercept, detain, and transport away from the border migrants attempting to seek asylum.³⁹ Similarly, largely due to U.S. pressure, Mexican authorities in the southern state of Chiapas ceased issuing “exit permits” to Haitian migrants – documents which once allowed them to travel from Chiapas north to the U.S.-Mexico border.⁴⁰ In addition, U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and the U.S. Department of Defense (DOD) provide military equipment and migrant-policing training to Mexico.⁴¹
 17. The DOD has also sold millions of dollars’ worth of “smart border technologies” to Mexico to collect and share migrants’ biometric and biographical data.⁴² These policies have made Haitian migrants even more vulnerable to attention from authorities who, since 2019, have worked to keep them and other Black migrants from traveling to the border.⁴³

B. 2025 U.S. Executive Orders and Policies Externalizing the U.S. Border into Mexico and Destroying the Right to Asylum

18. On January 20, 2025, Inauguration Day, President Trump issued the “Guaranteeing the States Protection Against Invasion” proclamation (“Suspension Proclamation”), which suspends asylum processing and bars eligibility for asylum and other legal protections at the southern border,⁴⁴ as well as Executive Order 14165, “Securing Our Borders.”⁴⁵ “Securing Our Borders” calls for the resumption of MPP and the termination of categorical humanitarian parole programs and terminates the use of the CBP One application to schedule appointments for migrants to present at border ports of entry.⁴⁶

19. The CBP One mobile app, launched in 2020 by CBP, was billed as a tool for migrants. However, starting in 2023, CBP essentially required migrants to use the app to schedule appointments to be processed into the United States at border ports of entry with very limited exceptions.⁴⁷ Those processed into the United States could later apply for asylum or other protections. Unfortunately, the app was riddled with discriminatory deficiencies that disproportionately precluded access to those contending with language barriers, illiteracy, financial/socio-economic barriers, or otherwise.⁴⁸ This forced people to wait in dangerous conditions where they were preyed upon and faced violent harm or risk crossing outside a port of entry in the desert or other dangerous terrain.⁴⁹
20. While the CBP One appointment system was a deeply flawed mechanism,⁵⁰ it was until recently effectively the only means of accessing the asylum process at all in the United States. The current administration's termination of CBP One, in conjunction with its suspension of processing at ports of entry, cancellation of alternative pathways to protection,⁵¹ and failure to introduce another avenue to seek asylum at the border, all but eradicated any ability to seek protection from persecution at the U.S. border in violation of U.S. and international law.⁵³ The January 2025 border policies left hundreds of thousands of asylum-seekers with no opportunity to exercise their right to seek asylum or other protection.⁵²
21. The shutdown of the CBP One appointment system has left Haitians in limbo, and the process has cost them most of their money, sometimes thousands of dollars.⁵³ According to AOL's survey, 81% percent of respondents registered for the CBP One app, with 57% unable to secure an appointment, and 24% had an appointment that was cancelled on January 20, 2025. Many waited several months in Mexico for their CBP appointments-- between 3 to 9 months (31%), 9 to 12 months (7%), and over a year (10%).⁵⁴ Some even booked flights to the border and to their destination city in the United States before the CBP One app system closed, only to arrive at the border and learn their appointments were canceled. *Larry*,⁵⁵ a Haitian man who traveled to Mexico with his wife and eight-year-old son, bought plane tickets to the border and to his family in Indiana. After their CBP One appointment was canceled, the airlines refused to refund the tickets.⁵⁶ *Larry* sold wares on the side of a busy street every day in order to make ends meet. *Diane* was one of seven family members who all had a CBP One appointment on January 13, 2025, which was then moved to February 2. She bought flights for all seven people, each of which cost over \$2,000 MXN. All appointments were canceled, and the airline denied her refund request.⁵⁷ This amount of money represented a significant loss for this group, who did not have sufficient funds to pay the medical expenses for a family member with an urgent health condition.
22. The United States violates its *non-refoulement* obligations under CAT, the Refugee Convention, and U.S. law by rejecting at its borders, expelling, and/or returning asylum-seekers to States where they face torture or threats to their life or freedom.⁵⁸ Moreover, its policies violate the duty of non-penalization for entry to the territory without authorization for the purpose of seeking asylum.⁵⁹ And when the U.S. forcibly returns people to their countries of origin without screening their fear claims, Haitians and other migrants must make the difficult decision to remain in Mexico where they face danger and discrimination, rather than risk *refoulement* and other return to more certain death by

exercising their right to approach the U.S. border to seek asylum.

