

A Journey of Hope: Haitian Women's Migration to Tapachula, Mexico



A Journey of Hope: Haitian Women's Migration to Tapachula, Mexico

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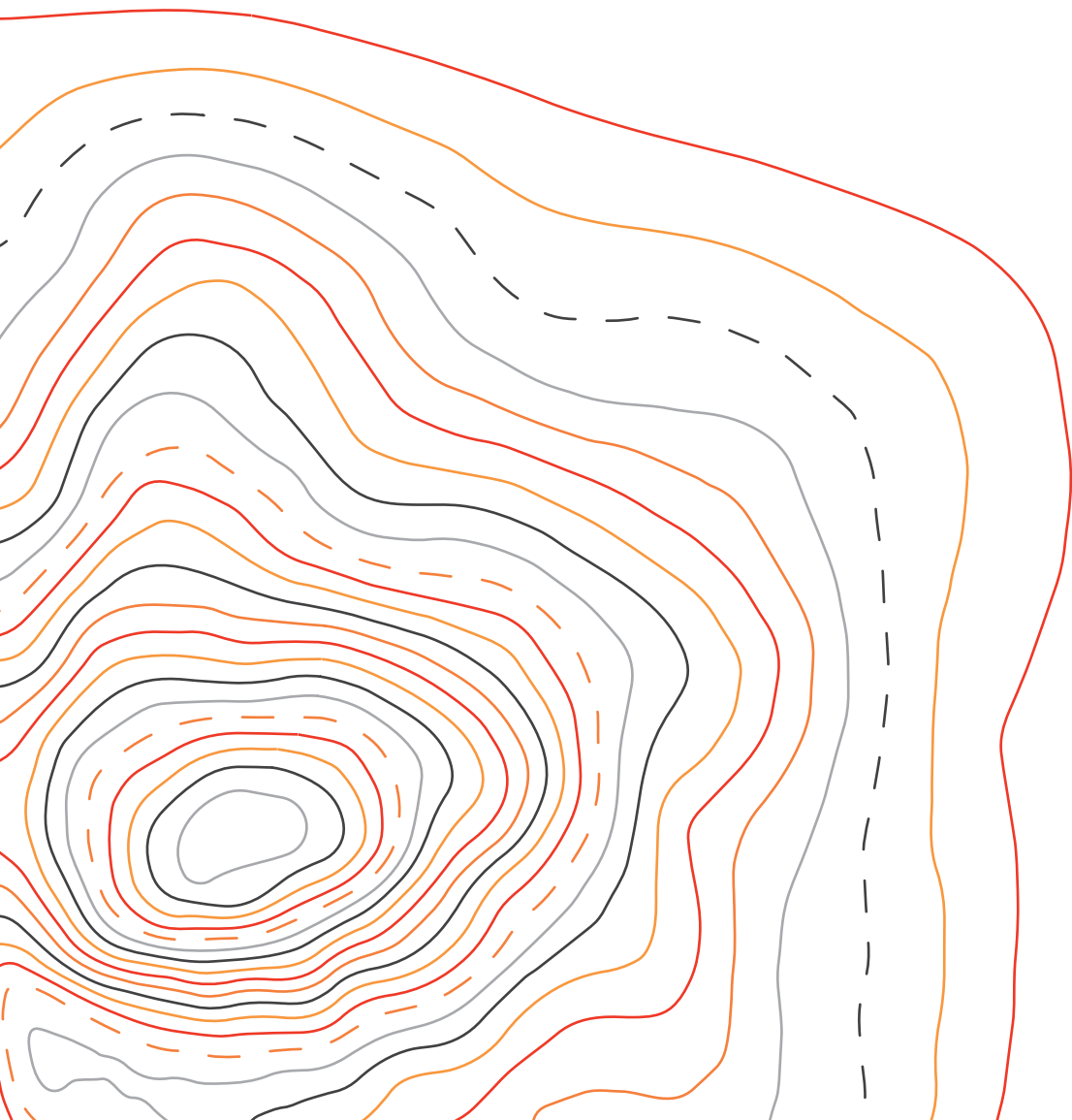
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El Instituto para las Mujeres en la Migración, A.C. (“Institute for Women in Migration” or “IMUMI”) is a Mexican NGO that advocates for women migrants and their families within the region of Mexico, the U.S., and Central America. IMUMI addresses issues important to migrant women through legal strategies, research, communication, and advocacy. IMUMI collaborates with other civil society organizations, academic institutions, and governments to advocate for gender-specific migration and human rights policies.

Haitian Bridge Alliance (“HBA”) is a nonprofit community organization that advocates for fair and humane immigration policies and connects migrants with humanitarian, legal, and social services, with a particular focus on Black migrants, the Haitian community, women, LGBTQIA+ individuals, and survivors of torture and other human rights abuses. Since 2015, HBA has provided services to asylum seekers and other migrants at the U.S.-Mexico border, in U.S. detention, and during U.S. immigration proceedings. As HBA Co-Founder and Executive Director Guerline Jozef says, “We went to the U.S.-Mexico border to help our Haitian brothers and sisters, but we saw Africans and Central Americans in need as well. We stayed for everyone else.”

The Center for Gender & Refugee Studies (“CGRS”), based at the University of California Hastings College of the Law, protects the fundamental human rights of refugee women, children, LGBTQ individuals and others who flee persecution in their home countries. The Center’s core programs include training and technical assistance, litigation, and policy and advocacy. Since its founding in 1999, CGRS has participated in UC Hastings initiatives advancing human rights and the rule of law in Haiti through academic exchange, human rights fact-finding, and other advocacy.

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LIST OF ENTITIES INTERVIEWED FOR THE STUDY

Al Otro Lado, Tijuana, Mexico

Centro de Derechos Humanos Fray Matías de Córdova A.C. (“Fray Matías Human Rights Center” or “Fray Matías”), Tapachula, Mexico

Centro Nacional de Derechos Humanos (“National Center of Human Rights” or “CNDH”), Tapachula, Mexico

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Servicio Jesuita a Migrantes (“Jesuit Refugee Services” or “JRS”), Tapachula, Mexico

Sin Fronteras IAP (“Sin Fronteras”), Mexico City, Mexico

TABLE OF ACRONYMS

ACNUR: Alto Comisionado de las Naciones Unidas para los Refugiados

CERD: Committee on the Elimination of Racial Discrimination

CEDAW: Committee on the Elimination of Discrimination against Women

CGRS: Center for Gender & Refugee Studies

COMAR: Comisión Mexicana de Ayuda a Refugiados

CNDH: Centro Nacional de Derechos Humanos

HBA: Haitian Bridge Alliance

IMUMI: Instituto para las Mujeres en la Migración, AC

INM: Instituto Nacional de Migración

MPP: Migrant Protection Protocols

SGBV: Sexual and Gender-Based Violence

TVRH: Tarjetas de visitante por razones humanitarias

UNHCR: United Nations High Commissioner for Refugees

UN: United Nations

NGO: Non-governmental organization

LGBTQIA+: Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual, plus

CONARE: National Committee for Refugees SSA: Secretary of Health

INDH: National Human Rights Institute

DEFINITIONS

The Authors use the umbrella term **“migrant”**, defined as “a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.”¹ In certain contexts, such as discussing immigration law, the Authors use the term “foreign national” instead of “migrant.”

The Authors use the term **“refugee”** to describe someone who, it has been recognized, “has been forced to flee his or her country because of persecution, war or violence.” “Asylum seeker” describes someone who is applying for refugee status but has not yet been determined to be a refugee.²

The Authors use the term **“Black”** to describe all peoples of African descent who are in Mexico as migrants, except where specifically referring to Haitians or Africans. When referring to Black Mexicans, the Authors use the term “Afro-Mexican” but recognize that individuals and communities in Mexico may identify otherwise, for example as “Afro-descendant” or “Black”.

The Authors use the term **“sexual and gender-based violence”** or **“SGBV”** to describe “any act that is perpetrated against a person’s will and is based on gender norms and unequal power relationships. It encompasses threats of violence and coercion. It can be physical, emotional, psychological, or sexual in nature, and can take the form of a denial of resources or access to services.”³

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“When I try to go out, cars will not stop even though I’m pregnant. If I have to go to the health center, I walk. We do not have rights here.”

This is the experience of a Haitian woman living in Tapachula, Mexico, where she and thousands like her have voyaged through seven to eleven different countries, either via Brazil or Chile after fleeing Haiti, only to find themselves isolated, unsupported and marginalized in profound ways. A city near the border with Guatemala, Tapachula is an in-between place for Haitian migrants as they wait for their papers to travel elsewhere, some aiming to seek asylum in the United States.

This Report documents the daily indignities to which Haitian migrant and refugee women are subjected on their journeys in search of refuge, and also offers insight into their astounding resilience against all odds. Among the greatest strengths of the Report is its intersectional approach, highlighting the impact of overlapping structures of patriarchy and racial and xenophobic subordination on Haitian women. Not only must these women navigate the legal and social challenges of being foreign nationals in Mexico and the other countries through which they travel, but they must also navigate intolerance and exclusion based on racial and gender identity, which has been heightened by racist intolerance in the regions through which they move and attempt to settle. As the report highlights, among others, the racist and xenophobic politics of the United States are enforced even beyond the territories of that country because they are outsourced for enforcement by Mexican and other officials long before refugees and migrants even approach the U.S. border.

Although there is a large human rights and humanitarian literature on violations experienced by migrants and refugees in the Americas (and elsewhere), few do the work this Report does of highlighting the specific operation and effects of anti-Black racism as experienced by Haitians, and which they describe as resulting in treatment as though they were animals, rather than human beings. In order for advocacy on behalf of refugees and migrants to make a true difference, it must first name the structures of oppression they face, including anti-Blackness.

Interwoven with interviews and analysis, this Report not only situates migration from Haiti in the broader context of the Americas, but as already mentioned, also zooms in on the distinct, intersectional challenges Haitian migrant women face in Tapachula. Following the earthquake in 2010, persistent political and economic instability coupled with widespread human rights violations drove tens of thousands out of Haiti. Especially for women and girls, life was unsustainable under a dysfunctional government, longstanding patriarchy and vulnerability to violence. While many found initial haven in Brazil or Chile, since 2015 with tightening immigration policies, failing economies and rising discrimination there, Haitian women left, this time for Mexico with the hope of reaching the U.S. border. This route, traumatic as it is expensive, involves traversing thousands of miles through Peru, Colombia, across the Darien Gap into Panama, then Costa Rica, Nicaragua, Honduras and Guatemala over the course of several months.

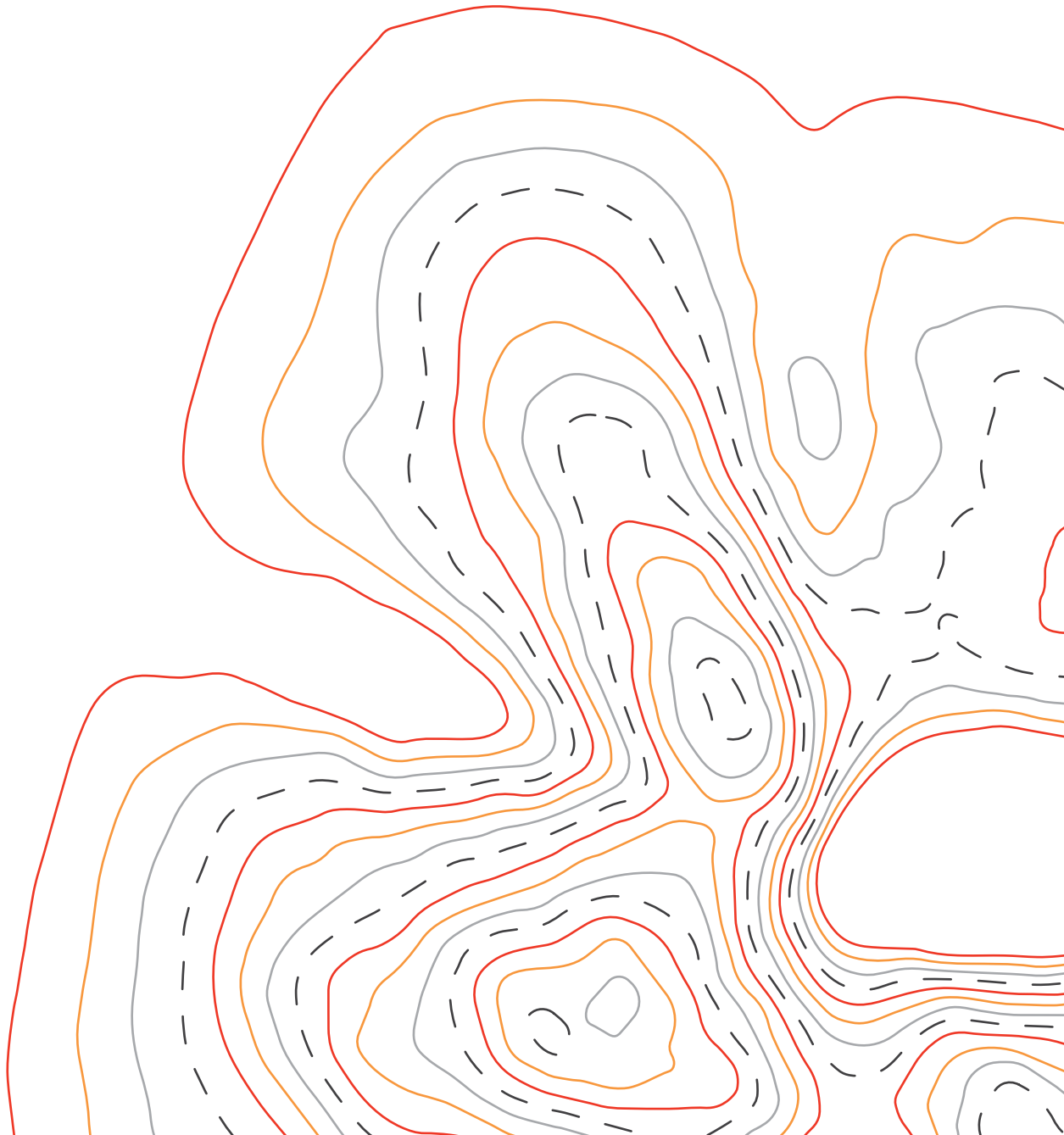
Once in Tapachula, Haitian women must navigate an immigration system that has neither received nor was prepared to process tens of thousands of non-Spanish-speaking migrants. The lack of Spanish-*Kreyol* interpreters makes the asylum process more difficult for Haitian migrants to understand their rights, make their case and check the status of their application. Language difference is also a critical barrier to finding work, benefitting from social services, and accessing legal and humanitarian assistance. This lack of meaningful support is further intensified by anti-Black racism and xenophobia from Mexican authorities, resulting in delays and arbitrary decisions against Haitian claims. The Mexican populace also perceives that Haitian migrants are there for economic reasons, instead of recognizing them as *bona fide* refugees.

This Report highlights myriad legal and social challenges to integration for Haitian women, and racial and xenophobic discrimination including through structures, policies and practices that on their face seem neutral. Of equal importance, the Report also identifies concrete recommendations that government officials and non-governmental actors such as humanitarian and human rights organizations can take to address the conditions of suffering and injustice highlighted. The women represented in the pages of this Report deserve no less than the implementation of these recommendations.

E. Tendayi Achiume
UN Special Rapporteur on Contemporary Forms of Racism,
Racial Discrimination, Xenophobia and Related Intolerance
October 2020

CHAPTER

1 INTRODUCTION



Introduction

“Fabiola”⁴ and her family arrived in Tapachula – a small Mexican city near the country’s border with Guatemala – in October 2019. A nurse in Haiti, Fabiola had fled her home country two years earlier after her family received death threats. After spending almost two years in South America, she knew that her family had to migrate again in order “to seek a better life” in the United States. They spent two months traveling overland to Mexico. On the route, they were robbed and sometimes went without food or shelter for days. Since arriving in southern Mexico, Fabiola has been waiting for months for her family’s case to be processed by Mexican immigration officials. Although she has tried to advocate for herself and her family, she feels that Mexican authorities do not understand or, in some cases, discriminate against Haitians. In her words: “It’s like the blood that runs through their veins is not the same as the blood in our veins. They look at you like you are nothing because you’re Black.”

In recent years, Mexico has become a country of transit not only for Central American migrants and “migrant caravans” traveling north, but also for thousands of Haitians who – like Fabiola – made the long journey from Haiti into South America and, eventually, overland to Mexico or the United States. Haitians have been fleeing their country in droves since a 7.0 magnitude earthquake devastated Port-au-Prince and the surrounding areas in January 2010. Although many Haitians initially went to Brazil or Chile, immigration policies in those countries have become more restrictive in the last five years, leading to many Haitians traveling overland to Mexico. However, with the current Mexican Administration militarizing immigration enforcement in collaboration with the United States, it has become increasingly difficult for migrants arriving in southern Mexico to continue their journey north to the Mexico-U.S. border. Haitians – one of the most vulnerable migrant groups in Mexico – have been particularly impacted by these recent developments and, as non-Spanish speakers, are often unable to navigate the situation they are in.

In March 2020, IMUMI partnered with CGRS and HBA (together, the “Research Team”) to travel to Tapachula and interview Haitian women about their experiences of migration to Mexico. The Research Team wanted to learn what barriers Haitian women face in obtaining humanitarian assistance and legal protection, as well as the connection between these barriers and the intersectional discrimination they experience as Black migrants. In addition to interviewing 30 Haitian women, the Research Team spoke with several service providers and other stakeholders in Tapachula and throughout Mexico.

This Report outlines the findings of those interviews, which highlight the numerous obstacles that Haitian women must overcome in order to access legal and other services, and to successfully move through the Mexican immigration system. The findings also outline the gender-based and anti-Black racial discrimination these women have faced not only in Mexico, but also on their route through South America. Similar to Fabiola’s story, the findings suggest that many of the Haitians arriving to Mexico’s southern border had left Haiti years earlier and already lived in Chile and/or Brazil for a significant period of time before reaching Mexico.

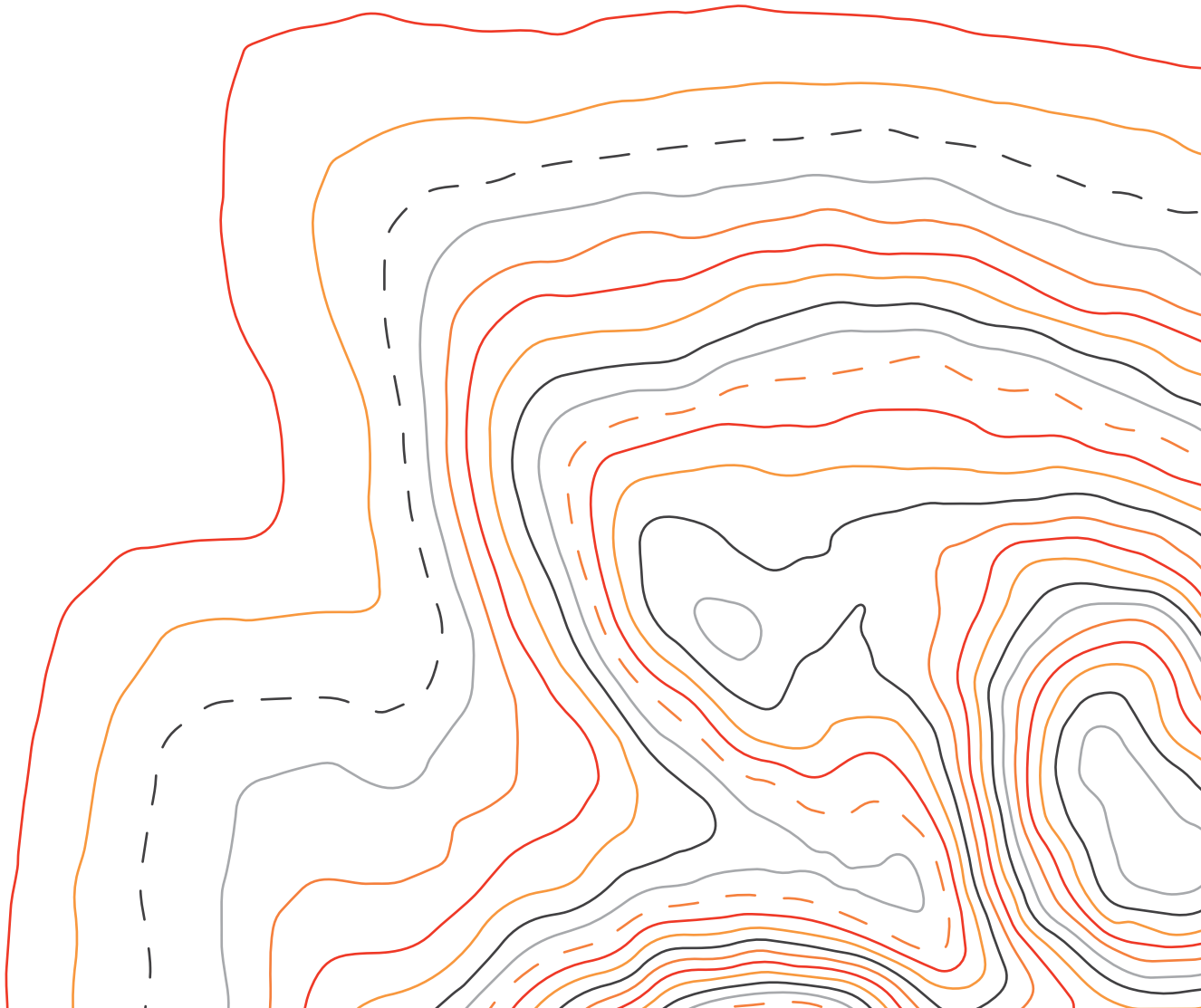


Photo: S. Priya Morley. Los Angeles neighborhood, Tapachula.