23. The long U.S. history of non-compliance with *non-refoulement* has its origins with Haitians on the high seas.⁶⁰ In *Sale v. Haitian Centers Council, Inc.* (1993), the U.S. Supreme Court ruled that the neither the Immigration and Nationality Act nor Refugee Convention limited the government's ability to intercept and repatriate Haitian migrants, and that prohibitions against *refoulement* did not apply to the Coast Guard's action on the high seas.⁶¹ The United States has persistently targeted Haitians, sending them to harm in Haiti knowing full well the dangers that await them there and by preventing them from reaching the United States territory to request asylum at all. Moreover, the United States also violates its *non-refoulement* obligations by sending Haitians to Mexico, where they face both dangerous living conditions and removal to Haiti, known as *chain refoulement*. This is especially concerning for those who missed the 30-day requirement to apply for asylum in Mexico due to language access obstacles and/or misinformation, as discussed below. By effectively closing the southern border, the United States forecloses migrants' ability to come under the control of the United States, thereby shirking its *non-refoulement* obligations by default.
24. Starting on February 1, 2025, President Trump issued a series of executive actions threatening, pausing, raising, and redacting tariffs on Mexico as a tool to coerce the Mexican government to take action to prevent migrants from reaching the U.S.-Mexico border.⁶² By continuously threatening Mexico with harsh tariffs unless its government assists in preventing migrants from reaching the U.S.-Mexico border, and then rewarding the Mexican government when they comply, the most powerful country in the world is externalizing U.S. border enforcement by force to its neighbor Mexico.

C. Years of Racist Policy and Discrimination Affecting Haitians in the Interior Indicate U.S. Objectives to Exclude

25. Haitians have been subject to harsh U.S. immigration policies and racism in the United States for years, resulting in a deterrence policy aimed at excluding Haitians from the country.⁶³ In February 2025, the U.S. Department of Homeland Security (DHS) shortened the previously established validity period of Temporary Protected Status (TPS) for Haiti by six months and terminated the prior redesignation of TPS for Haiti.⁶⁴ TPS is a temporary immigration status that allows for work authorization and protection from deportation for a specified period for individuals from specific countries, based on assessments of conditions in the country.⁶⁵
26. DHS tried to terminate TPS for Haiti during the first Trump administration, but the attempt was blocked in a federal district court, which found that the decision to terminate was likely arbitrary and capricious and a product of improper political influence.⁶⁶ According to the decision, "the evidence suggests the Secretary was influenced by the White House and White House policy to ignore statutory guidelines, contort data, and disregard objective reason to reach a predetermined decision to terminate TPS and abate the presence of non-white immigrants in the country."⁶⁷ The racially discriminatory nature of the termination of TPS for Haitians in 2017 violated the United States' obligations under ICERD, and the Trump administration's racist rhetoric surrounding Haitian TPS-holders signals similarly discriminatory underpinnings for the 2025

shortening and termination.

27. In October 2024, then-candidates President Trump and Vice President JD Vance made unsubstantiated and racist claims about Haitian immigrants stealing and eating pets in Springfield, Ohio.⁶⁸ The claims terrorized Haitians in the community⁶⁹ and led to bomb threats and active shooter threats throughout Springfield, including threats to schools, hospitals, government buildings,⁷⁰ and Haitian community centers.⁷¹ The racially discriminatory actions of Trump and Vance put Black migrants in danger and foreshadowed their anti-Haitian immigration policies described herein.
28. In March 2025, DHS terminated the Cuban, Haitian, Nicaraguan, and Venezuelan (CHNV) Parole Program.⁷² Haitians paroled into the United States through the program must voluntarily depart by April 24, 2025, or face arrest, detention, expedited removal, and/or deportation.⁷³ An internal U.S. Citizenship and Immigration Service (USCIS) memo from February 2025, obtained through a Freedom of Information Act request, directs employees to place any pending benefit request filed by a CHNV parolee on administrative pause.⁷⁴ This means that any pending benefit applications (including affirmative asylum, family- or marriage-based permanent residence, work permit, trafficking or crime victim visa applications, etc.) that CHNV parolees filed with USCIS to qualify them to remain in the United States will not be processed. The authors of this report have spoken with immigration lawyers who have confirmed that USCIS has frozen their CHNV clients' applications.