The Report contextualizes these findings within the broader context. First, the Report provides an overview of the Mexican immigration system and how the humanitarian situation of migrants has deteriorated under President Andrés Manuel López Obrador. Next, in order to better understand Haitian women's migration journey, the Report outlines the conditions in Haiti that caused them to flee; the political, legal and economic context in South America that caused them to migrate to, and subsequently leave, Brazil and Chile; and the immigration framework in the United States, where many hope to live. Finally, the Report provides recommendations for how to improve Mexico's response to Haitian migrant women and other similarly situated vulnerable groups.

CHAPTER

2 STUDY DESIGN AND METHODOLOGY



Study design and methodology

A. *Mujeres Negras Migrantes en México* & Interview Guide Design

This Study forms part of *Mujeres Negras Migrantes en México* (“Black Migrant Women in Mexico”), a research project on the experiences of Black migrant women entering, transiting through, and/or settling in Mexico. This project was initiated in 2019 and is supervised by S. Priya Morley (NYU School of Law) and Molly Goss (IMUMI). From fall 2019 to early 2020, S. Priya Morley conducted preliminary desk research and outreach with experts and stakeholders, including: UN agencies, international organizations, academia, Mexican and U.S. civil society organizations, and members of the Afro-Mexican community.

As a result of these consultations, the project’s initial focus was on Black African and Caribbean migrant women that had entered Mexico via its southern border. S. Priya Morley, a human rights lawyer, drafted a survey with primarily semi-structured questions and a few structured questions regarding demographic data. This format allowed interviewees to tell their stories in their own words except where specific information was required. The survey was reviewed by Mexican and U.S. immigration lawyers, a psychologist specialized in sexual and gender-based violence (“SGBV”), and advocates supporting Haitians (including HBA). The survey was revised after each review and again after interviews began in response to feedback from interviewers and interpreters.

The survey questions addressed the following topics:

- The demographics, countries of origin, reasons for leaving, and migration routes of the Black African and Caribbean migrant women arriving in Mexico
- The experiences these women and their families had with Mexican immigration authorities, what legal options they exercised to stay in or move through Mexico, and what support they received to exercise these options
- The intersectional discrimination that these women and their families experienced due to their race, gender, ethnicity, language, and countries of origin, and how this informed their interactions with Mexican immigration authorities, service providers, Mexican society, and other migrants
- The barriers to accessing legal and humanitarian services that these women and their families encountered

As described below, IMUMI partnered with CGRS and HBA – who have expertise working in Haiti, with Haitian migrants, and in Haitian *Kreyol* (“Creole”) – to conduct interviews with Haitian migrant women in Tapachula in March 2020 (the “Study”) and write this Report. IMUMI had planned to conduct further interviews with African and Caribbean migrant women in Tapachula and Mexico City in spring 2020, with the support of various partner organizations, but was unable to proceed due to the COVID-19 pandemic. For more information about the intersectional dis-

crimination faced by Black migrants in Mexico, see *There is a Target on Us – The Impact of Anti-Black Racism on African Migrants at Mexico's Southern Border*, another publication arising from *Mujeres Negras Migrantes en México*.

B. Objectives of the Study

The purpose of this collaborative Study was to investigate, using empirical evidence: (1) the barriers, if any, that Haitian migrant women face in seeking humanitarian assistance and legal protection in Tapachula, Mexico; and (2) what links, if any, exist between these barriers and discrimination, including on the bases of gender, anti-Black racism, and xenophobia.

In relation to (1), the Study used quantitative data from interviews with Haitian migrant women in order to determine distinct trends and patterns of barriers, as well as qualitative data in the form of interviews with experts, service providers, academics, immigration lawyers, and other Haitian migrants to understand and contextualize the data from the survey responses. In relation to (2), the Study used qualitative data shared in the interviews with Haitian women, as well as interviews with experts, service providers, academics, immigration lawyers, and other Haitian migrants.

In addition to the interviews, the Authors used a number of secondary sources to supplement their understanding, including: Mexican, Brazilian, Chilean, and U.S. immigration law; domestic and international human rights law; migration statistics published by the Mexican and Chilean governments; studies and reports published by academics, human rights organizations, and the UNHCR and other UN agencies; and media coverage on relevant issues.

C. Data Collection

IMUMI, HBA and CGRS (together, the “Research Team”) interviewed Haitian migrant women, experts and service providers in Tapachula from March 1 – March 7, 2020.⁵ In addition, Nicole Phillips from HBA visited Tapachula from February 10 – 15, 2020, to conduct preliminary interviews and lay the groundwork for the Research Team’s anticipated March trip. HBA had participated in six prior trips to Tapachula in 2019 to provide legal trainings and investigate the human rights crisis facing Haitian and other Black migrants from Africa, including from Cameroon, Democratic Republic of the Congo, Ethiopia, Eritrea, and other countries. HBA planned this investigation and data collection trip in consultation with the *Centro de Derechos Humanos Fray Matías de Córdova A.C.* (“Fray Matías Human Rights Center” or “Fray Matías”) and several Haitian migrant activists in Tapachula based on knowledge and contacts acquired from prior trips.

The Research Team collected survey data from 29 Haitian migrants and one minor who was 17-years old, all of whom self-identified as “women,” in Tapachula the week of March 1 – 7. To find interviewees, the Research Team traveled to four locations where Haitian migrant communities were known to live and convene, which included the *Los Ángeles* and *Insurgentes* residential neighborhoods of Tapachula, *Parque Central Miguel Hidalgo* (“Central Park of Miguel Hidalgo”) – Tapachula’s main square, and the migrant shelter *Jesús el Buen Pastor del Pobre y Migrante* (“Jesus the

Good Shepherd of the Poor and Migrant”). Members of the Research Team explained the research project to Haitian women in those locations and asked whether they would like to participate. In addition, members of the Research Team met some other interviewees at the office of *Servicio Jesuita a Migrantes* (“Jesuit Refugee Services” or “JRS”) in Tapachula and were invited to the women’s homes in the Insurgentes neighborhood to conduct interviews (see description below).

Interviews were conducted in front of or inside interviewees’ homes, generally sitting on sparse concrete floors. Each interview was conducted by a team of 2-3 students and a *Kreyol* to English interpreter (though in one case, the interviewee was fluent in Spanish and was interviewed in Spanish). Interviewees did not receive any compensation or other form of material benefit, except water, during the interview. Interviews lasted between 60-90 minutes, and were often emotional for both the interviewee and members of the Research Team.

In addition, the Research Team spoke informally with dozens of other Haitian migrants, both men and women, who lived in the communities with the interviewees in order to get additional perspectives on the context in Mexico. The Research Team also interviewed lawyers and advocates with the *Centro Nacional de Derechos Humanos* (“National Center of Human Rights” or “CNDH”) and JRS about their work with Haitian migrants and knowledge of the legal, social, and political context.

In the months following the March 2020 research trip, IMUMI conducted further interviews with JRS, as well as Mexico City-based *Programa Casa Refugiados* (“Casa Refugiados”) and *Sin Fronteras* IAP (“Sin Fronteras”) about the legal situation of Haitian migrants in Mexico. IMUMI also interviewed two immigration law clinics in Santiago, Chile – *Clínica Jurídica de Migrantes* (“Migrant Legal Clinic” at the Universidad Alberto Hurtado Law Faculty) and *Clínica de Migrantes y Refugiados* (“Migrant and Refugee Clinic” at the Universidad Diego Portales Law Faculty) – about Chilean immigration law and the barriers to integration faced by Haitian migrants in Chile. HBA conducted an interview with *Al Otro Lado* in Tijuana, Mexico, about the treatment of Haitian migrants in Mexico during the COVID-19 pandemic.

CNDH was created by the Mexican government in 1992 with the goal of collaborating with international organizations and national institutions that promote and defend human rights. CNDH receives complaints of human rights violations, investigates violations of human rights, and formulates recommendations, legal complaints, and complaints to the appropriate Mexican authorities. *Fray Matías*, JRS, *Casa Refugiados*, and *Sin Fronteras* are non-profit human rights organizations that provide legal, psycho-social, and other services to migrants. *Fray Matías* was created in 1994 in response to the constant abuses and violations of human rights in the region of Chiapas, Mexico. They provided assistance to more than 18,600 migrants in 2019, a quarter of them Haitian.⁶ JRS, affiliated with Jesuit Refugee Services, provides service to people in transit through Mexico as they migrate to the United States and those who have decided to settle in the southern area of Mexico. *Casa Refugiados* is a Mexican non-profit, non-partisan, and secular Mexican civil society organization that operates in collaboration with ACNUR. *Sin Fronteras* is a civil society organization founded by social activists and academics in 1995 to respond to international migration from a human rights perspective.

D. Data Analysis

Members of the Research Team typed up their notes for the 30 interviews with Haitian migrant women. The Authors summarized data from each interview and identified general trends of experiences, which are the basis for the structure of the findings in this Report. Illustrative quotations from interview responses were pulled and integrated into this Report to include, to the extent possible, the interviewees' voices.

While 30 interviews reflect a small sample size, these women's stories were remarkably similar to each other and tracked information the Research Team received from interviews with service providers and advocates as well as secondary sources. In sum, these women's stories seem to reflect the experiences of the Haitian women population in Tapachula more broadly.

E. Ethical Considerations

The Research Team designed and implemented informed consent and identity protection protocols to protect the interviewees. Each interview team read the informed consent to the interviewee in *Kreyol* and made sure that they understood the purpose of the interview and gave consent. Anonymity of participants was preserved through the use of coded numbers. Participants were also permitted to decline to give their full name, if they preferred. Other interviewees – such as experts or service providers – were also given the opportunity to explain how they would like to be identified in the Report or whether they wished to remain confidential. As a result, the Research Team met or spoke with entities that have not been identified in this Report.

F. Sexual and Gender-Based Violence (“SGBV”)

The Research Team intentionally did not ask specific questions about whether the interviewee had been a victim of SGBV, either in Haiti or since leaving Haiti, such as sexual assault or intimate partner abuse. Nor did the Research Team probe with intrusive follow-up questions if incidents of violence were mentioned. First, the Research Team wanted to limit the potential for re-traumatization of survey interviewees for the purpose of this Report. The Research Team did not want to open wounds without being able to offer legal or psychosocial support, which they were unable to provide given the limited length of their stay, their lack of training, and the lack of *Kreyol*-language resources available in Tapachula. Second, while the Research Team tried to keep the interviews as private as possible, they could not maintain full privacy. Neighbors and family members often overheard the interviews through open windows and doors. In some cases, the interviewee's male partner insisted on being present during the interview.

The survey contained a few open-ended questions that could have solicited responses of SGBV, such as “Did you or anyone you were traveling with experience any violence, attacks or robberies during your transit to Mexico? If so, what happened?” and “Why did you leave Haiti? What caused you to leave when you did?” Although all of the interviewees stated that SGBV was rampant on the voyage from South America to Mexico, none of them admitted violence, sexual or otherwise, committed against themselves. Similarly, none of the women admitted that they personally were a victim

of SGBV in Haiti. But when one woman was asked why she left Haiti, she responded in graphic detail, “They were kidnapping people in Haiti and if you didn’t have any money, they would rape you in your vagina, in your anus, until you pass out. That’s why I left.”⁷

The lack of candidness on this topic was expected. SGBV can be accompanied by stigma in Haitian culture, and women often do not report incidents of abuse to their friends, family members, or law enforcement.⁸ The Research Team did not anticipate that the interviewees would report these incidents to strangers who had been clear that they could not offer any assistance with their asylum claims or otherwise to pursue justice. However, based on dozens of interviews that CGRS and HBA have conducted or observed with Haitian women seeking asylum in the United States, acts of SGBV are common reasons given for why they left Haiti.⁹ (*see* Chapter 4, Section B below).

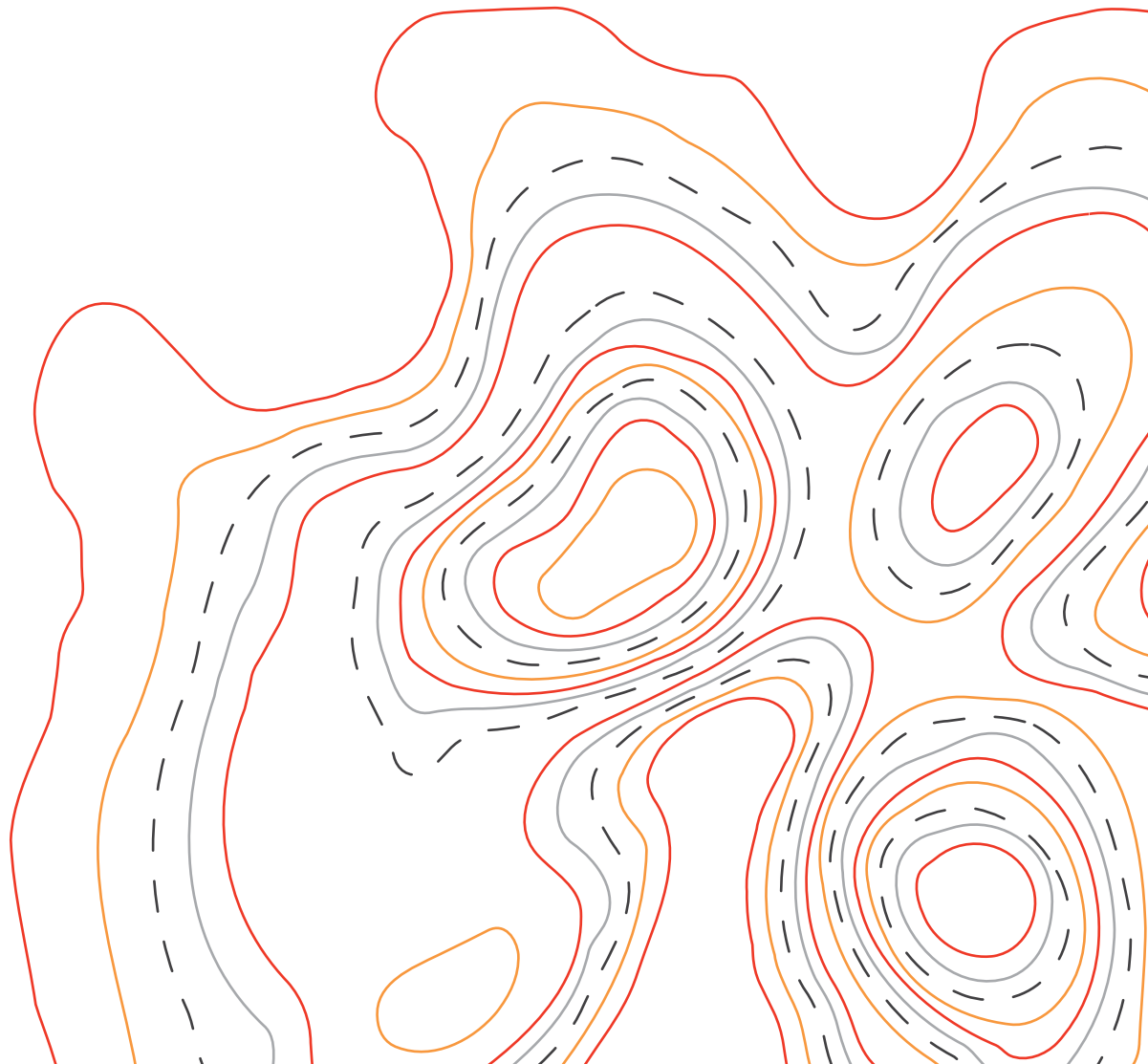
As a result, this Report does not detail incidents of SGBV, but the lack of incidents reported should not be read to imply that the women interviewed did not experience such violence.



Photo: S. Priya Morley. Interviewee's home.

CHAPTER

3 MIGRATION IN MEXICO



Migration in Mexico

This section provides an overview of the immigration system in Mexico, which contextualizes the subsequent discussion of Haitians migrating to the country. In addition to outlining the relevant immigration law, this section illustrates how Mexico's restrictive approach to immigration enforcement, under the current Administration and under pressure from the United States, has negatively impacted Haitian and other migrants entering the country through its southern border.

A. History of Migration in Mexico

Mexico is often recognized as a country of origin and transit for migrants seeking safety and means of survival. Mexico's northern border has long been instrumental in facilitating human migration to the United States and Canada from Mexico and the rest of Latin America, the Caribbean, and other continents. In recent years, there has also been a dramatic increase in the number of migrants settling, by desire or necessity, in Mexico. This change is most evident in the over 5000 percent increase in applications for recognition of refugee status from 2013 to 2019.¹⁰

Mexico has a long history of accepting refugees, including Spaniards fleeing the Francoist regime in the 1930s and Latin Americans fleeing dictatorships in the 1970s.¹¹ The most significant migration movement into Mexico, with arguably the greatest impact on Mexico's modern asylum system, was the influx in the 1980s of Central American asylum seekers fleeing civil war and state violence. At the time, Mexico had no formal system for accepting refugees and was not prepared for the hundreds of thousands of Central Americans coming into the country.

In 1980, to address this new reality, the government created the *Comisión Mexicana de Ayuda a Refugiados* ("Mexican Commission for Refugee Assistance" or "COMAR") within the *Secretaría de Gobernación* ("Ministry of the Interior" or "SEGOB"). Shortly after COMAR was created, the United Nations High Commissioner for Refugees ("UNHCR" or "ACNUR" in Spanish) established a presence in the country.¹² From 1982 until 2003, the UNHCR was responsible for refugee status determination in Mexico and COMAR focused on providing aid.¹³ COMAR took over the lead role in refugee status determination in 2003, but continued to receive guidance and assistance from the UNHCR until significant changes were made to Mexico's immigration system in 2011, as discussed below.

B. Mexican Immigration Law

1. Asylum/Refugee Law

The 1951 Convention Relating to the Status of Refugees ("The 1951 Convention") and the 1967 Protocol Relating to the Status of Refugees ("The 1967 Protocol") were key treaties that established refugee rights and protections. Most notably, the treaties defined a refugee as someone who, "owing to a well-founded fear of being persecuted" on the basis of race, religion, nationality, membership in a particular social group, or political opinion, cannot return to her home country.¹⁴ Mexico became a party to the

1951 Convention and the 1967 Protocol in 2000, and incorporated the frameworks established in these treaties into its own laws in 2011.¹⁵

In 2011, Mexico passed an earlier version of the current *Ley Sobre Refugiados, Protección Complementaria y Asilo Político* (“Law on Refugees, Complementary Protection and Political Asylum” or “Law on Refugees”).¹⁶ This law codifies the protections outlined in the 1951 Convention and, notably, goes further by explicitly recognizing gender as a protected ground, allowing for refugee claims on the basis of sexual and other forms of gender-based violence.¹⁷ The Law on Refugees also provides for political asylum, a specific and long-recognized protection within Latin America, which falls under the jurisdiction of the *Secretaría de Relaciones Exteriores* (“Secretariat of Foreign Affairs”).¹⁸ In addition, the Law on Refugees offers broader protections than the 1951 Convention by providing safe haven even if an individual is not recognized as a refugee (for example, because she is unable to establish a nexus between the harms and a protected ground) if she would experience other serious human rights violations if returned to her home country. The inclusion of “complementary protection”, as it is referred to in Mexican law, made Mexico a pioneer in Latin America for broadening protection rights of refugees.