IV. U.S. Violations of Right to Asylum and Externalization of the Border Are Creating a Humanitarian Crisis in Mexico with Devastating Consequences for Haitian and other Black Migrants

29. Long-standing U.S. immigration policies that externalize U.S. migration controls into Mexico have contributed to the declining situation for Haitians in Mexico. While there has been a sharp increase in Haitian migration to Mexico since 2021, as many Haitians fled political instability, the assassination of Haiti's president, and the devastating 2021 earthquake,⁷⁵ most Haitians in Mexico ultimately want to seek protection in the United States where they would feel safer and have community support networks.
30. The January 2025 border closure policies have left thousands of asylum-seekers stranded in Mexico⁷⁶ and caused Haitians to face unique hardships due to their race and culture and language barriers, including an inability to seek refugee or other legal status in Mexico, obtain work permits, or access safe and affordable shelter and medical care. Haitian and other Black migrants are also targeted for exploitation and violent harm, including kidnapping and sexual assault by criminal groups, and arbitrary detention, forced transfers within Mexico, physical and sexual violence, and widespread extortion by corrupt Mexican authorities while they transit through and/or remain in Mexico waiting and now unable to seek U.S. protection.⁷⁷
31. In Mexico, many Haitian migrants find themselves living in dire and squalid conditions, often without access to proper housing, medical care, childcare, or other necessities. As illustrated by the stories below, the dire conditions that Haitians face in Mexico as a result of discrimination, which violate nondiscrimination obligations under Article 26 of

ICCPR and ICERD, are exacerbated by the United States' externalization of its borders into Mexico. The United States also has a commitment to cooperate in the protection of migrants globally and in this hemisphere. By blocking access to asylum protection at its border, cutting financial aid to refugee processing agencies in Mexico like UNHCR, and imposing tariffs on Mexico which are only redacted when Mexican officials increase immigration enforcement, the United States strains Mexican systems that are already fragile and not set up to humanely handle a large number of migrants staying in the country for long periods of time.

32. Findings from AOL's survey indicate that forty percent of respondents⁷⁸ struggled to secure proper housing or pay their rent. For example, the delegation spoke to *Janice* whose landlord in Tapachula refused to provide her with gas to heat her apartment. She now lives in a small shed behind a house in Iztapalapa, in Mexico City.⁷⁹ Many Haitians reported that their landlords discriminated against them, charging them far more in rent than their Venezuelan or Honduran neighbors. *Justine*, whom the delegation met in Tlahuac, paid \$700 MXN per month in rent, while her Venezuelan neighbors paid \$200 MXN for the same apartment.⁸⁰ *Justine's* friend, *Esther*, noticed that all prices have increased for Haitians since the CBP One appointment system was eliminated. She thinks this is because landlords and merchants know that Haitians are stuck in Mexico, so they can raise the prices for Haitians with no consequence.⁸¹
33. Despite some Haitians securing legal authorization to work, the Haitian population in Mexico struggles with job insecurity and exploitation, and is heavily reliant on informal labor, particularly in sectors like construction, agriculture, and food delivery services.⁸² All Haitians the delegation spoke with said that securing a work permit can take several months, sometimes over a year, if they can get one at all.
34. Many Haitians interviewed were robbed of all or most of their savings on their journey to Mexico, usually by gangs operating along the route, so they are in an especially vulnerable economic position. In 2024, Haitian migrants in Mexico were reportedly the victims of extortion by criminal groups at a higher rate than any other group, with some paying up to \$16,000 in fees to smugglers for their journey to the U.S. border.⁸³ With no remaining savings and no ability to work legally, Haitians who are waiting for their asylum claims to be processed by COMAR (*Comisión Mexicana de Ayuda a Refugiados*) to request their work permit struggle to pay rent or buy food. *John* told the delegation that he and his sister were kidnapped by a gang twice when they traveled from Chiapas to Mexico City. The first time, the gang forced them to give all of their money to be set free. The second time, *John* called his family in Haiti to wire him money so he could pay the gang again. Since arriving in Mexico City, *John* said he begs his Haitian friends for money to buy food.⁸⁴ According to a 2023 International Rescue Committee Report, over ninety percent of Haitian migrants living in Mexico report not earning enough income to afford basic needs. Nearly half of those polled in the same study needed help finding food.⁸⁵
35. Without immigration papers or steady income, Haitians in Mexico struggle to access proper medical services. Many Haitians have untreated chronic medical conditions that are exacerbated by discriminatory denials of access to medical care and the inhumane conditions they face while waiting in Mexico for prolonged periods. The Haitian Bridge

Alliance has identified through its work over the years hundreds of Haitian asylum-seekers, particularly Haitian women, waiting in Reynosa who suffered from significant medical vulnerabilities, including reproductive health issues, diabetes, and stroke-related conditions. Their health conditions deteriorated while waiting in Mexico to seek U.S. asylum as they were denied or deprived of medical services. U.S. asylum and border policies that force asylum-seekers to wait in dangerous and inhumane conditions in Mexico have resulted in preventable deaths.