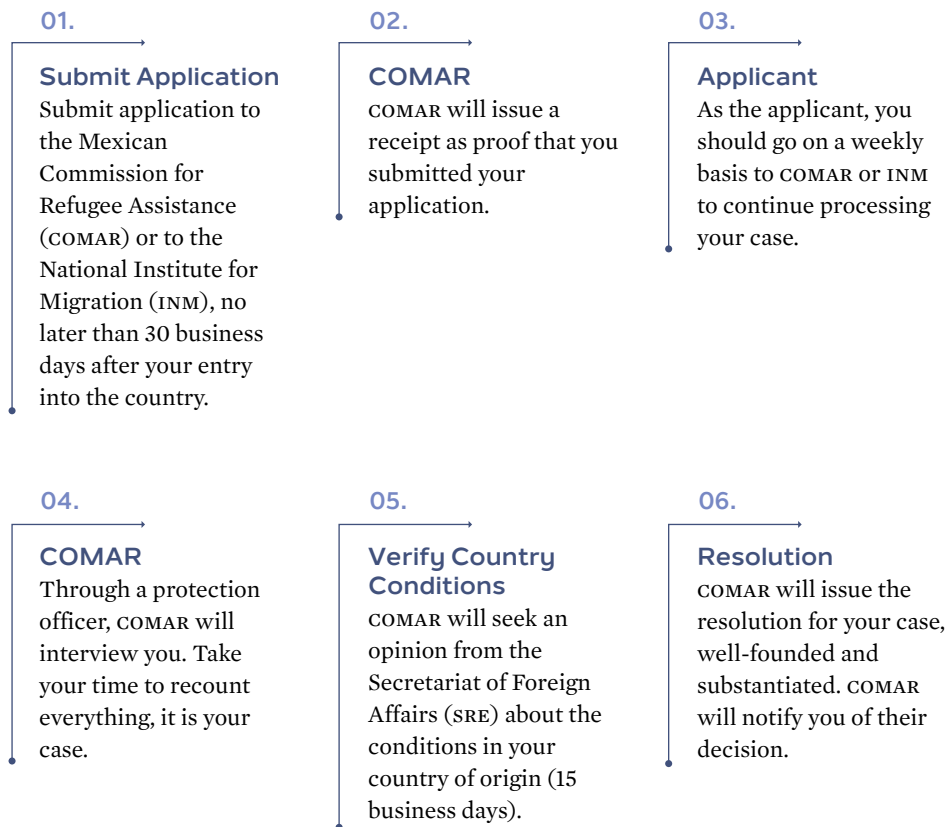
In the Law on Refugees, Mexico also codified the protections under the Cartagena Declaration.¹⁹ The Cartagena Declaration is specific to Latin America and outlines broader grounds for refugee status, including in contexts of generalized violence and the disturbance of public order.²⁰ A 98-100 percent annual grant rate for Venezuelan asylum seekers since 2016 can be attributed to this expansion.²¹ Central Americans constitute the majority of asylum seekers in Mexico, but in practice have not historically benefitted from the protections.²² However, the Mexican government has recently begun applying the Cartagena Declaration to Honduran and Salvadoran asylum seekers, in addition to Venezuelans.²³ This reflects the government’s “*prima facie* recognition that these [three] countries are plagued by generalized violence and/or massive human rights violations.”²⁴ As outlined in Chapter 4 below, these conditions of generalized violence and/or massive human violations are prevalent in Haiti as well.

Mexico’s Constitution also provides a constitutional right to political asylum and refugee status.²⁵ Article 11 states that: “[e]very person has the right to seek and receive asylum. Recognition of refugee status and granting of political asylum will be carried out in accordance with international treaties.”²⁶

2. Procedure for Making Asylum/Refugee Claims

Steps to apply for asylum in Mexico

The process lasts 45 business days, starting from the submission of your application to the resolution of your case.



*If the decision is positive, you will be given legal status as a permanent resident. If the decision is negative, your case will be analyzed to see if you qualify for complementary protection, otherwise you may file an administrative appeal to COMAR (15 business days).

Since 2011, COMAR has been responsible for refugee status determination in Mexico. The INM also has jurisdiction to receive refugee claims, although COMAR still processes them.²⁷ The INM has many more offices throughout Mexico than COMAR. However, because the INM is also charged with immigration detention and deportation, some migrants are deterred from instigating claims with them unless they have already been detained.²⁸

An asylum seeker must initiate a claim with COMAR or the INM within 30 business days of entering Mexico.²⁹ COMAR will issue a *constancia de trámite* (“proof of procedure”), an official ID document that identifies the recipient as an asylum seeker who should not be deported while the claim is still being processed.³⁰ This document allows the asylum seeker to apply for another official ID, *clave única de registro de*

población (“unique population registry code” or “CURP”), which is often necessary to work or access public healthcare, education, and government services.

By law, COMAR must process the claim within 45 business days.³¹ This deadline may be extended to 90 days in exceptional circumstances, including where COMAR requires additional information to process the claim or language interpretation is required.³² In practice, COMAR often misses these deadlines and can take months or a year to process claims.³³ The asylum seeker will often be required to check in with COMAR each week while her claim is being processed.³⁴ While the claim is ongoing, she is not permitted to leave the state in which it was initiated except where authorized.³⁵ In practice, she may face difficulties with immigration authorities or the *Guardia Nacional* (“National Guard”), a civilian-led security force that, since 2019, has been conducting immigration enforcement, even when attempting to travel within the state.

In order to adjudicate the claim, COMAR may conduct one or more interviews with the asylum seeker.³⁶ Where she does not speak Spanish, COMAR must provide her with support from a translator, interpreter, or other specialist that will facilitate communication.³⁷ She also has a right to bring her own legal representation.³⁸ The asylum seeker must give truthful information about her personal history, reasons for leaving her country of origin, and well-founded fear, as well as provide any proof she has that substantiates her claim. COMAR will also ask the Secretariat of Foreign Relations to provide an opinion on the conditions in the asylum seeker’s country of origin.³⁹

After making a determination on the asylum seeker’s claim, COMAR must provide her with a written decision and reasons within 10 business days.⁴⁰ If the claim is granted, and the asylum seeker is recognized as a refugee, she obtains permanent residency in Mexico.⁴¹ Where the claim is denied, the asylum seeker has 15 business days to request a reconsideration by COMAR, but this is generally restricted to the legality of the process rather than re-assessing the merits of the claim.⁴² Additional options include judicial review or, where applicable, challenging the decision in the context of a human rights complaint.⁴³

3. Humanitarian Status

Mexico’s *Ley de Migración* (“Migration Law”),⁴⁴ also passed in 2011, provides for the granting of humanitarian status with *tarjetas de visitante por razones humanitarias* (“visitor cards for humanitarian reasons” or “TVRH”, colloquially referred to as “humanitarian visas”). Humanitarian status may be granted to an asylum seeker whose claim is still being processed, to a foreign national who has been a victim of or witness to a crime in Mexico, to an unaccompanied child or adolescent migrant, or in other circumstances where it is determined to be in the public interest or for a humanitarian purpose.⁴⁵ Humanitarian status is intended to be temporary and is initially only granted for one year.⁴⁶

It has been suggested that the use of temporary humanitarian status into Mexico’s domestic policy was influenced by the increase in Haitian nationals arriving to Mexico after the 2010 earthquake.⁴⁷ As a result of discussions in the international community, Mexico provided Haitians with temporary status for humanitarian reasons, as did many other countries in the region. Humanitarian status-holders are legally entitled to work but often face barriers in accessing the documentation required to

work.⁴⁸ Practitioners have noted that Mexican authorities do not always issue a CURP to humanitarian status-holders, although they are entitled and this official ID is required to work. Further, employers do not always recognize the employment status of humanitarian status-holders, either discriminating against them on the basis of their immigration status or simply because they do not understand that they are legally entitled to work in Mexico.

4. “*Salvoconducto*”

Apart from the aforementioned legal pathways to stay in Mexico, some migrants have been able to transit through Mexico to the Mexico-U.S. border after receiving an *oficio de salida del país* (“exit permit from the country”).⁴⁹ Migrants and practitioners alike often call this document a “*salvoconducto*”⁵⁰ (“safe passage”) referring to a now defunct legal document allowing safe passage through Mexico.⁵¹ Under the regulations to the Migration Law, the INM has discretion to authorize the departure from Mexican territory of foreign nationals without immigration documentation (or with invalid or expired documentation), and to issue them an *oficio de salida del país* that permits them to leave the country within an amount of time determined by the INM (often 20 days).⁵² These “documents have typically been granted to citizens from countries that lack consular representation in Mexico, or that did not accept the return of their citizens.”⁵³

Practitioners have observed that the INM in Tapachula has been more inclined to issue *oficios de salida del país* at times where an influx of migrants into southern Mexico has led to an overflow in immigration detention and/or a backlog in processing claims.⁵⁴ The INM’s exercise of discretion is also influenced by the country’s overall approach to immigration at that time. Until Mexico’s approach to immigration became more restrictive in 2019, as discussed below, the INM office in Tapachula regularly issued *oficios de salida del país* to many Haitian migrants, as well as Cuban, African, and Asian migrants who were transiting through Mexico in order to reach the United States.⁵⁵

C. “The Mexican Wall”: Immigration Enforcement in Mexico Since December 2018

Before he took office on December 1, 2018, President Andrés Manuel López Obrador signaled that he would take a more permissive approach to immigration than his predecessor.⁵⁶ His Administration vowed to move away from viewing migrants through a national security lens, an approach that had led to an aggressive clamp-down on migrant caravans in October 2018 by former President Enrique Peña Nieto.⁵⁷ Instead, President López Obrador’s rhetoric focused on protecting the human rights of migrants, particularly those arriving in waves from Central America.⁵⁸ Some Mexican civil society groups, including IMUMI, were cautiously optimistic that a more progressive approach to migration was imminent. They submitted proposals to the incoming Administration about how to implement a human rights-based approach, such as increasing the funding and institutional capacity of COMAR.⁵⁹

For a few months after he took office, President López Obrador took some actions that aligned with his rhetoric. He selected Dr. Tonatiuh Guillén López, an academic experienced in migration, as head of the INM, and former UNHCR official, Andrés

Ramírez Silva, to lead COMAR.⁶⁰ The López Obrador Administration also took some measures to support development in some Central American countries and thereby address root causes of migration from the region.⁶¹ In early 2019, Mexico's deportation rates were low compared with recent years.⁶² At the same time, the INM began issuing TVRH cards on an expedited basis (i.e. actually issuing them within the 30 days prescribed by law)⁶³ to foreign nationals, primarily from Central America.⁶⁴ Some recipients used this authorization to stay and work in Mexico for a year, while others continued towards Mexico's northern border.⁶⁵ Mexican authorities issued a total of 11,282 TVRH cards in January and 7,159 in February 2019,⁶⁶ before quickly announcing that it would no longer issue TVRH cards on an expedited basis because the program had been "too successful."⁶⁷ The number of TVRH cards issued significantly decreased in subsequent months.⁶⁸

As economic pressure mounted from the United States, Mexico's approach to immigration enforcement became increasingly restrictive. The decision to stop expediting TVRH cards on a humanitarian basis coincided with the U.S. government's initial implementation of the Migrant Protection Protocols ("MPP") in late January 2019.⁶⁹ Despite initially expressing concerns about MPP that echoed those raised by IMUMI and other organizations, the Mexican government agreed to participate in a pilot phase of the program and, subsequently, to expanding it.⁷⁰ In late May 2019, in the context of free trade negotiations with Mexico and Canada, U.S. President Donald Trump threatened (by tweet) to impose tariffs on imported Mexican goods until undocumented migrants stopped entering the United States through Mexico.⁷¹ A week later, the U.S. and Mexican governments issued a joint declaration on migration which committed Mexico to "take unprecedented steps to curb irregular migration," including sending the National Guard to Mexico's borders and further expanding MPP.⁷² Around this time, Dr. Guillén López resigned from his position leading the INM. He was swiftly replaced by Dr. Francisco Garduño Yáñez, who previously led Mexico's penitentiary system, signaling a harsher approach to migration going forward.⁷³

In compliance with Mexico's agreement with the United States, the López Obrador Administration deployed thousands of National Guard officers to conduct immigration enforcement.⁷⁴ The National Guard is meant to be a civilian-led security force with a mandate to address crime and maintain public security, but in reality it has been comprised in part by Mexican military officers and federal police.⁷⁵ International human rights groups have argued against this militarization of public security, which violates international law.⁷⁶ IMUMI and other Mexican civil society groups have posited that it is unconstitutional for the National Guard to exercise public security functions in the context of migration, and that this reflects a return to viewing migration as a national security – rather than a human rights – issue.

The National Guard's involvement in immigration enforcement has led to increased apprehension and detention of migrants, and violations of their human rights at levels not seen for years.⁷⁷ From January to June 2019, 100,861 detentions were registered in Mexico. An estimated 31,416 detentions occurred in June 2019 alone, which is "the highest monthly total in all publicly available data going back to 2001".⁷⁸ From January to June 2019, COMAR received 30,000 asylum/refugee requests, three times more than over the same period in 2018.⁷⁹ In late June 2019, the CNDH condemned the extreme overcrowding in detention that was making it difficult to treat migrants with dignity.⁸⁰ In Chiapas, there were 66 percent more migrants apprehended be-

tween January and September 2019 than over the same period in 2018.⁸¹ The increased apprehension, and resulting overcrowding in immigration detention, was particularly prevalent at the *Siglo XXI* detention centre in Tapachula, which at times held twice as many migrants as its maximum capacity.⁸² This facility has been criticized as a “prison city,” where migrants have reportedly experienced violence, including torture, and have been detained without due process.⁸³ In 2019, a Haitian man died after being ignored for hours despite asking for medical attention.⁸⁴

In addition, in the context of a more restrictive approach to immigration in both Mexico and the United States (see Chapter 7 below), the practices of the INM office in Tapachula changed with regard to *oficios de salida del país*. First, in summer 2019, the INM began specifying on the document that the recipient must exit the country from the southern border.⁸⁵ This meant that Haitians and other migrants who were hoping to travel to the northern border no longer had official documentation that supported this journey. If they attempted to travel north, they risked being apprehended by the National Guard and deported. According to practitioners in Tapachula, it appears that since late 2019 the INM is no longer issuing *oficios de salida del país*.⁸⁶ The INM's new practices coincided with a significant jump in asylum/refugee claims by Haitians in 2019.⁸⁷

With the increased crackdown on migrants in 2019, apprehensions of Haitians across Mexico increased by 2,330 percent, when comparing January and September 2019 to the same period in 2018.⁸⁸ Comparing the same nine-month period, deportations by Mexico of Haitians increased from two (in 2018) to 1160 (in 2019).⁸⁹ Mexico returned or deported 281 people to Haiti in January and February of 2020, compared with 262 Haitians returned or deported in all of 2019 (representing more than a 600 percent increase).⁹⁰

D. Situation as of Summer 2020

Recent developments suggest that the López Obrador Administration will continue to prioritize its economic relationship with the United States over a human rights-based immigration policy.⁹¹ In September 2019, the government constituted an inter-secretarial commission to coordinate the government's response to migration.⁹² The commission is led by the *Secretaría de Relaciones Exteriores*.⁹³ IMUMI and other organizations are concerned that this is an attempt by the government to further tie immigration to foreign policy. Further, President López Obrador continues to emphasize that Mexico and the United States need to work together on immigration, and must not “paralyze” commercial activity between them.⁹⁴ Most recently, in July 2020, President López Obrador visited the United States, which was his first official state visit since taking office.⁹⁵ In advance of the November 2020 elections, President Trump returned to his script about Mexico ‘paying for’ the border wall.⁹⁶ However, many Mexican immigration advocates would argue that, due to the current Mexican Administration's policies, Mexico has already become the wall.⁹⁷

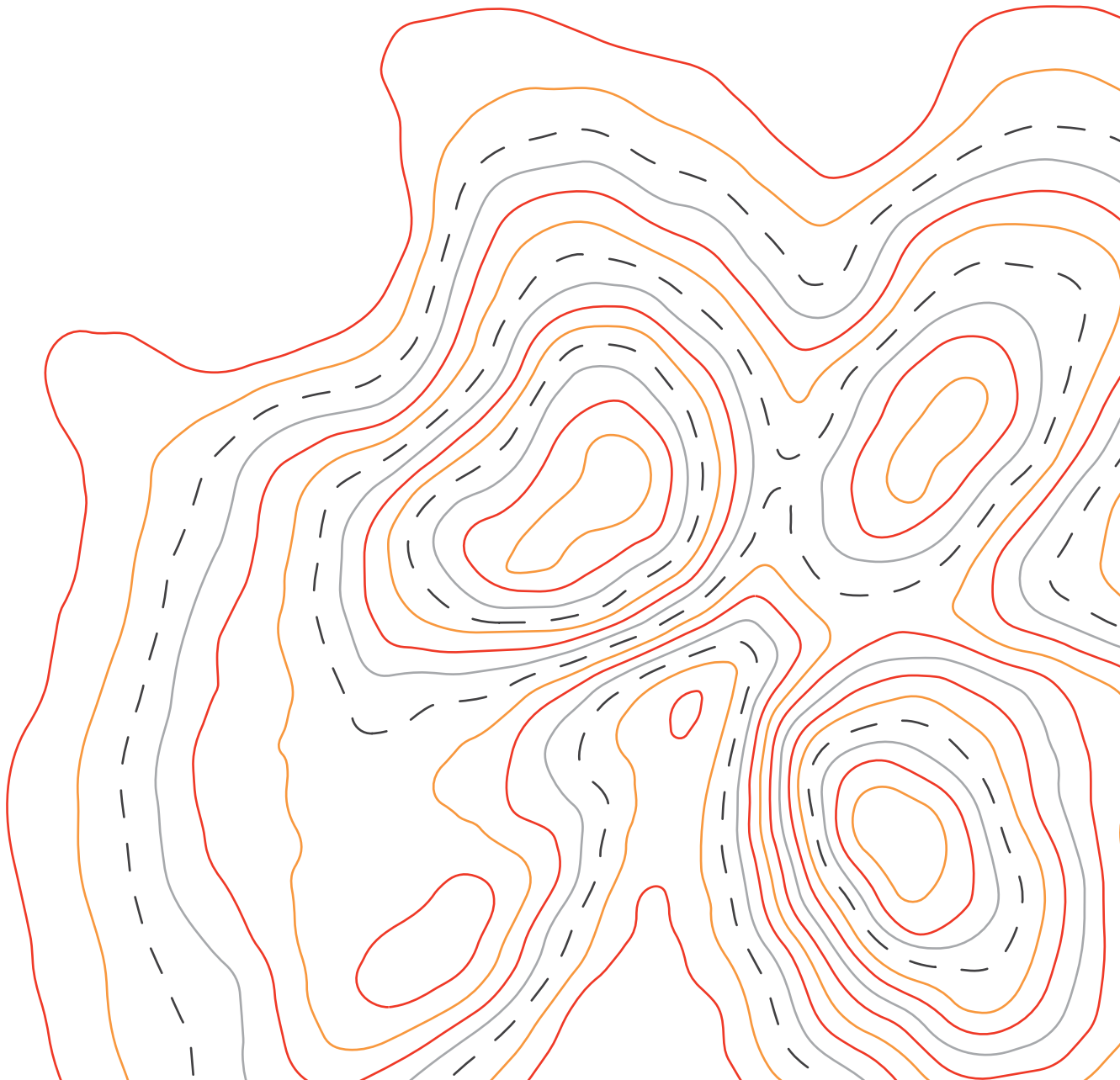
With the above overview of the Mexican immigration system, and the current situation facing Haitian and other migrants arriving to Mexico, the next section focuses on Haitian migration.



Photo: S. Priya Morley. Parque Central Miguel Hidalgo, Tapachula, Chiapas.

CHAPTER

4 RECENT MIGRATION FROM HAITI



Recent migration from Haiti

Political and economic instability, as well as increased political violence, gang criminal activity, and widespread impunity, have forced Haitians to flee their country. The next section will provide context as to why many Haitians, particularly women, felt they had no choice but to leave their homes for Brazil, Chile, Mexico, or the United States.