36. For example, humanitarian aid workers confirmed to Human Rights First that a Haitian man who had been waiting with his wife and children in Reynosa for a CBP One appointment died of suspected diabetes-related complications in July 2023, while a Haitian woman waiting to seek asylum in the United States died in front of her two-year-old outside a migrant shelter in Reynosa in September 2023.⁸⁶ The Haitian Bridge Alliance reported that in late August 2023, a Haitian mother who had been waiting with her husband and three children in Matamoros for a CBP One appointment died of a stroke after being hospitalized. The family had a CBP One appointment, but as the mother was critically ill, it came too late.⁸⁷
37. In August 2023, Human Rights First documented that a pregnant Haitian woman who approached the Reynosa port of entry to seek asylum in the United States was forced by CBP officers to wait for two days despite experiencing pregnancy complications. She later lost her baby.⁸⁸ A pregnant Haitian woman in her third trimester who was unhoused and living outside the entrance to a migrant shelter in Reynosa while waiting to seek asylum in the United States fell ill in July 2023. Seeking emergency medical care, a taxi took her to a private hospital where she was denied treatment. By the time a humanitarian aid worker brought her to a public hospital, she suffered a stillbirth.⁸⁹
38. More recently, the delegation interviewed *Lance*, a Haitian migrant in Mexico whose wife almost died the night before because she could not access insulin for her diabetes. His wife's blood sugar often spikes, but when *Lance* takes her to the hospital, the doctors refuse to treat her without immigration papers. Without a job, he has no way to pay for her medication.⁹⁰ *Diane* told us that a small child she was traveling with has a severe heart condition, but that without a work permit, his parents could not pay for the life-saving procedure he needed.⁹¹
39. Haitians face substantial hurdles accessing the Mexican immigration system. Seventy-three percent of Haitian migrants polled in 2023 reported difficulty finding information that was reliable, clear, and available in Haitian Kreyòl, especially concerning legal immigration to the United States and Mexico.⁹² Indeed, the Haitians the delegation spoke with in 2025 face the same dilemma with the COMAR offices. Most of these individuals registered with COMAR when they arrived in Chiapas but left to travel north to the border for their CBP One appointments, to find work opportunities in Mexico City, or to escape violence and discrimination. All Haitians, no matter their status, were discouraged from pursuing their applications for protection in Mexico.⁹³ Invariably, those that managed to make it north without applying in Chiapas missed the thirty-day deadline. Cases of those who did apply in Chiapas and then traveled north out of the state were considered abandoned, since COMAR requires asylum-seekers to “remain in the state where they first applied throughout the pendency of their claim.”⁹⁴ Beyond language

access issues, many Haitians report receiving misinformation. Haitians have also reported that Mexican officials incorrectly advised them that an asylum application or grant in Mexico would threaten their chances of applying in the United States in the future.

40. The COMAR system, which was already backlogged with asylum applications before the border closure, has not been provided with sufficient resources to process the recent increase in asylum applicants. Without other avenues to work authorization in Mexico such as humanitarian parole, migrants must file an asylum claim with COMAR to receive a legal status, even if they do not intend on pursuing permanent protection in Mexico on a long-term basis for reasons such as family reunification or ongoing dangers faced in Mexico. This influx of asylum claims has overwhelmed the COMAR system, which places more hurdles before Haitians attempting to navigate the process.⁹⁵ Other Black migrants in Mexico who do not speak Spanish face these same hurdles. The delegation spoke with several Congolese and Angolan individuals living in an encampment in Mexico City that is regularly visited by local government officials and international organizations. A woman named *Vivian*, who fled violence in the Republic of the Congo, said she did not know anything about the COMAR process, and that she did not know how to access those resources, given that she does not speak Spanish.⁹⁶ In addition, recent cuts to USAID and the UN budgets have led to further strain on legal and humanitarian service organizations and the COMAR system.
41. Closing the border to asylum-seekers and stranding Black migrants in Mexico, where they face discrimination and targeted harm, exacerbates migrants' right to be free from racial discrimination under ICCPR Articles 2 and 26 and ICERD.