A. Economic and Political Context

Haiti won its independence from France in 1804, and is the world's only nation founded through a slave revolt.⁹⁸ In 1825, however, France demanded more than today's equivalent of US\$21 billion from the new country as compensation for its "property" (slaves) lost through emancipation.⁹⁹ Haiti's subsequent crippling debt and interest rates took 122 years to repay (until 1947), which prevented investment in public infrastructure.¹⁰⁰ In 1915, the U.S. Marines invaded Haiti. During the 19-year occupation, the United States took financial control of the country and forced Haiti to put 40 percent of its national income towards foreign debt repayment.¹⁰¹ Haiti has never fully recovered financially from the debt, and subsequent natural disasters, unstable governments, and foreign meddling, including forced tariff reductions on rice so that U.S. products could flood the market, have worsened the situation.¹⁰² As a result of these many factors, today Haitian people suffer from the worst living standards in the Americas and amongst the worst worldwide.¹⁰³

After approximately 33 *coups d'états* since 1804, violence is engrained in Haiti's political culture. For 30 years, the Duvaliers led a repressive regime devoid of respect for human rights that stifled popular political mobilization.¹⁰⁴ After the fall of the Duvaliers' successive dictatorships in 1987, political groups strengthened and saw the inception of a human rights movement.¹⁰⁵ Democratic elections took place for the first time in Haiti's history in 1990, but the election results were obfuscated by a paramilitary *coup d'état* in September 1991 that led to 3,000–5,000 political deaths.¹⁰⁶ Members of the Haitian military and paramilitary forces systematically employed killing, torture, and sexual assault as tools of political repression against pro-Aristide supporters.¹⁰⁷ Sadistic methods—repeated rapes, gang-rapes, and forcing family members to watch—maximized the terror.¹⁰⁸ A second *coup d'état* in February 2004 led to at least 5,000 political killings.¹⁰⁹ Since 2006, in which less-than-perfect elections marked the end of the 2004 coup government, politically-motivated killings are not uncommon.¹¹⁰



In 2010, a 7.0 magnitude earthquake devastated Port-au-Prince and the surrounding areas and left Haiti vulnerable to other natural and manmade disasters. The 2010 earthquake cost an estimated 200,000–300,000 lives and between US\$7-14 billion in damage.¹¹¹ Over a million people were left homeless, and most moved to nearby camps for internally displaced persons (“IDP”). Nearly 33,000 earthquake victims remain in IDP camps today.¹¹² United Nations Peacekeepers introduced cholera to Haiti in 2010, causing an epidemic that killed well over 10,000 people and sickened over a million others.¹¹³

Haiti is one of the most vulnerable countries in the world to climate change.¹¹⁴ Scientists believe climate change has already increased the intensity of storms such as Hurricane Matthew in 2016, which took 1,000 lives, left an additional 175,000 people homeless, and destroyed the national food supply.¹¹⁵ As a result of a combination of climate change, poverty, and unstable governance, Haitians will increasingly be vulnerable to devastation from natural disasters.¹¹⁶

The Haitian Gourde today holds about 25 percent of its January 2010 value,¹¹⁷ which has sharply increased inflation. Greater than 60 percent of Haitians survive on less than US\$2 a day, and more than two and a half million fall below the extreme poverty line of US\$1.23 per day.¹¹⁸ The unemployment rate in Haiti is 40 percent, and two out of three Haitians do not have consistent work.¹¹⁹ One in three people is in need of food assistance.¹²⁰

Political instability has further plagued Haiti since the 2010 earthquake. The 2010-2011 elections that brought Michel Martelly into the presidency were marred by fraud, voting irregularities, and the exclusion of Haiti’s largest party, *Fanmi Lavalas*.¹²¹ President Martelly regularly violated the Haitian Constitution throughout his Administration, including by delaying elections until after legislators’ terms had expired and unilaterally appointing local mayors and other municipality leaders—who wield significant power locally.¹²² As a result, the Executive branch governed with local control and minimal legislative oversight. Lack of transparency about how reconstruction aid was spent, as well as accusations of money laundering, further weakened public confidence in the Martelly Administration.¹²³

After the country overturned initial results of a presidential election in 2015 based on allegations of fraud, President Martelly's hand-picked successor, Jovenel Moïse, won a second race and came into office in February 2017.¹²⁴ In 2019, a government anticorruption agency accused President Moïse of embezzling from social programs and reconstruction aid.¹²⁵ Haitians spent much of 2019 and 2020 protesting against his handling of the country's dire economic situation and resulting fuel shortages.¹²⁶ Road blockades, looting, excessive police force, and gang violence accompanied the demonstrations.¹²⁷

The prolonged period of political instability since 2010 has impeded the government's ability to enact long-term policies to advance human rights and protections from politically-motivated violence, and has contributed to a dysfunctional justice system and high levels of impunity. Politicians regularly employ armed groups, such as gangs, to commit human rights abuses for political gain.¹²⁸ The *Police Nationale d'Haïti* ("Haitian National Police") lack the resources and political will to prevent political violence and other crimes such as armed robberies, domestic violence, and sexual assault (see Chapter 4, Section B below).¹²⁹ Additionally, the judicial system is under-resourced and inefficient, as well as burdened by a large backlog of cases, under-paid staff, outdated legal codes, and poor facilities.¹³⁰ Bribes are common at all levels of the judicial system.¹³¹ Given Haiti's widespread impunity and desperate economic situation, gang activity has proliferated throughout the capital and traveled to more rural areas; an estimated one-third of the country is now controlled by gangs.¹³² Women and other minority groups in Haiti are among the most vulnerable to economic and political instability, and the next section will focus on why they in particular have been forced to flee their country.

B. Disproportionate Impact of Poverty and Political Violence on Haitian Women

Political instability and natural disasters have left Haitian women vulnerable to SGBV. But these forms of violence are also linked to poverty, lack of rights enforcement, and pervasive patriarchal attitudes and discrimination in employment, education, and government and social institutions.¹³³

Poverty results in a lack of education and employment opportunities for everyone, but especially women, because they are often financially dependent on men and viewed as inferior.¹³⁴ Attending school in Haiti, which requires fees for books, uniforms, and tuition, is often too expensive for families to pay.¹³⁵ Young women and adolescent girls may be forced into prostitution or transactional sex to pay for school-related expenses.¹³⁶ Furthermore, women's unemployment in the formal sector is a third higher than that of men, and the disparity is even greater in rural parts of the country.¹³⁷ Women who find work often experience high levels of sexual harassment from male colleagues and superiors, which is not specifically prohibited by Haitian law.¹³⁸ Women in the informal sector, such as street market women, are vulnerable to gang and other forms of violence at work and on their way to and from work. While men and women have the same legal access to economic assistance programs, women face more barriers in securing collateral for credit and information on lending programs, as well as other resources.¹³⁹

Haitian women face many obstacles to political participation, including domestic responsibilities, stereotypes, and political violence.¹⁴⁰ Like many parts of the world, politics in Haiti remains a male-dominated arena. Male family members and partners may forbid women from joining a political party or force them to vote according to their political preferences.¹⁴¹ The historical use of rape and physical violence as political tools in Haiti, dating back to slavery and, more recently, the 2004 coup, has made many women fearful of entering politics.¹⁴² While the government has taken steps towards increasing women's participation in political processes, a lack of political will among existing politicians inhibits progress.¹⁴³

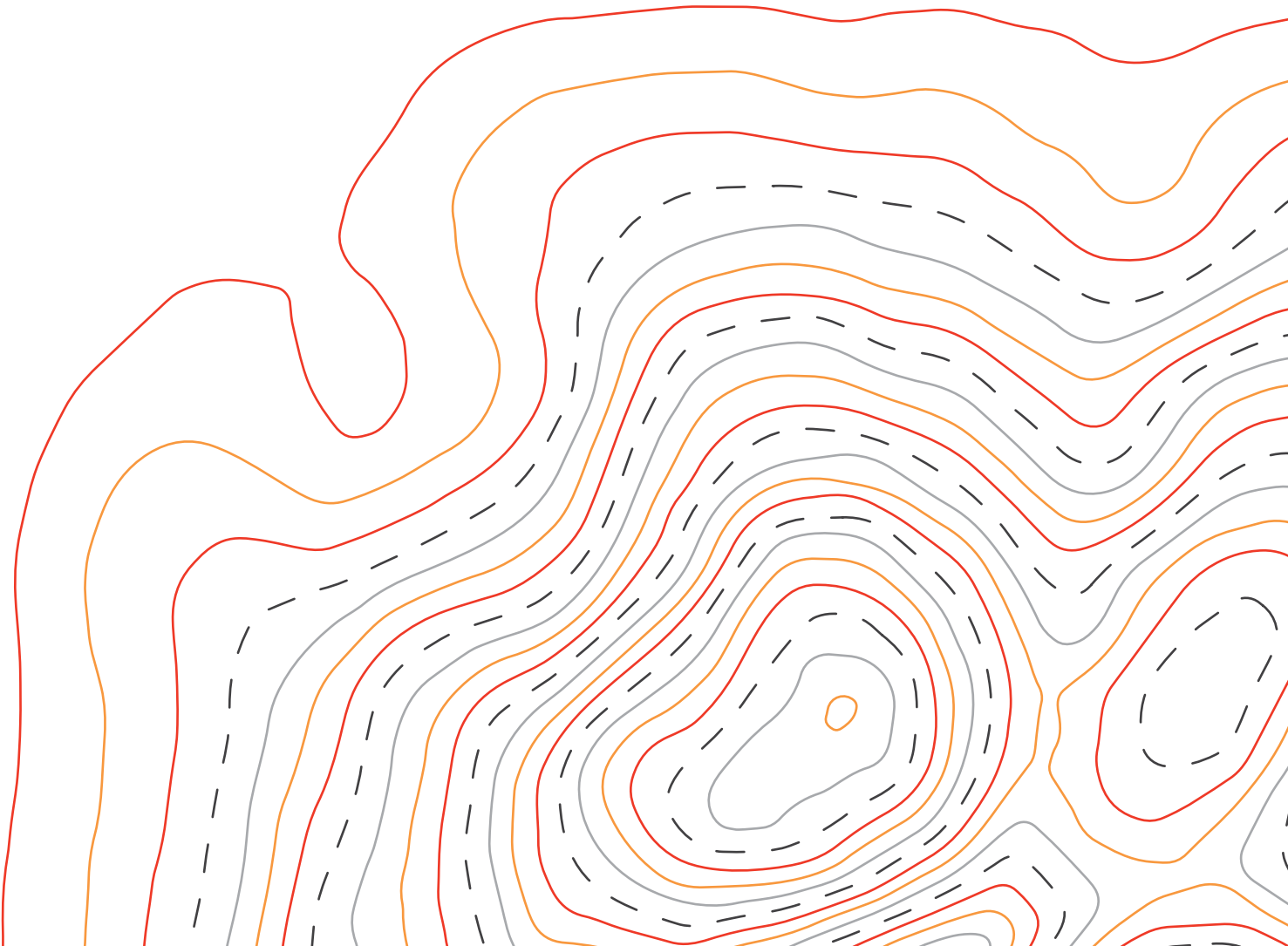
Reliable statistics are difficult to collect, but reports indicate that between 28 and 70 percent of Haitian women have been victims of SGBV.¹⁴⁴ Reports of SGBV against women and girls increased after the 2010 earthquake,¹⁴⁵ which is presumed to be as a result of both unsafe living conditions in displacement camps and advocacy by women's groups to encourage reporting and policing. However, most women do not report SGBV against them for fear of retaliation, stigma, and lack of confidence in the police and judicial system to hold the perpetrator accountable.¹⁴⁶ Hundreds of Haitian women have also been victims of sexual exploitation and abuse at the hands of UN Peacekeepers.¹⁴⁷

Laws and the courts inadequately protect Haitian women from SGBV. For example, the Haitian penal code lacks definitions for "consent" or spousal rape.¹⁴⁸ Prosecutions of SGBV, specifically rape, are increasingly making their way into the courts, but conviction rates are low as the Haitian justice system still presents many structural (see Chapter 4, Section A above) and social barriers that discriminate against female complainants at each level of the process.¹⁴⁹ Domestic violence is rarely prosecuted unless the victim is murdered.¹⁵⁰

In sum, various factors such as political instability and violence, the failing economy, impunity, corruption, and threats of domestic and other forms of SGBV pushed women to leave Haiti in the aftermath of the 2010 earthquake.

CHAPTER

5 HISTORICAL PATTERNS OF HAITIANS WHO ARRIVED TO MEXICO



Historical patterns of Haitians who arrived to Mexico

There are few historical accounts of Haitian migration to or through Mexico to the United States prior to 2015. From 2000-2005, fewer than 20 Haitian refugees were officially in Mexico. This number grew steadily after 2006, peaking at 191 in 2011 right after the earthquake, and falling to 175 in 2014.¹⁵¹ As explained in this section, Haitian migration changed dramatically in 2015 after thousands of Haitians who had fled Haiti for Brazil and Chile after the 2010 earthquake started traveling to Mexico on their way to the U.S.-Mexico border.

A. Wave of Haitian Migrants in 2015-2018



Haitian migrants made up 80 percent of migrants living in Tijuana in 2016, according to a comprehensive report on Haitian and Central American emigration into Mexico published by *El Colegio de la Frontera Norte* (“College of the Northern Border” or “COLEF”).¹⁵² COLEF surveyed over 600 Haitians in Mexico.¹⁵³ At the time that these interviews were conducted in March of 2017, most of the Haitian population had arrived over land from Brazil (90.5%) and a small minority (5.9%) had arrived from Chile.¹⁵⁴

Haitians leaving Brazil passed through between eight to 10 countries over the course of three months. The journey was dangerous and exhausting. Once in Mexico, Haitian migrants generally passed through immigration detention centers in Tapachula in one day, and obtained a temporary document that allowed them to travel throughout the country.¹⁵⁵

Of the migrants surveyed in the COLEF report, 96 percent of the surveyed migrants were from Haiti and four percent were from Central America (El Salvador, Guatemala, and Honduras).¹⁵⁶ The population was mostly male (67%).¹⁵⁷ Of the migrants interviewed (both Haitian and other), 43 percent intended to stay in Tijuana, 21.7 percent wanted to travel to the United States, 30.2 percent was unsure, 3.5 percent wanted to go to another city in Mexico, and 0.7 percent wanted to return to their home country.¹⁵⁸

Almost all of the migrants interviewed (92%) said they were looking for work in Tijuana, but only 20 percent was employed. In terms of their reason for unemployment,

57.5 percent cited lacking viable work papers, 18.5 percent too low wages, 1.5 percent discrimination, 3.4 percent unable to find work, and 10.4 percent had a language barrier. Overall, respondents reported that their wages were insufficient for their necessities, and that the difficulty in paying bills caused them to seek residence in the United States.¹⁵⁹

B. Brazil: A Destination for Haitians After the January 2010 Earthquake

1. Migration and Legal Context of Migration to Brazil Before 2016

Many Haitian migrants arriving in Mexico had initially spent time in Brazil (see Chapter 5, Section A above). Haitians began migrating to Brazil by the thousands following Haiti's devastating 2010 earthquake. Starting in January 2011, Brazil issued 100 work visas to Haitians each month. In 2012, Brazil stopped the quota system altogether, and by the end of 2014 more than 50,000 Haitians lived in Brazil.¹⁶⁰ From 2010 to 2018, 128,968 Haitian nationals reportedly entered Brazil, of which 32,498 eventually left and 96,487 stayed.¹⁶¹ In that same period, only 6,954 were granted legal status as refugees and issued work and social security cards.¹⁶² Recognized refugees could apply for permanent residence after four years.¹⁶³

The large number of Haitians entering Brazil created a need for some type of legalization of their status, but the Brazilian government at first had trouble defining what this adjustment would be. According to Brazilian *Lei No. 9.474* adopted in 1997, an individual who applies for refugee status will receive a provisional identity document (a "refugee protocol"), a temporary work permit, and a taxpayer identification number to use while their claim is being processed.¹⁶⁴ Government delay in issuing these documents – made worse by the large number of Haitians entering the country – created a severe social crisis in areas receiving migrants.¹⁶⁵ For example, in one municipality, a lack of housing for migrants led to their sleeping in an open football field with no bathrooms nor running water.¹⁶⁶ Furthermore, the *Comitê Nacional para os Refugiados* ("National Committee for Refugees" or "CONARE"), Brazil's refugee agency, refused to give refugee status to many of the first wave of Haitians to arrive in 2010 and 2011 because they did not recognize natural disasters as a basis for granting asylum.¹⁶⁷

In 2012, in an attempt to stem the flow of Haitians entering Brazil without documentation, as well as to get around the restrictive definition of a refugee, the *Conselho Nacional de Imigração*¹⁶⁸ ("National Immigration Council" of Brazil or "CNIg") granted all Haitian nationals authorization to reside in Brazil for "humanitarian reasons" for up to five years.¹⁶⁹ The Brazilian humanitarian visa could be obtained at the Brazilian embassy in Port-au-Prince, which was allowed to issue 1,200 such visas a year.¹⁷⁰ Once in Brazil, a humanitarian visa-holder could apply for permanent residence by demonstrating she 1) found work and 2) was domiciled in Brazil. Haitians who achieved permanent residence were given "foreigner identity cards."¹⁷¹ In 2013, the limit on the number of humanitarian visas was removed, as well as the requirement that they be processed in Port-au-Prince.¹⁷² This meant that Haitians already living in Brazil could for the first time apply for the humanitarian visa from within the country.

In 2015, in response to criticism that the humanitarian program failed to stem the flow of Haitian migration or offer adequate relief, CONARE and CNIg issued a ministerial order regularizing the status of 43,871 Haitians with pending asylum applications in Brazil.¹⁷³ This order automatically extended to these Haitians the ability to apply for permanent residence within one year and archived their refugee applications.¹⁷⁴ However, the economic and social climate made actually living in Brazil difficult.

2. Economic Recession, Xenophobia, and Anti-Black Racism Forced Haitians to Leave Brazil

While there are legal avenues to permanent residency for Haitians living in Brazil, the lack of available employment has made staying in the country difficult. Haitians who arrived in Brazil after the earthquake found construction jobs as the nation prepared to host the FIFA World Cup in 2014 and the 2016 Olympics. After the completion of these events, the country fell into a recession.¹⁷⁵ By 2017, Brazil's unemployment rate reached 13.1 percent, and nearly 30,000 Haitians left due to the lack of work.¹⁷⁶

Xenophobic and anti-Black racist attitudes have also forced Haitians to leave Brazil. In 2015, groups of Haitian immigrants were shot in São Paulo in two different attacks.¹⁷⁹ The attacks appeared to be motivated in part by the belief that Haitians were responsible for the economic downturn, as one attacker yelled, "Haitians, you steal our jobs!"¹⁸⁰ An influx of Venezuelan migrants in 2016 further increased tensions between native Brazilians and immigrant communities.¹⁷⁹ In March 2018, a group of Brazilians forcibly expelled migrants from an improvised shelter in Roraima State and burned their belongings.¹⁸⁰ Rumors of these xenophobic attacks against Haitians and other migrants created a climate of fear among Haitian communities.

While hate crimes are outlawed in Brazil, the 2018 assassination of the female Black politician Marielle Franco exposed the country's continuing struggle with anti-Black racism (as well as misogyny, homophobia, and classism).¹⁸¹ According to the *Forum Brasileiro de Segurança Pública* ("Brazilian Security Forum"), 71 percent of people murdered in Brazil in 2017 were Black.¹⁸² Additionally, while all women are disproportionately targeted for violence in Brazil, more Black women are killed per year than the national average of women killed.¹⁸³

At the same time that unemployment, anti-migrant xenophobia, and anti-Black racial tensions increased in Brazil, legal avenues to residency decreased.¹⁸⁴ Even though word likely got back to Haiti that life in Brazil was rife with discrimination and lacked job prospects, more Haitian migrants continued to enter Brazil than left between 2016 – 2018, reflecting just how dire living conditions are in Haiti.¹⁸⁵

3. New Legal Restrictions Put in Place Against Haitian Migration

In 2018, the Brazilian government shortened the humanitarian visa to 90 days for Haitians entering Brazil.¹⁸⁶ During these 90 days, a visa holder may apply for permanent residency for up to two years.¹⁸⁷ Residency is renewable, if an applicant can show: 1) she has not been absent from Brazil for more than 90 days during each migratory year; 2) she entered the national territory and departed only via Brazil's migratory checkpoints; 3) she does not have a criminal record; and 4) she has proof of available means of subsistence.¹⁸⁸ After four years of residing in Brazil full-time, an

applicant may apply for citizenship as long as she has proof of occupation or enough assets to support herself.¹⁸⁹

As an alternative to applying for permanent residence through asylum or a humanitarian visa, a Haitian may also do so if she has a child born in Brazil. Temporary or permanent family reunification visas are available to dependents of any Brazilian citizen or foreign national with permanent residence in the country.¹⁹⁰ Parents of a Brazilian-born child can obtain naturalization after living for one year in the country after receiving a family reunification visa.¹⁹¹

As a result of Brazil's immigration reforms between 2010 and 2015, many Haitians were able to regularize their statuses and find work, providing much-needed relief after the 2010 earthquake and exodus. However, as the next section will show, as Brazil entered an economic recession in 2016 and began receiving an influx of refugees from other countries in addition to continued Haitian migration, opportunities for receiving legal status in Brazil decreased. Humanitarian visas are still available from the Brazilian embassy in Port-au-Prince under the 2018 law, but obtaining employment—a requirement for achieving permanent residency—is more difficult. Furthermore, existing racism and xenophobia have made living in Brazil dangerous for many Haitians.

C. Response of Mexico's Immigration Authorities to the 2015–2018 Wave of Haitian Migration

Haitians started to arrive at Mexico's border with the United States in large numbers in 2016.¹⁹² At that time, policies implemented by the INM expedited official permission for Haitians to travel through Mexico by claiming they were 'stateless', and granting a TVRH card¹⁹³ or an *oficio de salida del país* after a one-day stay in detention.¹⁹⁴ When interviewing Haitian migrants in 2017, COLEF noted that the overwhelming majority who resided in Tijuana (71.4%) had taken four days or less to arrive there after first entering Mexico.¹⁹⁵ INM's rapid processing of Haitians' TVRH cards made this quick transit possible. In many cases, INM officials, in their discretion, declined to perform any review of Haitians' documentation and did not ask questions to verify Haitians' statelessness status.