V. Recommendations

1. **Restore Access to Asylum:** The United States must reinstate timely access to territory and asylum processing at the U.S.-Mexico border. To do so, it must rescind the Suspension Proclamation; the Securing Our Borders Executive Order; and the Biden administration's Securing the Border and Circumventions of Lawful Pathways Rules that limited access to asylum prior to 2025. All implementing guidance and actions must similarly be rescinded.
2. **End Border Externalization Policies:** The United States should cease policies that force migrants to seek asylum and/or remain in Mexico instead of allowing them to seek protection in the United States. The United States must end coercive policies and tariffs that incentivize Mexican officials to facilitate U.S. exclusion measures.
3. **Strengthen *Non-Refoulement* Protections:** The United States must ensure compliance with the Refugee Protocol and Convention Against Torture by conducting screening interviews as to fear of persecution or torture in an individual's country of origin or in any third country to which they may be removed, transferred or otherwise returned, and halt any deportations of asylum-seekers, including Haitians, to dangerous conditions, including in Mexico.

4. End coercive tariffs and other policies and instead work collaboratively with Mexico on:⁹⁷

1. Access to Legal Status Documentation: Grant a regular status to Haitian and other migrant individuals whose humanitarian and/or other visas are being processed while they await access to the United States to seek asylum. This will allow them legal status, mobility in Mexico, and access to public services. All proceedings and materials should be accessible to Haitian and other non-Spanish speaking migrants, with Haitian Kreyòl and other language interpretation available.
2. Shelter & Housing Protections: Establish broad criteria that provide clear and practical guidance to tenants and property owners on what constitutes discrimination based on race and migration or other protected status, while taking responsibility for ensuring equal access to housing for Haitian and other Black migrants.
3. Medical Access for Migrants: Ensure that all health facilities provide Haitian and other Black migrants access to healthcare regardless of their migratory status or whether they possess identity documents, in accordance with the provisions of Mexico's General Health Law.⁹⁸
4. Protection from Violence: Strengthen prevention, mitigation, and response to targeted violence and discrimination against Haitian and other Black migrants in Mexico, both by Mexican authorities and organized criminal groups, including extortion, arbitrary detention, kidnapping, sexual assault, and other harms.

¹ Presidential Proclamation "Guaranteeing the States Protection Against Invasion," The White House (Jan. 20, 2025); Exec. Order No. 14165, 90 Fed. Reg. 8467 (Jan. 20, 2025).

² Proclamation No. 10886, 90 Fed. Reg. 8327 (Jan. 20, 2025).

³ Exec. Order No. 14165, 90 Fed. Reg. 8467 (Jan. 20, 2025).

⁴ Exec. Order No. 14194, 90 Fed. Reg. 9117 (Feb. 1, 2025).

⁵ *CGRS to Defend Asylum, Challenge Executive Actions*, CGRS (Jan. 20, 2025), <https://cgrs.uclawsf.edu/news/cgrs-defend-asylum-challenge-executive-actions>.

⁶ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948); G.A. Res. 2198 (XXI) Convention and Protocol relating to the Status of Refugees (Dec. 16, 1966); 8 U.S.C. § 1101.

⁷ G.A. Res. 2198 (XXI) Convention and Protocol relating to the Status of Refugees (Dec. 16, 1966).

⁸ The responses are representative of 195 family members residing in the Mexico City greater metropolitan area.

⁹ Special thanks to the primary report authors, University of California, College of the Law San Francisco students Claire Armstrong, Micah Lesch, and Hilary Slauson.

¹⁰ Bill Frelick, Ian M. Kysel, and Jennifer Podkul, "The Impact of Externalization of Migration Controls on the Rights of Asylum Seekers and Other Migrants," *Journal on Migration and Human Security* (Dec. 6, 2016).

¹¹ See, e.g., Los Angeles Declaration on Migration and Protection, Biden White House Archives, June 10, 2022, (<https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/>) (affirming State parties' "will to strengthen national, regional, and hemispheric efforts to create the conditions for safe, orderly, humane, and regular migration and to strengthen frameworks for international protection and cooperation); see also Global Compact on Refugees, UNHCR, December 17, 2018 (<https://www.unhcr.org/us/media/global-compact-refugees-booklet>) (which "underscores the importance of the global compact on refugees as a representation of political will and the ambition to operationalize the principle of burden- and responsibility-sharing, to mobilize the international community as a whole, and to galvanize action for an improved response to refugee situations."))

¹² G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

¹³ G.A. Res. 2198 *supra* note 7.

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