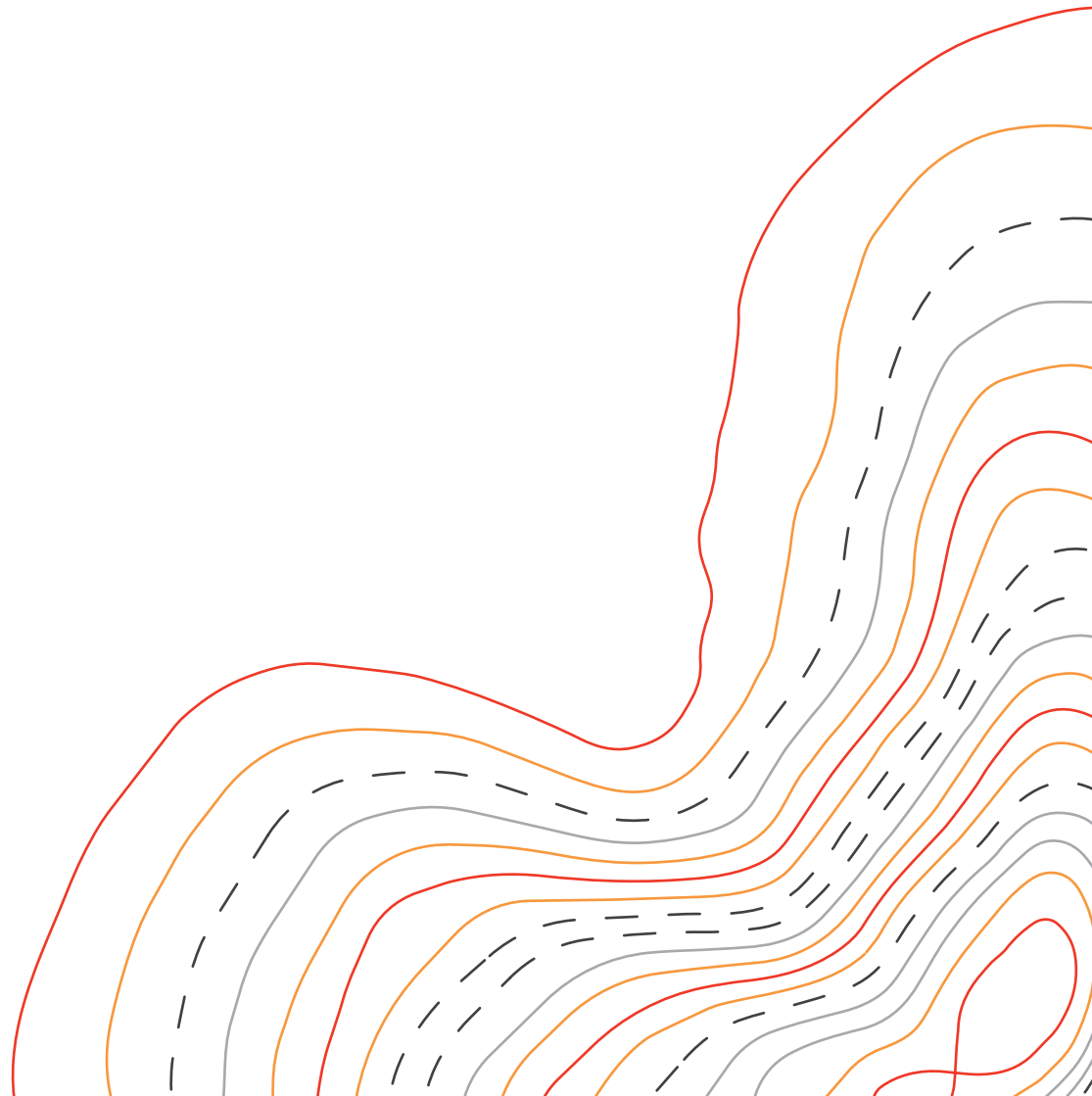
After approximately October of 2016, INM officials began listing Haiti as the country of origin on their *oficios de salida del país*, which would seem to contradict their own agency's findings that those individuals were stateless.¹⁹⁶ None of the *oficios de salida del país* reviewed by COLEF noted the presence of *Kreyol* or French interpreters, which implies that Haitians who did not speak Spanish may not have fully understood how their claims were being processed.¹⁹⁷

INM's decision to expedite grants of TVRH cards undoubtedly benefited Haitians, and the INM's approach stands in stark contrast to their treatment of Central American migrants during this same time period. In 2017, Central American migrants were routinely prevented from traveling to the U.S.-Mexico border.¹⁹⁸ Since COLEF's report was published in 2018, the INM has stopped issuing the above-noted documentation that facilitated Haitians' travel north (see Chapter 8, Section C below).

CHAPTER

6

**RECENT
MIGRATION
ROUTE-TRAVEL
TO/THROUGH
CHILE**



Recent migration route-travel to/through Chile

Although most of the Haitian migrants arriving to Mexico between 2015-2018 had spent time in, or at least transited through Brazil (see Chapter 5, Section B above), the Research Team identified a change in the migration patterns from Haiti to Mexico: of the 30 Haitian migrants interviewed in March 2020, only nine had migrated from Brazil before coming to Mexico (two of whom had lived in Chile before living in Brazil), while 21 had migrated from Chile (two of whom had lived in Brazil before living in Chile). Of those coming from Chile, most had lived in Chile for 18 months to two years before migrating to Mexico.

To contextualize these findings (see Chapter 8 below), the following section provides an overview of the immigration system in Chile that initially facilitated – and subsequently constrained – the ability of Haitians to migrate to Chile. In addition, the section addresses the gender-based discrimination, racism, and xenophobia experienced by Haitian women in Chile which, as observed by a number of Study participants, is one of the factors motivating them to leave the country and migrate north. Finally, the section outlines the migration route undertaken by the Survey participants from South America to Mexico.

A. Situation in Chile

1. Chile as a Destination for Haitians

Although Chile was not historically a “destination country” for migrants, this has changed in recent years.¹⁹⁹ Since Chile began its transition to democracy in 1990, the country has largely experienced political stability and economic growth relative to many other Latin American countries. This led to increased migration by immigrants seeking economic and other opportunities.²⁰⁰ The Afro-descendant population in Chile has historically been small and not visible, but this has changed significantly in recent years.²⁰¹ A small number of Haitians migrated to Chile after Chilean troops were stationed in Haiti as part of a United Nations peacekeeping operation in 2004.²⁰² The number of Haitians migrating to Chile also began to increase²⁰³ after Haiti’s 2010 earthquake²⁰⁴ and grew exponentially since 2014.²⁰⁵ This recent influx has been attributed to Brazil’s economic collapse in 2014, which forced many Haitians to seek economic opportunities in Chile.²⁰⁶ Other contributing factors include: Chile’s increased profile among Haitians due to media coverage after the Chilean team won the 2015 Copa America soccer competition; the perception among Haitians that Chile is not as racist as other countries, such as the United States; desire for family reunification with Haitians already living in Chile; and word of mouth about the economic and visa opportunities available in Chile.²⁰⁷ Further, as outlined below, this influx of Haitians was facilitated by the permissive immigration policies under former Chilean President Michelle Bachelet.²⁰⁸ As of December 2019, the Chilean government estimated that 185,865 Haitians (66,797 of which are women) reside in Chile.²⁰⁹ Haitians represent the third highest foreign population residing in Chile, after Venezuelans and Peruvians, and constitute 12.5 percent of the total foreign population residing in Chile.²¹⁰

2. Chilean Immigration Law Applicable to Haitians Before 2018

Immigration law in Chile is governed by the *Decreto Ley Número 1094 de 1975* (“Decree-Law 1094 of 1975” or “Decree-Law 1094”).²¹¹ This law, which was enacted under Chile’s dictatorship, has been criticized for framing immigrants as national security threats and not aligning with Chile’s human rights obligations.²¹² Progressive governments (such as former President Bachelet’s) have relied on complementary laws and directives to make the country’s overall immigration approach more permissive and human rights-compliant.²¹³ As will be discussed below, such advances have been easily reversed by the current Administration.

The Decree-Law 1094 provides that foreign nationals with valid passports may be granted a 90-day tourist visa on arrival to Chile.²¹⁴ Immigration officials²¹⁵ retain significant discretion when evaluating tourist visa requests, for example by requiring a foreign national to demonstrate “sufficient funds” and determining the amount. This discretion has been exercised in discriminatory ways against Haitians. For example, in one case, immigration officials denied entry to a large group of Haitians on the basis that they did not have valid hotel reservations, even though this is not a legal requirement for a tourist visa. The *Instituto Nacional de Derechos Humanos* (“National Human Rights Institute” or “INDH”) reported that these Haitians were detained in inhumane conditions for days before they were deported to Haiti.²¹⁶ Nevertheless, before 2018, many Haitians successfully entered Chile on a tourist visa and were able to extend their stay using the following two temporary visas.²¹⁷

First, the Decree-Law 1094 provides for an employment-based resident visa, the *visa residente sujeto al contrato* (“resident visa subject to contract”) that is valid for up to two years and is extendable.²¹⁸ The terms for accessing this visa are onerous. The employer must provide not only an offer of employment but also agree to pay the employee’s return flight upon the termination of employment. Further, the visa is tied to the specific employment relationship which, if terminated, means that the employee has 30 days to find other employment or leave Chile.

Second, in 2015, President Bachelet’s Administration created another temporary work visa with less onerous requirements.²¹⁹ The Decree-Law 1094 provides that foreign nationals may obtain a *visa del residente temporario* (“temporary resident visa”) valid for one year (extendable once), where they have ‘family ties or interests’ in the country.²²⁰ The meaning of this provision, i.e. the actual sub-categories of temporary residence, are established by the government. In 2015, the government created a sub-category of temporary resident visa for employment reasons, which could be obtained by foreign nationals with a Chilean employment contract.²²¹ Unlike the aforementioned employment-based resident visa, the employer did not need to provide a return flight and the employee was not required to leave Chile if the employment was terminated before the end of the visa. The government argued that this new visa was more compliant with Chile’s human rights obligations.

Most Haitians who came to Chile before 2018 relied on the temporary resident visa to extend their stay. A study conducted by the *Centro Nacional de Estudios Migratorios* (“National Center for Migration Studies” or “CENEM”) at the *Universidad de Talca* (“University of Talca”) in 2017-2018 found that 45.4 percent of the 272 Haitians interviewed, which were a sample representative of the Haitian population in Chile at the time, were in Chile on temporary (residence) visas, almost all working or look-

ing for work.²²² Of those interviewed, 35.1 percent were in the middle of a visa process, and only 2.2 percent were in the country on the employment-based residence visa.²²³ The main sources of employment for the Haitians interviewed were unskilled labor (30.7%), services/commerce/hotels (28.9%), and construction work (20.0%). Domestic workers comprised 7.6 percent of the interviewees.²²⁴

Very few Haitians applied for refugee status in Chile over this period – the highest number of annual requests was 23, in 2016 – and there is no evidence of any Haitian being granted refugee status in Chile between 2010 and 2019.²²⁵

B. The Experience of Haitians in Chile

Haitians residing in the country experience discrimination and, relatedly, significant barriers to integration.²²⁶ Instances of discrimination are not officially tracked in Chile, but there have been numerous media reports of incidents of racism and xenophobia against Haitian migrants.²²⁷ For example, in one instance, two Haitian men were asked by security to leave a mall after customers complained about the presence of “[B]lack people.”²²⁸ In another tragic incident, a young Haitian woman died after being detained by police.²²⁹ Bystanders mistakenly reported that she had abandoned her baby at a state child protection office, but she had only left her child briefly in order to find an interpreter to help her make a complaint to the office.

In its 2017 Annual Report, the INDH found that a third of Chileans²³⁰ consider themselves “whiter” than other Latin Americans, and noted how the assumption that “white” is better leads to particular discrimination against Afro-descendant migrants and Indigenous peoples.²³¹ Among other findings, the INDH report noted that 24.7 percent of Chileans living in metropolitan areas would characterize migrants as “dirtier” than Chileans.²³² The INDH noted in particular the respondents’ sexualization and exoticization of Afro-descendant migrant women.²³³ For example, respondents associated Afro-descendant migrant women with increased infidelity in the country. This finding is connected with the discriminatory stereotypes, pervasive in Chile, that link migrant women with sex work.²³⁴

The CENEM study, referenced above, found that 48 percent of Haitians interviewed (33.8% of which were women) had experienced discrimination in some way. The study, which looked at the labor, social, and cultural integration of Haitians, found that 40.6 percent of respondents had experienced discrimination when looking for employment, with 33.2 percent identifying discrimination as the primary barrier to finding employment in Chile.²³⁵ This study demonstrated that 83.6 percent of Haitians have more difficulty finding work than other migrants.²³⁶

1. Chile’s New Immigration Restrictions for Haitians in 2018

The increased visibility of Haitian migrants, particularly in metropolitan areas, “provoked public backlash” and brought the issue of immigration to the forefront of Chilean politics.²³⁷ In 2017, the INDH found that 68.2 percent of Chileans approved of more restrictions on immigration to Chile.²³⁸ In advance of his election in November 2017, current President Sebastián Piñera adopted anti-immigrant rhetoric evocative of the current U.S. Administration.²³⁹

After President Piñera assumed office on March 11, 2018, his Administration introduced new restrictive measures to “impose order” on Chile’s immigration system that make it more difficult for Haitians to enter and work in Chile.²⁴⁰ Effective April 2018, Haitians are no longer eligible for the 90-day tourist visa discussed above, which is still available to other foreign nationals. Instead, Haitians must apply for a 30-day tourist visa before traveling to Chile.²⁴¹ The Piñera Administration stated that this change brought Chile’s approach in line with the approach of other Latin American and Caribbean countries but did not specify why it applied only to Haitians. The measures were viewed as a backlash against the recent influx of Haitian migration into Chile.

The government also eliminated the sub-category of temporary resident visas for employment reasons, outlined above, which had facilitated an influx of Haitian migrants.²⁴² The government suggested that, because the visa was not tied to employment, bad actors had been able to sell fraudulent employment contracts for visa application purposes.²⁴³ In its place, the government created the *visa temporaria de oportunidades* (“temporary opportunity visa”) which allows foreign nationals to work in the country for up to one year (extendable once), but can only be obtained from outside of Chile.²⁴⁴ Finally, as the new law came into effect, the Administration created a process that allowed certain undocumented migrants to regularize their status within three months before being at risk of removal from Chile. Some Haitians had difficulty regularizing their status because the Haitian government was uncooperative in verifying their identity documents.²⁴⁵

At the same time, Chile created a program to “voluntarily” return individuals to Haiti who agreed not to travel to Chile for nine years in exchange for Chile covering the expense of their flight.²⁴⁶ From October 2018 to May 2019, 1,393 Haitians were returned to Haiti on nine flights.²⁴⁷ These so-called “humanitarian flights” have been criticized as tantamount to deportation.²⁴⁸

Under the current Administration, there has been a significant decrease in the number of Haitians entering Chile or receiving temporary visas (*see* Appendix 2).²⁴⁹

2. Migration Route from South America to Mexico



As migratory restrictions and economic crises in Latin America pushed many Haitians to leave Chile and Brazil, many chose to travel to Mexico, the United States, and Canada, rather than return home to similar or worse conditions. The Herculean journey that Haitians and other migrants make from Latin America to Mexico traverses nearly seven thousand miles and 11 countries.²⁵⁰ In total, it can take between two and four months to reach Mexico.²⁵¹ Migrants pay smugglers to lead them on foot in addition to using modern technology like WhatsApp to follow traffickers' directions.²⁵² All of the Haitian migrant women interviewed in the Study took this route (*see* Chapter 8, Section A below).

Haitians beginning the journey from Brazil or Chile can take a bus or taxi to Peru's border.²⁵³ Migrants can purchase transit documents in Peru for US\$20; however, these are not always recognized by authorities in that country or neighboring Ecuador.²⁵⁴ Migrants move on from Ecuador to Colombia, next travelling across the Darien Gap into Panama.²⁵⁵ This route requires crossing a landscape of tropical rainforest 100 miles wide, taking approximately 20 days on foot. Migrants are forced to cross rivers that quickly rise to a dangerous level. Many have drowned, their bodies carried away by strong currents making them unrecoverable by family members journeying with them.²⁵⁶

Smugglers guide migrants through the dangerous jungle and may abandon or rob them at any point.²⁵⁷ Migrants report high instances of robberies and sexual assault in this region. Migrants also encounter drug trafficking "mules," who require payment in exchange for allowing them to continue on their journey.²⁵⁸ There appears

to be little protection or accountability for reports of violence against migrants by any of the governments in this region.

Migrants who successfully enter Panama find makeshift camps of concrete block shelters and wooden shacks provided and monitored by *Senafrent*, Panama's National Border Service.²⁵⁹ The camps regularly fill beyond capacity; an official of *Senafrent* estimated in 2019 that there were more than 1,500 migrants at the *Penitas* camp, which was planned to hold only 100 – 200 migrants.²⁶⁰

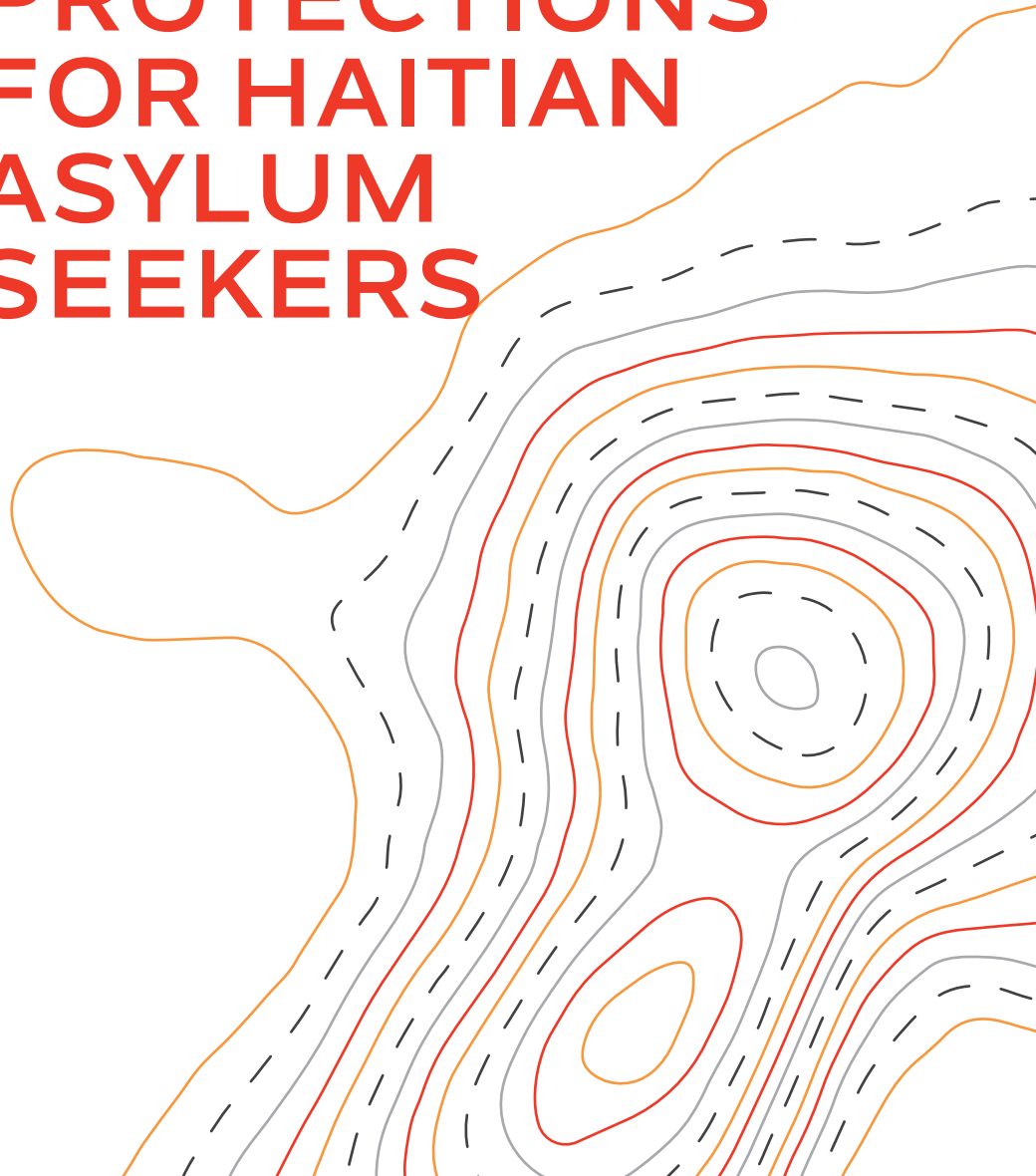
Haitian migrants take a bus from Panama to Costa Rica and then to Nicaragua. Nicaragua closed its borders to migrants in 2015, and immigration authorities sent those they apprehend back to Costa Rica.²⁶¹ As a result, Haitians can spend up to US\$1,000 to move across the country with a “coyote.”²⁶² From Nicaragua, they cross into Honduras, take another bus to Guatemala, and again have to pay smugglers to continue through.²⁶³ Finally, migrants cross the river between Guatemala and Mexico to reach Tapachula. A rough estimate of the journey's cost is between \$2,500 and \$13,000 – the difference depending largely on negotiating skills and the size of the family traveling.²⁶⁴



Photo: S. Priya Morley. Parque Central Miguel Hidalgo, Tapachula, Chiapas.

CHAPTER

7 U.S. IMMIGRATION POLICIES UNDERMINE PROTECTIONS FOR HAITIAN ASYLUM SEEKERS



U.S. Immigration polices undermine protections for Haitian asylum seekers

Although this Report focuses on the situation of Haitian migrant women in Mexico, the intended destination of many Haitians in Mexico is the United States. Most of the Study participants intended to reach the United States to connect with family there or to find work. This section outlines anti-immigrant legislation in the United States that effectively closes the U.S.-Mexico border to Haitian migrants.

For decades, the United States has sought to keep Haitians from accessing its protection system. The first boat carrying Haitians fleeing the brutal Duvalier dictatorship arrived in the United States in the 1960s. The United States denied asylum to all 25 passengers and deported them to the very danger they fled.²⁶⁵ In the 1970s, immigration authorities created a special program designed to accelerate the processing of Haitian asylum claims to expedite removals without full process.²⁶⁶ Then in the 1980s, the United States engaged in the repressive tactics of systematically detaining Haitian asylum seekers and interdicting Haitians at sea and returning them to harm in Haiti with no screening at all.²⁶⁷

In the 1990s, the U.S. Coast Guard collected tens of thousands of Haitian refugees and imprisoned them in Guantanamo Bay, Cuba. Guantanamo was known as the “HIV prison camp”²⁶⁸ because of the poor treatment of HIV positive Haitian refugees, who were wrongly blamed for the AIDS epidemic in the United States. These and other draconian policies in the years since, rooted in anti-Black racism, have resulted in a failure of protection, prolonged family separation, and myriad human rights violations of Haitian asylum seekers.²⁶⁹

Over the last four years, the Trump Administration has implemented even more extreme measures to eviscerate asylum in the United States, taking particular aim at individuals who arrive at the U.S.-Mexico border. Haitians are no exception and face additional hurdles due to language barriers and historical discrimination.²⁷⁰ Through a series of cruel and illegal policies, the Administration has, unilaterally, all but eliminated safe haven provided under U.S. law and rooted in international treaty obligations. The policies limit access to the territory, curtail due process, and restrict the definition of who qualifies as a refugee.

Most recently, using the COVID-19 pandemic as pretext, the Administration has indefinitely limited the entry of asylum seekers into the United States ostensibly for public health reasons.²⁷¹ Immigration authorities are not required to screen the individuals for fear of persecution or torture before returning them to Mexico or other countries.²⁷² An extreme measure, the COVID-19 order has effectively closed the U.S. border to anyone who attempts to seek safe haven since March 2020. The Administration has also signed agreements with Guatemala, El Salvador, and Honduras to enable U.S. officials to remove asylum seekers to these countries rather than process their claims in the United States.²⁷³ The agreements were signed despite documentation of widespread human rights violations in those countries and their nascent asylum systems that cannot provide adequate protection to refugees.²⁷⁴ Taken together, the United States is both at once shirking and outsourcing its refugee obligations.

Beginning in January 2019, the Administration instituted MPP, which has forced more than 60,500 asylum seekers arriving at the U.S.-Mexico border to wait in Mexico for the duration of their U.S. proceedings without documents or other critical support.²⁷⁵ The United States adopted this policy despite knowledge of dangers faced by migrants in border states, including kidnapping, rape, and murder, committed by criminal organizations with impunity or even with collusion by Mexican authorities. While living in such precarious conditions and far from legal service providers, asylum seekers face an uphill battle. Very few have been able to secure legal representation to navigate the complex U.S. immigration system and less than one percent have been granted protection.²⁷⁶

The Administration has further issued two sweeping bans to exclude large categories of individuals from asylum eligibility. First, the United States sought to ban individuals who did not enter the country through an official port of entry from receiving asylum, thus blocking a significant number of claims.²⁷⁷ Second, the United States sought to ban from asylum all individuals who transited a third country *en route* to the U.S.-Mexico border. This ban categorically denied asylum to all non-Mexicans, including Haitians, who travel through Mexico and other countries to pursue protection, with limited exceptions.²⁷⁸

Finally, the Administration has usurped the role of Congress and sought to rewrite substantive asylum law by decree, reversing long-standing jurisprudence and restricting the refugee definition. The Attorney General and his Justice Department have cast doubt in particular on claims involving gender- and family-based persecution as well as claims involving targeting of landowners.²⁷⁹ These decisions, focused on persecution by non-state actors, will undoubtedly have a deleterious impact on Haitian asylum seekers (*see* Chapter 4 above).²⁸⁰ A newly proposed regulation attempts to codify these decisions and the asylum bans and adopts several other substantive changes that would cast aside several categories of claims as well as procedural changes that would give asylum seekers their day in court.²⁸¹ If the proposed regulation were to go into effect, it is no exaggeration to say that it would all but eliminate protections in the United States for the vast majority of asylum seekers.

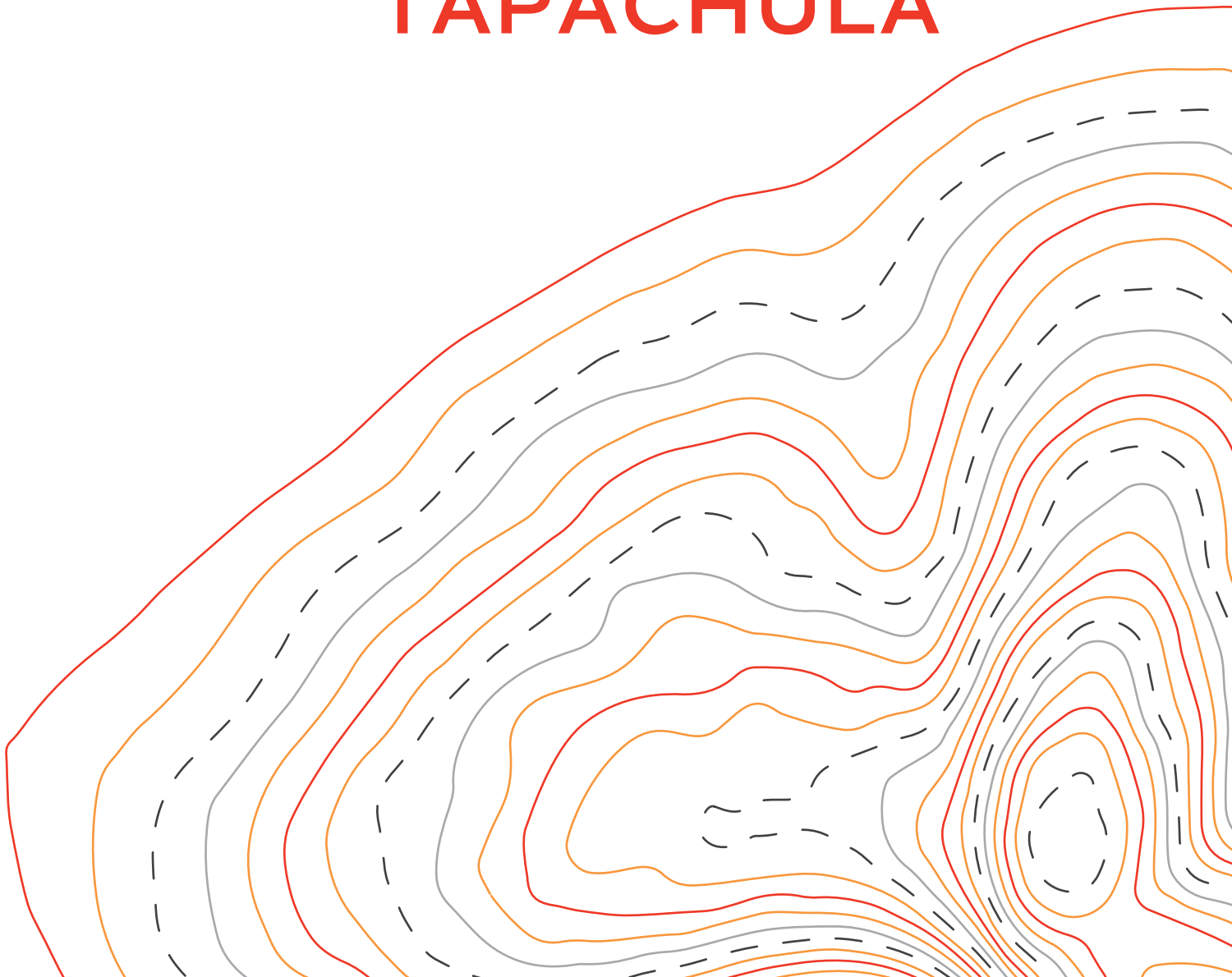
None of the Study participants who intended to emigrate to the United States understood the obstacles that await them at the U.S.-Mexico border. Many interviewees had immediate family members in the United States, such as husbands, young children, parents, and siblings. One interviewee, who was 17-years old, left Haiti to join her father in Miami after her mother was murdered in Haiti.²⁸²

Having provided context about the Mexican immigration system (*see* Chapter 3, Section B above), the situation in Haiti causing outward migration (*see* Chapter 4 above), the migration of Haitians to Mexico in the last five years, their transit routes through Brazil and Chile (*see* Chapters 5-6 above), and what awaits Haitians at the U.S.-Mexico border in this Chapter, the following section outlines the findings from our Study and subsequent interviews about the current situation of Haitian migrant women in Tapachula.

CHAPTER

8

**FINDINGS: THE
VULNERABILITY
OF HAITIAN
MIGRANTS IN
TAPACHULA**



Findings: the vulnerability of Haitian migrants in Tapachula

Haitians are among the most precarious migrants in Tapachula.²⁸³ The exact number of Haitians living in Tapachula in 2020 is unknown given the fluid nature of their migration, but the estimate is in the thousands.²⁸⁴ Most Haitians who arrive in Tapachula do not speak Spanish, except for maybe a few words if they previously lived and worked in Chile or the Dominican Republic. Haitian women tend to speak less Spanish than the men because they were less likely to work in Spanish-speaking transit countries, which makes them dependent on a male partner or family member. Few to none of the immigration officials or non-governmental service providers in Tapachula speak *Kreyol*, and as a result, Haitian migrants have difficulty understanding the immigration system and how to access the networks of legal and humanitarian services available to them. The needs of Haitian migrants are significant, and legal and humanitarian organizations, as well as government agencies, lack the resources to effectively assist them.

This section weaves the responses from interviews with 29 Haitian migrant women and one 17-year old girl (30 interviews total) together with interviews with migrant advocates and legal service providers to assess the legal and humanitarian needs of Haitian migrant women in Tapachula and to propose solutions to meet their needs. This section discusses the interviewees' stories of migration to Tapachula, their feelings of isolation and difficulties accessing humanitarian services, a fear of returning to Haiti, and lastly, the multiple barriers to asylum and other forms of legal protections, including language barriers, sexism, racism, and xenophobia.

A. Traumatic Journey from South America to Mexico: "The voyage here will mark my life forever"²⁸⁵

As noted above, all of the Haitian women interviewed had been living in Brazil and/or Chile for a period of time and travelled from there to Tapachula by bus and foot. Along the way, they slept in hotels and shelters or outside. Consistent with other sources, the journey for the women interviewed took between one to two months and cost between US\$2,500 and US\$10,000, depending on how many family members were traveling and how often they could afford to stay in hotels (see Chapter 6, Section D above). Some of the travel money came from savings from work in Haiti, Brazil, or Chile, but most of the money was borrowed from relatives. One woman reported that when she was in Haiti, she was "always putting aside 5 gourdes" (about 5 U.S. cents) for the journey.²⁸⁶

Some families traveled alone, but the majority of women interviewed traveled in groups of between 20 to 40 other people, mostly other Haitian migrants, for safety. Traveling through the Darien Gap from Colombia to Panama was the most difficult part. This area consists of 100 miles of tropical rainforest that they traveled on foot. Depending on how fast they were able to walk, the Darien Gap took between 9 and 15 days to pass through. Travelers with young kids or health conditions travelled more slowly. Almost all of the women interviewed shared similar stories about robberies in the Darien Gap. The thieves took everything they had: their luggage, cloth-

ing, shoes, food, cell phones, and money. A few of the interviewees had their passports stolen as well. Families were left in the middle of the jungle with no food or money for food, and often no shoes to walk the rest of the rainforest path. One woman recounted that a thief beat her husband and shot at them.²⁸⁷ Several women reported that someone in their group died on the journey from health problems or drowning when crossing the Atrato River or someone was murdered by thieves.²⁸⁸

All but one of the women interviewed said they went without any food for between 3 to 15 days and survived on salt and river water. The conditions were most traumatic for children and pregnant women. Below are some of the stories shared by the women interviewed:

*My younger son's heart was beating so fast and I think it was because he went days without eating. From that point on, my husband had to carry him on his shoulders.*²⁸⁹

*There was a young child, 14, whose leg was injured. It got infected and it got worse. The mom had to stay behind until he passed away.*²⁹⁰

*We slept on the ground in the rain and mud like an animal. It rained so often, almost every day. We put big rocks to make a little bed to sleep.*²⁹¹ *We drank dead people's water along the way to survive.*²⁹²

*I was scared the entire time that I would give birth in the bushes.*²⁹³ *I went five days without eating while pregnant.*²⁹⁴

*We saw people dead on the way and they were drowned in the river.*²⁹⁵

*In the forest we had 11 to 12 days of no food, just drinking water. At one point I could not bear the hunger and I ate the roots of this tree to sustain myself. It made me sick. Thieves in Panama stole all our food money.*²⁹⁶

The interviewees reported instances of theft but no other significant problems as they made their way through Costa Rica, Nicaragua, Honduras, and Guatemala to Mexico. Most of the interviewees entered Mexico by paying a guide to cross the Suchiate River, which trails the Mexico-Guatemala border, by raft. Once in Mexico, most approached Tapachula by foot and bus, often heading directly to the COMAR office.

B. Life of Isolation and Misery in Mexico: "All I do is take care of my children at the house and go to the immigration office to follow up on news of our case"²⁹⁷

After their traumatic journey through between 9 and 11 countries, most Haitian migrants arrive in Tapachula with only the clothes on their back. They are desperate for clothes, food, medical attention, housing, and security. Pregnant women and families with babies need additional assistance. The UNHCR gives US\$140 per month to each migrant who has applied for asylum, including children, for up to three months. As the women's immigration cases drag beyond this period, this limited support is inadequate. Some women interviewed received food assistance from a local church.

Below is a summary of humanitarian services already available in Tapachula and the needs that are still not being met in the Haitian migrant community.

1. Medical Care

Basic medical assistance is available in the two public hospitals in Tapachula, as well as *Médicos del Mundo* (“Doctors of the World”) and *Médicos Sin Fronteras* (“Doctors Without Borders”).²⁹⁸ Pregnant women are able to give birth with one of these medical service providers, however pre-natal care seems to be limited. Several of the women interviewed were pregnant when they arrived in Mexico. Given their physically arduous treks from South America, which for some led to severe malnutrition and dehydration, and the violence some experienced, many of these pregnancies would presumably be high-risk.

Medical assistance is free but many did not trust the care, and could not afford the medicines prescribed or could not read the dosage in Spanish. For example, one woman reported that the hospital gave her child the wrong prescription for his age, so they had to throw it away.²⁹⁹ Another woman was scared to give birth in Tapachula after hearing that a friend was given a shot that she believed induced early labor. The interviewee said that she did not take the medicine prescribed to her because she did not trust the doctor.³⁰⁰

2. Housing

There are two main migrant shelters in Tapachula – *Belén*, run by the Scalabrini Order, and *Jesús el Buen Pastor del Pobre y Migrante*, run by “Sister” Olga Sánchez Martínez and her adult children. The Research Team interviewed several Haitian women at *Buen Pastor*, which at the time housed several hundred Haitian adults and children. Short-term dormitory-style housing and food are available to migrants, though most of the women interviewed preferred to cook for themselves because they were not accustomed to the food served.

Outside of the shelters, Haitian migrants tend to live near the main square in Tapachula or in one of two residential neighborhoods about 15-20 minutes by vehicle from downtown Tapachula (*Los Ángeles* and *Insurgentes*). Both neighborhoods are walking distance to the INM and the *Siglo XXI* detention center. Interviewees and their families lived in sparse, rundown two-room cinder-block homes or two-story apartment buildings. The homes had no kitchen and very little furniture, except for a few thin sleep pads or broken chairs. Most people slept on the concrete floors without any bedding. One interviewee reflected on her situation, “Look at the state we are in, sitting on the floor, sleeping on the floor, no chairs. We want papers to leave Tapachula to find jobs and get out of this situation.”³⁰¹

3. Schools

None of the interviewees stated that their children were attending school. Some of the mothers did not believe that any schools were available to their children, while others wanted to keep their children close to home. A few of the women had heard that school sessions were starting, but that classes were already full. The interviewees’ children ranged from a few weeks old to 16 years old. Of them, ten were school aged (4-17). One respondent reported being pregnant.



Photo: S. Priya Morley.

4. Work

A common complaint among Haitian migrants was that there is no work available in Tapachula or that they have not yet received work authorization. This is particularly true among Haitian women. Those who try to start businesses without permits are often blocked by Mexican authorities. One interviewee sold food in *Parque Central Miguel Hidalgo*, Tapachula's main square. She said the police "sometimes come and chase us when we are trying to work. Sometimes they take my basket of patties I'm selling, and I go home empty-handed. They did that today; they seem to do that on Fridays."³⁰²

Demonstrating the effort some Haitian migrants make to find work and the discrimination they face, one woman recalled, "My husband was a mechanic and a welder but there is no work here. He slept in front of a mechanic shop for four days because he heard they were hiring but every time he asked, they said they were not hiring."³⁰³

5. Lack of Community Center

Tapachula is a transitory place where Haitian migrants await papers to travel to other parts of Mexico or the U.S.-Mexico border. Just when migrants begin to understand the immigration process and how to access humanitarian services, they are authorized to leave.³⁰⁴ Meanwhile, new migrants enter Tapachula and must learn the system on their own. *Fray Matías* suggested creating a community center for Haitians that would be staffed by a *Kreyol* speaker. The center would be a hub for information and services, where humanitarian and legal service providers could meet with the Haitian community to provide trainings and services with language access.³⁰⁵

6. Isolation and Fear

Most of the women interviewed reported feeling stuck and isolated in their homes in Tapachula. Some of the interviewees made the journey into town to the COMAR office, but many sent their male partner or family member to COMAR on their behalf. The women gave a myriad of reasons for their discomfort in leaving their homes, including language barriers, unfamiliarity with the city, cost of bus fare, xenophobia and hostility by Mexicans, and the need to take care of their children.³⁰⁶ JRS offered free diapers to encourage Haitian women to participate in a weekly support group of migrant women and their children, which was facilitated by a *Kreyol*-speaking volunteer.³⁰⁷

When asked whether she had access to social services, one interviewee replied, “When I try to go out, cars will not stop even though I’m pregnant. If I have to go to the health center, I walk. We do not have rights here.”³⁰⁸ Another woman responded, “Outside, people do not respect you. You are not in your own country and people are mad at you. If anything happens to you, you cannot talk to anyone about it. It’s worse than Haiti.”³⁰⁹

Almost everyone interviewed was fearful of returning to Haiti because of increased generalized violence, including rape and kidnappings. Many women offered details of political persecution. As one woman said, “The Haitian government does not work together, it is destroyed. You cannot work, there is no security, our kids cannot go to school. They are burning schools, there are protests in the streets, it’s misery. We cannot live there.”³¹⁰ “I am very afraid...Even if I had to go back, I would leave again,” said one woman.³¹¹

C. Barriers to Asylum and Other Forms of Legal Protection

The recent volume of Haitian cases has overwhelmed the under-resourced COMAR and INM, as well as humanitarian and legal service providers. Patterns of migration to Mexico are evolving, and the country has recently seen a dramatic increase in migrants passing through on their way to the United States (see Chapter 3, Section A above). In 2014, Mexico experienced a spike in migration as unaccompanied children from Central America were fleeing proliferating gang violence.³¹² Thereafter, Mexico received a wave of Cuban migrants, then Haitians, and then a series of caravans of migrants from Guatemala, El Salvador, and Honduras.³¹³

Mexico’s immigration system had never received and was not prepared to process tens of thousands of non-Spanish-speaking migrants from countries in the Caribbean and the African continent.³¹⁴ Legal service providers have identified several factors that contributed to the arbitrarily low rates of asylum grants for Haitians, including procedural violations, COMAR’s lack of knowledge of country conditions in Haiti, and Haitians’ marginalization and language barriers.³¹⁵

1. COMAR: Delays and Procedural Violations with Asylum Claims, Including Lack of Language Access

Haitian asylum claims began to surge starting in June 2019, from 76 in 2018 to 5,550 in 2019 to 3,627 as of May 2020.³¹⁶ In January 2020, 400 of the 462 asylum applications filed with COMAR in Tapachula involved Haitian claimants.³¹⁷ Hondurans, historically the largest asylum applicant group by nationality in Mexico, are now the second largest group in Tapachula, after Haitians. By contrast, of all asylum claims filed in Mexico from January to May 2020, Haitians made up 18 percent.³¹⁸

Estimated approval rates in 2013 – May 2020³¹⁹ for asylum and complementary protection combined per country are as follows:

- Haiti: 20% approval (13% asylum, 7% complementary protection)
- Venezuela: 98% approval (97% asylum, 1% complementary protection)
- Honduras: 67% approval (54% asylum, 13% complementary protection)
- El Salvador: 71% approval (51% asylum, 20% complementary protection)

Given Mexico's recent designation of Honduras and El Salvador under the Cartagena Declaration, which broadens the definition of refugee, approval rates for these countries are expected to increase (*see* Chapter 3, Section B above). Complementary protection authorizes work permits, but does not offer a path to regularization or family visa petitions (*see* Chapter 3, Section B above).³²⁰ The lack of knowledge of country conditions and lack of language access on the part of COMAR officials, as discussed more fully below, make it difficult for Haitian asylum seekers to prove their claim and for some asylum adjudicators to determine whether the applicants' cases meet the legal standards for asylum.

Mexico ramped up its asylum capacity in 2019, roughly doubling COMAR's budget from 27 million pesos to 60 million pesos, or about US\$2.5 million.³²¹ In addition, COMAR is working closely with the UNHCR, which assists with funding, legal guidance, training, and some staffing. (*see* Chapter 3, Section A above). Despite the additional support, COMAR by all accounts is understaffed, under-resourced, and overwhelmed by the number of cases. The agency does not have adequate interpretation or country conditions expertise for non-Spanish speaking applicants. As a result, COMAR is unable to adequately analyze their cases.³²² According to CNDH (*see* Chapter 2, Section C above), COMAR regularly violates its procedures, which results in delays and unfair denial of asylum applications. CNDH monitors the asylum process and files complaints against COMAR for procedural violations. CNDH also lacked any *Kreyol*-speaking staff.

There are two main *pro bono* legal service providers in Tapachula that assist migrants with asylum claims – JRS and *Fray Matías* (*see* Chapter 2, Section C above). Both combine legal representation with psychological counseling services, and both provide assistance to Haitian migrants. One quarter of the migrants that *Fray Matías* served in 2019 were Haitian.³²³ Reflecting the same trends as COMAR, JRS reported that Haitian asylum claims made up approximately 80 percent of their cases in March 2020.³²⁴ Both organizations spoke of challenges working with Haitians due to language barriers. *Fray Matías* has a few French-speaking staff members, but no *Kreyol* speakers. JRS does not have any French or *Kreyol*-speaking staff members.

Once in Mexico, anyone can make a claim for asylum, even if they entered without a visa. As noted in Chapter 3, Section B above, the asylum process authorizes 45 business days for COMAR to process an application (review the application, hold an interview, and make a determination), plus 10 days to notify the applicant of the determination.³²⁵ But COMAR may request an additional extension of 45 days. In practice the process takes at least 100 business days (six months), often as long as a year, which is beyond the legal time limit.³²⁶ During that time, applicants must come to the COMAR office every week to sign off on a list to keep their process active. If they do not sign for two weeks, the process is considered abandoned and must be refiled.³²⁷

The timeline for these procedural steps depends on the individual COMAR adjudicator's caseload and capacity. As noted in a 2016 report by *Sin Fronteras*, "obstacles have been detected from the time of the first approach by asylum seekers, since the workload in some [COMAR] offices is so large that the staff does not immediately receive the documentation, instead having to schedule appointments that may postpone the procedure by several days."³²⁸ The 45-day term for issuing a resolution, even if regularly flouted, "turns into an element of pressure that leads to a lack of in-depth analysis on the part of the authorities."³²⁹

Asylum seekers from Haiti have complained that COMAR does not appear to be processing claims in order, granting interviews to individuals who applied after others yet to be interviewed or issuing decisions more quickly in some cases while others languish.³³⁰ Advocates in Tapachula opined that COMAR took advantage of Haitians' lack of language access and comprehension of their rights to extend deadlines or knowingly violate legal procedures.³³¹ COMAR's office in Tapachula has an asylum officer who speaks French, but no staff members who speak *Kreyol*.³³² The UNHCR provides a part-time *Kreyol* translator, who works a few days a week for a few hours per shift. Despite COMAR's obligation to provide interpretation support (*see* Chapter 3, Section B above), only three of the Haitian women interviewed said they had been provided a *Kreyol* interpreter at COMAR; most said that they or their male partner or family member would bring a friend who spoke some Spanish to translate during COMAR interviews. When asked about her interactions with COMAR, an interviewee responded, "some questions I understood and the ones I did not, I asked for help and they translated with Google."³³³

Language access is essential to guaranteeing asylum seekers' due process – rights to both notice and hearing are compromised when the asylum seeker cannot understand the notice in the language it has been given in, or present the facts necessary to make her case for asylum in a hearing.³³⁴ Asylum seekers, by definition, are seeking safety from persecution in their home countries. As such, the outcome of a COMAR interview can mean the difference between freedom and persecution, or even life and death.³³⁵ For these reasons, an asylum seeker's right to adequate interpretation and translation are guaranteed under Mexican law.³³⁶

When prompted with questions, only a few women (those who spoke Spanish) understood the meaning of asylum, the status of their claim, or whether they were in danger of being deported. In addition to a lack of qualified interpreters, other common complaints by the women interviewed included: the long delays in rendering decisions, the inability to speak with someone or ask for help at the COMAR office, a lack of transparency about the asylum process, and the seemingly arbitrary nature of decisions.

A common refrain among interviewees was that COMAR staff was racist against Haitians. Below is some commentary from the interviews voicing frustration:

When we go to the immigration office, they take better care of the other migrants than Haitians.³³⁷

Yes, they look down at us all the time. We go to the immigration office all the time to get our papers, but no one takes care of us. Every time they give us appointments so far out and if we want to change the dates, no one helps us.³³⁸

My husband wakes up at 2am to go to the immigration office to be able to be seen before it closes. They help others but not him.³³⁹

Other common violations and deficiencies that have been documented within COMAR nationwide include: making asylum determinations without relevant and available family members present, insufficient advance notice of hearings, the use of non-official sources as evidence, a lack of advisory and legal representation for those who file proceedings before COMAR, and absence of clear procedures for the mechanisms and criteria for case evaluation and analysis.³⁴⁰ Of particular concern, asylum seekers may request a reconsideration of their decision, which is processed internally within COMAR, but this remedy is rarely successful.³⁴¹ The procedures do not allow those who were denied asylum to provide evidence or file grievances regarding the review process (see Chapter 3, Section B above).³⁴²

2. INM: Delays in Issuing TVRH cards and Arbitrary Detention

Asylum advocates point to an inherent tension between COMAR, which is mandated to help immigrants, and the INM, which is mandated to detain and deport them.³⁴³ The INM's functions include processing migrant requests for visas, operating the centers of migrant detention throughout Mexico, and handling deportations, which will be discussed further in this section.

i. Tarjetas de Visitante por Razones Humanitarias (TVRH)

Migrants request TVRH cards (colloquially known as “humanitarian visas”) from the INM, which allow them to work and travel for up to a year (see Chapter 3, Section B above).³⁴⁴ The law says applicants should wait no longer than 30 days to get approval for a TVRH card,³⁴⁵ but advocates and applicants say that it takes at least six months to be issued for those with pending asylum applications.³⁴⁶ CNDH claims to regularly file complaints with the INM for timeline violations, resulting in sanctions against the immigration officer at fault.³⁴⁷

The delay in issuing TVRH cards causes a period of limbo and hardship for Haitian migrants who are desperate to obtain authorization to leave Tapachula, find work, and/or travel to the U.S.-Mexico border. Many Haitian migrants do not intend to live in Mexico long-term or pursue their asylum claim, but they actively pursue it in order to be eligible for a TVRH card. Moreover, due to a lack of language access and legal representation, as discussed more fully above in Chapter 8, Section C (1), many Haitian migrants are confused about the INM and COMAR processes and their rights in both of them. As a result, COMAR is burdened with confused or indifferent asylum applicants, which takes away resources from adjudicating more urgent claims.

Substantial corruption within the INM is another barrier to Haitian migrants' access to immigration documents. According to service providers, INM officials often extort migrants for 10,000-15,000 Mexican pesos (US\$458-\$688) to process or expedite TVRH cards.³⁴⁸ If migrants do not pay the bribe, their wait time for a TVRH card could be several additional months. There have been numerous complaints to CNDH of Mexican authorities ripping up migrants' immigration documents unless a bribe is paid, forcing the migrants to begin the process anew if they do not pay the bribe. CNDH reportedly files individual complaints on behalf of migrants in these types of corruption cases.³⁴⁹

ii. Migrant Detention Centers

There is one main detention center in Tapachula, called *Centro de Detención Siglo XXI*, and two smaller ones for adolescents, *Feria Mesoamericana* and *Albergue Viva México* (“Mesoamerican Fair” and “Viva Mexico Shelter”). *Siglo XXI* has a capacity of 960 people, and CNDH estimated 750 detainees in March 2020.³⁵⁰ The detained population can easily double or triple with the arrival of migrant caravans.³⁵¹ The conditions at all of the detention centers are squalid according to several reports from detainees, but access is extremely limited to human rights organizations and journalists,³⁵² so the conditions have not been properly documented. For example, at *Siglo XXI*, lawyers of detainees may enter on certain days, but only in reception areas to speak with specific, preapproved clients.³⁵³

A Haitian man and a pregnant Haitian woman died in August 2019 as a result of poor treatment in migrant detention centers in Tapachula. *Fray Matías* reported that in the case of the pregnant woman, the INM released her when her health condition worsened so that she would not die in their custody.³⁵⁴ In June 2019, footage went viral in Mexico of a Haitian migrant mother begging in Spanish for help for her sick child, claiming they were not receiving adequate food or drinking water in the *Feria Mesoamericana* detention center.³⁵⁵ In addition to poor treatment, Haitian migrants have complained of racist and xenophobic attitudes by INM agents in the detention centers in Tapachula, including calling Haitian detainees “dogs” and “assholes”.³⁵⁶ Other forms of discrimination included giving spoiled food and water to Haitian detainees, or deliberately limiting their access to toilets and showers (*see* Chapter 8, Section C, sub-section 3 below).³⁵⁷

CNDH claims to visit *Siglo XXI* almost daily and to regularly file reports on a range of abuses such as lack of medical attention, access to water and diapers and milk for babies, and physical abuse against detainees.³⁵⁸ However, advocates did not find CNDH's monitoring or influence to be effective, in large part because the agency is part of and funded by the Mexican government and is seen to lack independence.³⁵⁹

Advocates and migrants complain that INM's determination of which migrants to detain, when to release them, or whether to deport them are arbitrary and influenced by the government's approach to immigration at the relevant time. Five of the women interviewed were apprehended at the border upon entering Mexico and detained at *Siglo XXI* detention center. The stories of detention varied. The time in detention among interviewees ranged from 6 to 21 days. One woman said she was detained for 11 days with her children, but everyone else in her group was deported.³⁶⁰ Another interviewee, who was pregnant, was released from detention when she and her children fell ill.³⁶¹ Another interviewee said her group was stopped by Mexican police as

they entered Mexico and asked for a bribe to pass. They were allowed to pass even though they did not pay the bribe.³⁶²

3. Xenophobia, Racism, and Discrimination Against Haitian Migrants

Haitian migrants face racial and xenophobic discrimination in Mexico on the basis of their skin color and migrant identity, which is rooted in Mexico's long history of anti-Blackness and xenophobia against Afro-descendant and migrant populations in Mexico. An estimated 1.4 million Mexicans self-identify as of African descent, representing 1.2 percent of the total population, of who 705,000 are women.³⁶³ However, only in the last five years has the federal government officially recognized Afro-Mexicans – by amending the national constitution to recognize them as a distinct group, along with Indigenous Mexicans,³⁶⁴ and allowing Afro-Mexicans to self-identify (as Afro-Mexican, Afro-descendant, or Black) in the 2015 intercensal survey and the 2020 national census.³⁶⁵ The anti-Black discrimination that exists in Mexico, as outlined below, serves as a significant barrier to Haitian migrants' protection and support. As one Haitian interviewee stated, "It's like the blood that runs through their veins is not the same as the blood in our veins. They look at you like you are nothing because you're Black. You have a profession, being ignored completely."³⁶⁶

Although there have been notable anti-discrimination efforts in the past decades,³⁶⁷ the profound impact of this historic invisibility is apparent in contemporary analysis of inequality in Mexico, including against immigrants. In a 2010 survey measuring attitudes about discrimination in Mexico, 6 out of 10 immigrants responded that their rights are "not much" respected in Mexico, while 1 out of 10 responded that their rights are not respected at all.³⁶⁸

The UN Committee on the Elimination of Racial Discrimination ("CERD") reinforces the claims of xenophobic and racist discrimination made by the Haitian women interviewed. CERD in 2019 recognized Mexico as a "migration corridor" and was concerned that the implementation of migration policies "does not properly ensure that the rights of migrants and asylum seekers, children in particular, are given effective protection."³⁶⁹ Lastly, CERD noted "an increase in discourse informed by discriminatory views, racial hatred and xenophobia targeting migrants" surrounding the migrant caravans, which intensified in 2018.³⁷⁰

The UN Committee on the Elimination of Discrimination against Women ("CEDAW") noted the undue discrimination migrant women face in Mexico, as "many asylum-seeking women and girls do not have effective access to asylum procedures."³⁷¹ CEDAW was "also concerned that the rights of migrants, refugees and asylum seekers to work and to access health services and housing is not guaranteed in all states [of Mexico]."³⁷² Perhaps relatedly, CERD was also troubled by "the multiple forms of discrimination affecting Indigenous women and Mexican women of African descent" in Mexico, which it found "limit[ed] their access to education, work and culturally appropriate health services and their participation in public life and decision-making."³⁷³ This type of discrimination resonates with complaints of Haitian migrant women interviewed in obtaining health services and finding work (as outlined in this Chapter).



Photo: S. Priya Morley. Outside the Instituto Nacional de Migración at Mexico-Guatemala Border.

Black migrants from Haiti and other nations face the reality of racial tensions in Mexico, in addition to the rights violations they face as the result of their migrant status.³⁷⁴ There have been multiple reports of Black migrants and asylum seekers being treated worse than their Central American counterparts, some stating they are being “treated like animals.”³⁷⁵ However, Hondurans (some identifying as Afro-Latinos and some not) have also reported discrimination.

In addition to racism, Haitians in Tapachula have a difficult time integrating into society because Mexicans there – authorities and the people – are unfamiliar with Haitian history and culture. For example, there is a misperception that Haitians leave Haiti for economic reasons and are not *bona fide* refugees. By contrast, the general perception is that African migrants have left war-torn countries and are more likely to be refugees.³⁷⁶ More familiarity with Haitian culture and history could alleviate stereotypes and xenophobia against Haitian migrants.

D. COVID-19 and Migrants in Mexico

The COVID-19 pandemic, which began affecting Tapachula in March 2020, made the situation for Haitian migrants in Tapachula even more difficult. Border closures in many countries in North and Central America, the closure of migrant shelters and COMAR offices, the loss of jobs due to the pandemic and the subsequent economic downturn, and the difficulty accessing healthcare has worsened the quality of life for migrants living or transiting through Mexico. This section discusses the myriad negative consequences that have affected Haitian migrants due to the global pandemic, including restricting migrants’ movement across the region, the closure of migrant shelters, and delays in processing asylum claims.

1. Migration to Mexico

Border closures in several countries in the northern part of Central America and the United States due to COVID-19 have contributed to a lower flow of migrants throughout the region. On March 16, 2020, amidst fears of the spread of COVID-19, Guatemalan President Alejandro Giammattei, announced a 15-day closing of the country's borders and the cancellation of international flights.³⁷⁷ Guatemala shares a 965-long kilometer border with Mexico (a little under 600 miles) and cities like Tapachula constitute a main entry point for migrants from Central America and extra-continental migrants³⁷⁸ taking a land route to the United States. Due to this severe restriction on mobility, the number of migrants that entered Mexico, either seeking to settle or attempting to transit to the United States, has greatly reduced since the beginning of the pandemic.³⁷⁹

According to the *Unidad de Política Migratoria* ("Migration Policy Unit"), which is located within the SEGOB ("Ministry of the Interior"), from January to April 2020, the number of people deported or given a voluntary return from Mexico declined from 8,706 returns to 2,140. There were no reports of Haitians turned back registered throughout Mexico in March April and May 2020, compared with 245 turned back in January and 37 in February 2020.³⁸⁰

Further restricting travel throughout the region, in mid-March 2020, President Nayib Bukele of El Salvador ordered a 21-day restriction on travel with special emphasis on those traveling from certain countries with a high rate of COVID-19 cases, including China, Iran, Italy, and France.³⁸¹ Finally, Honduras, a country of transit for many extra-continental migrants on their way to Mexico and the United States, closed its air, land, and sea borders for a week beginning on March 15, 2020.³⁸² On June 3, 2020 migrants from Africa, Cuba, and Haiti were offered a voluntary return to their country of origin by Honduras' *Instituto Nacional de Migración* ("National Migration Institute") but at the time of publication, it appeared that no one had accepted the offer.³⁸³ The group was reportedly made up of about 300 migrants, who constituted a new caravan on its way to the United States.³⁸⁴

Finally, the Trump Administration has used the pandemic as a pretext to limit asylum seekers access to the United States, ostensibly for public health reasons (see Chapter 7 above).³⁸⁵

2. Mexico: Closure of Migrant Shelters and Lack of Health Care During COVID-19

Under the pretext of containing the spread of COVID-19, Mexico cleared out its 65 government-run migrant shelters throughout the country by returning most of the migrants to their countries of origin.³⁸⁶ Also in a bid to contain the virus in closely packed spaces like migrant shelters, the INM expressed that it was emptying out these shelters in accordance with health and safety guidelines.³⁸⁷ By the end of April 2020, Mexico had returned 3,653 migrants to Guatemala, Honduras, and El Salvador, which left only 106 people in those centers. Most of those returned were migrants without immigration status in Mexico. Other privately-run shelters are still open and running.³⁸⁸

These deportations, carried out under the guise of keeping the spread of the virus in check, play well into the López Obrador Administration's aggressive policy towards migrants and reflects ongoing pressure from the United States to stem the flow of migrants from reaching Mexico's northern border.³⁸⁹ Asylum seekers have also been released from shelters and immigration detention and transferred to shelters run by civil society organizations or the Catholic Church, or into rental accommodations with UNHCR assistance.³⁹⁰ The private, church-run shelters that house Haitian migrants in Tapachula and Tijuana (a city on the Mexico-U.S. border, near San Diego, with many Haitian migrants) remain open, but have administered a sheltering-in-place policy for existing residents and have not accepted new residents.³⁹¹ Immigrant rights organizations have voiced concerns that the overcrowded asylum shelters will facilitate the spread of the virus.³⁹²

Many migrants who live outside of shelters are crammed into small homes, often several families to a home, making it impossible to socially distance to prevent the spread of COVID-19 (see Chapter 8, Section B above).³⁹³

Jobs available to Haitian migrants in Tijuana – stores, restaurants, and factories – have been closed since March 2020, leaving migrants without any income.³⁹⁴ Many migrants in Tijuana and Tapachula are losing their homes, as they are unable to pay rent or landlords no longer wish to rent their properties.³⁹⁵ An estimated 2,000 migrants are living in tents in makeshift camps along the U.S.-Mexico border.³⁹⁶ Although new arrivals are quarantined for two weeks before interacting with the general population, living conditions at the camps pose a high risk of virus transmission.³⁹⁷

While Mexican law provides that migrants have access to healthcare, many are currently being turned away because hospitals,³⁹⁸ including Tapachula Regional Hospital, are overwhelmed.³⁹⁹ Medical care for asylum seekers who were receiving treatment before the outbreak of COVID-19 has stopped, as medical attention is redirected to COVID-19 patients.⁴⁰⁰ The majority of migrants and citizens are unable to pay, further rendering adequate healthcare inaccessible.⁴⁰¹

Furthermore, public health workers who had been visiting asylum shelters to provide some healthcare services have been prevented from doing so because of the government's stay-at-home orders.⁴⁰² Navigating COVID-19 is especially difficult for non-Spanish-speaking migrants, as they face difficulty receiving clear information in their language.⁴⁰³ Most migrants cannot afford COVID-19 tests, which cost between \$150-\$200 USD.⁴⁰⁴

3. Delays in Processing Asylum Claims

Since late March 2020, COMAR offices in Tapachula have been closed, except that asylum seekers may still submit applications.⁴⁰⁵ Although the weekly number of asylum applications in Mexico fell by about 90 percent in April (compared with January and February), hundreds of people are still applying each week.⁴⁰⁶ At the end of May, 19,211 applications had been registered for refugee status, with 3,627 applications filed by Haitians.⁴⁰⁷

COMAR has suspended review of applications and enforcement of procedural timelines indefinitely.⁴⁰⁸ COMAR has also eliminated the requirement for applicants to check-in weekly at the COMAR office, which is often a difficult task for asylum seek-

ers to complete, especially if they cannot take public transportation due to sheltering-in-place policies.⁴⁰⁹ In some urgent cases, COMAR is conducting eligibility interviews over the phone, but advocates note that applicants' rights are being routinely violated during these interviews with the COMAR office in Tapachula, including the right to language access.⁴¹⁰ In addition, lawyers find it difficult to represent their clients during phone interviews and are concerned that their clients are not comfortable telling their stories over the phone.⁴¹¹ Also of concern, applicants face even longer waiting periods as cases become more backlogged.⁴¹²

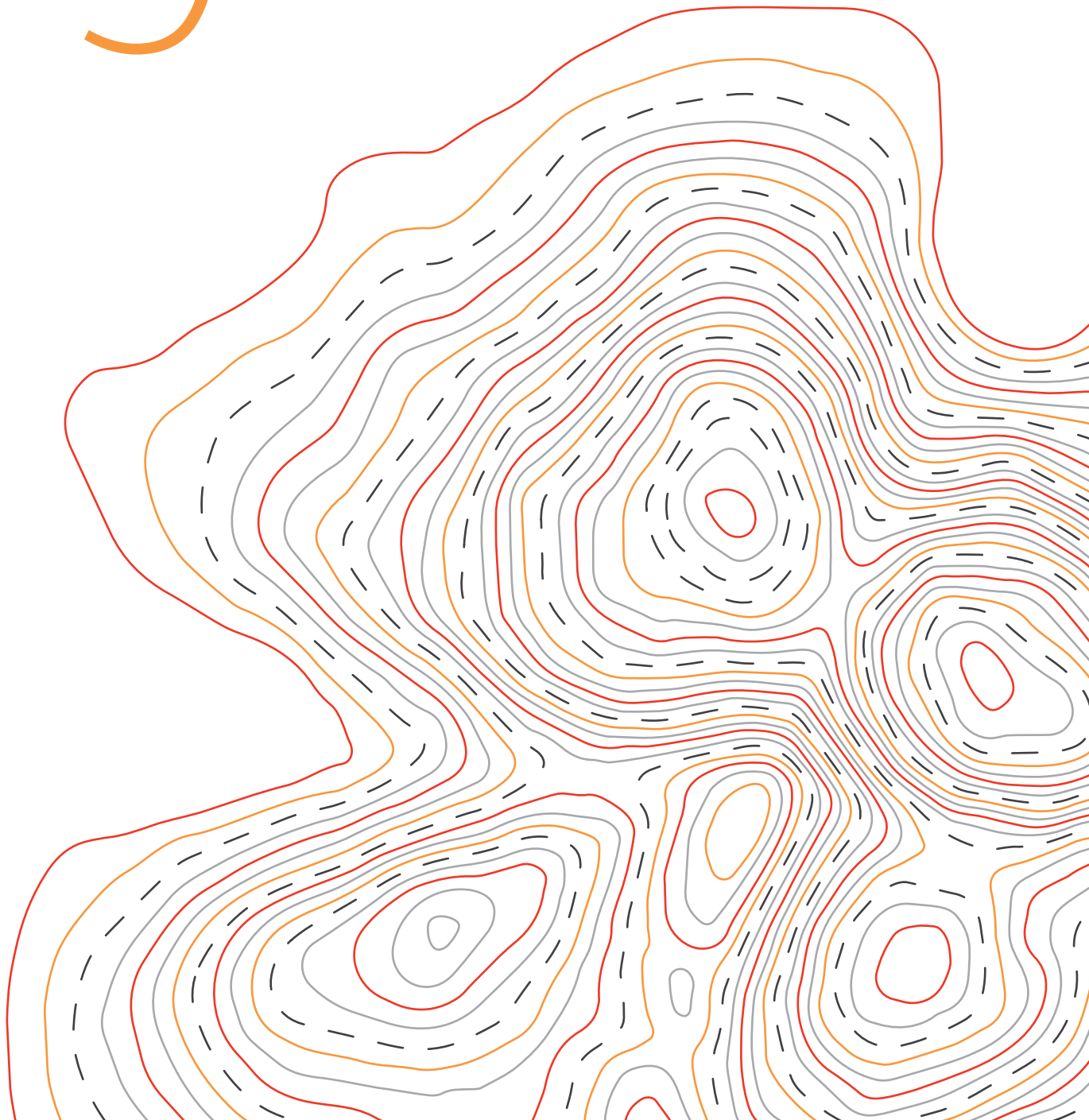
The granting of TVRH cards has been further delayed at the INM, as well. Along with delays, advocates report an increase in cases of corruption within the INM offices, particularly in Tapachula. Migrants who are willing to pay can have their applications expedited, putting Haitian migrants at a disadvantage.⁴¹³

Overall, mobility has been reduced in the region due to the pandemic, and processing times for asylum applications has slowed even more. Many migrants who are desperate to leave Tapachula have left without legal papers to take advantage of a decrease in checkpoints during the COVID-19 outbreak. It is likely that conditions of violence and desperation will continue to push people to migrate despite the United States constituting the epicenter of the virus at present.⁴¹⁴

CHAPTER

9

RECOMMEN- DATIONS



Recommendations for the Mexican government and its agencies, including INM and COMAR

1. Ensure access to professional Haitian *Kreyol* interpreters in all meetings with COMAR.

Resources must be invested in providing professional Haitian *Kreyol* interpretation in all meetings with Haitian asylum applicants. Language access is essential to guaranteeing Haitians' due process as asylum seekers – their rights to both notice and hearing are compromised when they cannot understand the notice or present the facts necessary to make their case for asylum in a hearing. As of March 2020, UNHCR provided one part-time *Kreyol* interpreter in the Tapachula office for a few hours a week. Given that 80 percent of asylum applications were filed by Haitians in March 2020, at least one or more full-time *Kreyol* interpreter/s must be available at COMAR, and all written notices must be translated into *Kreyol*.

2. Provide COMAR agents with trainings and other resources on country conditions in Haiti.

Before 2016, COMAR rarely received asylum applications from Haiti, so COMAR case workers were not familiar with country conditions in Haiti. Lawyers representing Haitian migrants express that COMAR adjudicators lack knowledge of Haitian politics, history and culture, which prejudices the asylum seekers' claims. More knowledge of country conditions in Haiti could greatly assist COMAR's case managers in asking relevant questions of asylum applicants and understanding asylum claims, which in turn could improve the asylum success rate. Regular trainings and credible written resources must be provided to case managers.

3. Increase COMAR's capacity to receive and process asylum claims in a timely manner pursuant to their guidelines.

Recent U.S. policies that are keeping asylum seekers in Mexico have multiplied asylum claims and overwhelmed an already understaffed and under-resourced COMAR. With currently available resources, COMAR cannot process applications in a timely manner and does not have the resources to meet the needs of asylum seekers. The Authors recognize that the Mexican government has already committed to expanding COMAR's operating budget and resources and has added new offices across Mexico,⁴¹⁵ however, COMAR still needs to receive an increase in funding. This additional funding may need to come through the UNHCR, which works closely to support COMAR.⁴¹⁶ (For more about this topic, see the cited document about strengthening COMAR.⁴¹⁷)

4. Extend the Cartagena definition of refugee to claims filed by Haitian asylum seekers.

Since the 2010 earthquake, increased political instability and violence, gang criminal activity, and widespread impunity and human rights violations have forced thousands to flee Haiti. This situation of generalized violence and massive human rights violations includes, in particular, the widespread commission of rape and other sexual vi-

olence against Haitian women and girls. Given this situation, Haitian refugee claims should be eligible for recognition under the Cartagena Declaration in Mexico.

5. Provide COMAR and INM with anti-racism and anti-Blackness training.

As outlined in the Report, migrant advocates in Tapachula expressed concern that racism was a significant factor in the lower asylum rate for Haitian migrants, compared with similar claims filed by Honduran and Venezuelan applicants. In addition, Haitian migrant women interviewed in the Study believed they experienced discrimination at COMAR and INM because they were Haitian and Black. As outlined in the Report, the UN has condemned Mexico for discriminatory views, racial hatred, and xenophobic targeting of migrants. Anti-racism sensitivity training must be provided at all levels within COMAR and INM, with a focus on anti-Blackness training to uncover deep-rooted practices and patterns of racism within the immigration system and by individual immigration agents.

6. Issue Haitians TVRH cards on humanitarian/public interest grounds, on an expedited basis.

While applicants should wait no longer than 30 days to get approval for a TVRH card for those with pending asylum applications, applicants are waiting upwards of six months to be issued the TVRH card. The INM must reduce processing time for TVRH cards, which in practice often facilitates access to employment, school and healthcare.

Further, many Haitian migrants do not intend to live in Mexico long-term or to pursue their asylum claim, but want legal documents that will allow them to travel to the U.S-Mexico border. They pursue their asylum claim because they think that the TVRH card authorizes them to travel outside of the state of Chiapas. If Haitians were able to obtain TVRH cards without initiating an asylum application, not only would that provide them with temporary status, but it would also be a better reflection of their migratory intentions, which might include eventual travel to the U.S. In sum, it is better to allow people to have an alternative to applying for asylum if that is not their intention.

7. Implement a moratorium on deportations during the COVID-19 pandemic.

There is simply no safe way to deport people; deportations risk the consequent spread of this highly contagious and deadly disease in receiving nations, both among COVID-19 negative passengers traveling with COVID-19 positive ones, as well as to people on the ground in Haiti or other receiving nations. Given the severe limitations on the availability of COVID-19 testing in Mexico, INM should halt deportations to Haiti or any country right now because of the pandemic, without exceptions.

8. Ensure access to improved medical care for Haitian migrants, with access to *Kreyol* translation.

The *Secretaría de Salud* (“Secretary of Health” or “SSA”) should make more efforts to ensure Haitian migrants’ right to health, including providing meaningful access to

free pre- and post-natal, neo-natal, and pediatric medical services. The INM in collaboration with the SSA, should also make more efforts to ensure that migrants in detention have access to the medical services described above. Also, given the recent but constant influx of Haitian migrants in Tapachula, a Haitian *Kreyol*-speaking medical provider or interpreter should be hired at the Tapachula Regional Hospital to ensure Haitian patients are able to effectively communicate with the medical providers. Prescription drug dosage and instructions must be provided in *Kreyol*.

9. Ensure that COMAR and INM agents apply a gender specific lens in processing claims.

Ensure that COMAR officials use a gender sensitive lens when evaluating asylum claims. The Authors recommend that COMAR and the INM train their agents about women's experiences in the migration process, which frequently differ substantially from those of men. Migrant women comprise almost 50 percent of immigrants in the United States and Mexico, yet much less is known about their experiences during the journey. Gender specific impacts must be considered in making sure that proper gender-specific care is provided to migrant populations. Gender must also be an element that is considered in the evaluation of asylum applications, as provided in Mexican law.⁴¹⁸ For example, wives and partners of male asylum applicants must be screened separately and evaluated for their own potential asylum claims, since they may have experienced gender-based persecution that their husbands are not aware of or that they do not report to COMAR. As discussed in the Report, this is not happening in the case of many Haitian migrant women.

Recommendation for civil society organizations

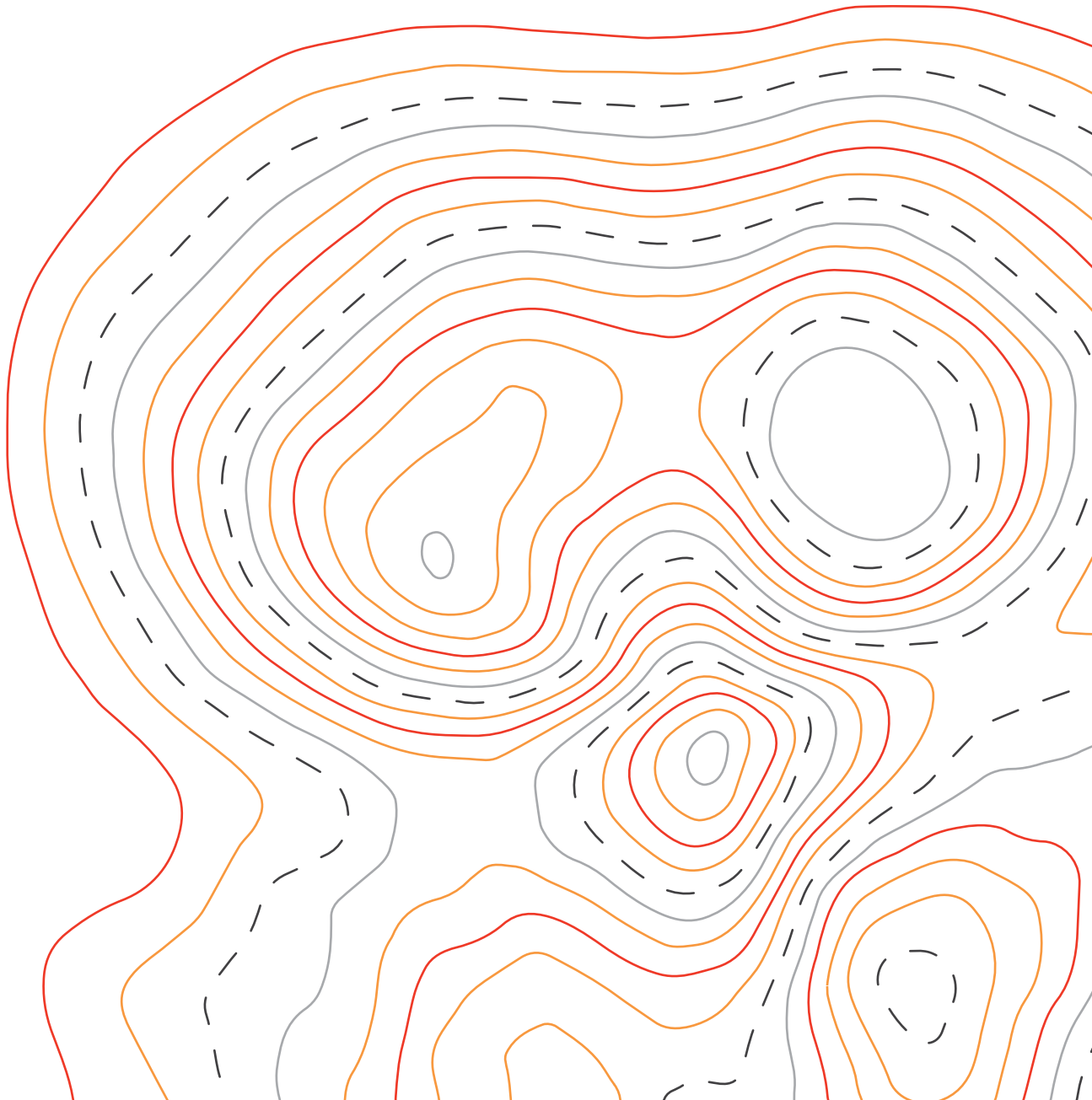
10. Humanitarian and human rights organizations and legal service providers working with Haitian migrants in Tapachula are encouraged to hire *Kreyol*-speaking interpreters and/or staff members, when feasible, and provide anti-racism and anti-Blackness training for their staff.

As with COMAR, humanitarian and human rights organizations and legal service providers in Tapachula have been inundated with a surge of Haitian clients in 2019 and 2020. Some candidly admitted that they lacked the language capacity and cultural familiarity to adequately assist this vulnerable population. Service providers working with Haitian migrants are encouraged to hire a *Kreyol*-speaking interpreter or staff member to work directly with this population. Given the relative isolation of Haitian migrant women in Tapachula, most of the women interviewed were not familiar with services available, other than the public hospital and COMAR. Service providers are encouraged to visit the communities where Haitian migrants live and advertise their services in *Kreyol*. Anti-racism and anti-Blackness staff trainings are also recommended to identify and eliminate organizational and individual biases and discrimination.



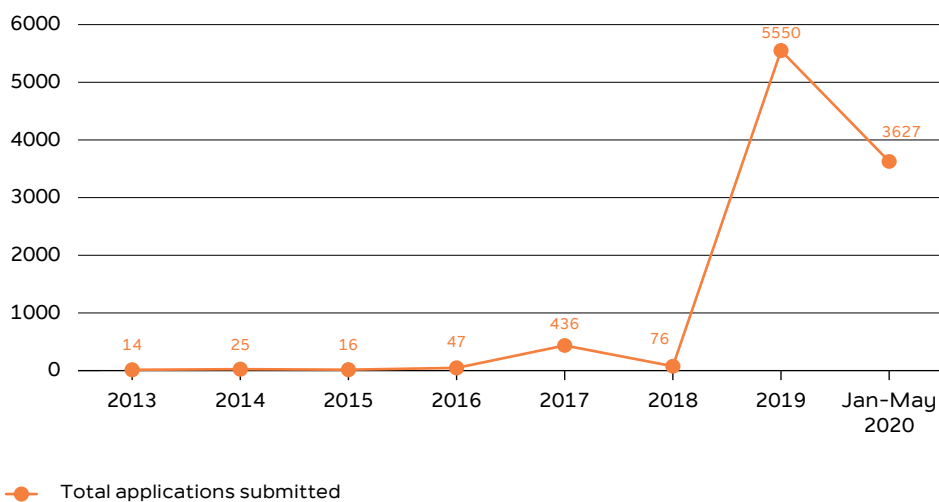
Photo: S. Priya Morley. Ciudad Hidalgo, Mexico - at the Mexico-Guatemala Border.

APPENDICES



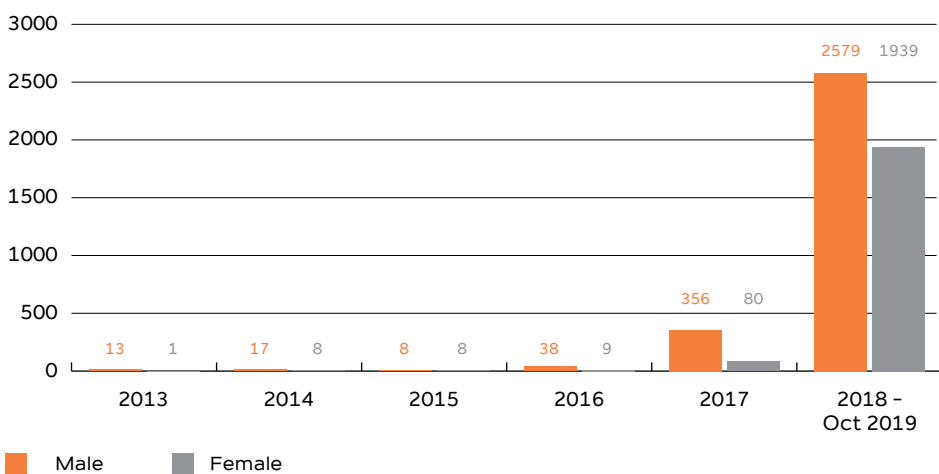
I. Statistics of Haitian Migration in Mexico

Figure 1. Asylum/Refugee Status Applications Submitted by Haitians from 2013 – May 2020



Sources: Government of México, Secretaría de Gobernación, Comisión Mexicana de Ayuda a Refugiados (COMAR). *Cierre de Mayo 2020 & Boletín Estadístico de Solicitantes de Refugio en México (2013 – 2018)*. Prepared by Katherine La Puente.

Figure 2. Asylum/Refugee Status Applications Submitted by Haitians from 2013 – October 2019, by gender



Sources: Government of México, Secretaría de Gobernación, Comisión Mexicana de Ayuda a Refugiados (COMAR), *Boletín Estadístico de Solicitantes de Refugio en México (2013 – 2017)*; Asylum Access, “New COMAR data shows over 13,000 asylum applicants waiting since 2018”, 2020. Prepared by Katherine La Puente.

Table 1. Asylum/Refugee Status Application Outcomes of Haitians by outcome type and % female gender, 2013 – May 2020

Year or Time Period	Asylum/Refugee Status Granted Total (% Female)	Complementary Protection (CP) Granted Total (% Female)	Asylum/Refugee Status Denied Total (% Female)	Abandoned or Withdrawn Case Total (% Female)	Total Number Total (% Female)	Grant Rate [^] Overall	Grant Rate [^] for Females
2013	1 (0%)	0 (0%)	8 (12.5%)	5 (0%)	14 (7%)	11.1%	0%
2014	0 (0%)	0 (0%)	21 (42.9%)*	5 (0%)	26 (34.6%)*	0%	0%
2015	0 (0%)	0 (0%)	13 (53.8%)	3 (33.3%)	16 (50%)	0%	0%
2016	7 (42.9%)	0 (0%)	16 (18.8%)	23 (13%)	46 (19.6%)	30.4%	50%
2017	1 (0%)	3 (33.3%)	23 (21.7%)*	89 (14.6%)*	116 (16.4%)	14.8%	16.7%
Jan 2018 – Sep 2018	0 (0%)	0 (0%)	4 (25%)	3 (33.3%)	7 (28.6%)	0%	0%
Jan 2018 – Oct 2019	5 (20%)	9†	8 (25%)	72 (38.9%)	94†	63.6%†	N/A†
Jan 2013 – May 2020	44†	22†	329†	N/A	395†	16.7%†	N/A†

Sources: Government of México, Secretaría de Gobernación, Comisión Mexicana de Ayuda a Refugiados (COMAR). *Boletín Estadístico de Solicitantes de Refugio en México (2013 – 2018)*, *Cierre de octubre 2019*, & *Cierre de mayo 2020*; Asylum Access, “New COMAR data shows over 13,000 asylum applicants waiting since 2018”, 2020. Prepared by Katherine La Puente.

* Includes unaccompanied minors

[^]Grant rate is defined as asylum/refugee status and complementary protection (CP) granted out of all applications that were either granted or denied. It does not include applications that were abandoned or withdrawn.

Number is deductive or includes deductive number in calculation, source does not include gender breakdown.

Note on immigration categories: **Family** includes financial dependents; **Work** includes foreigners whose motive to stay is work or an offer of employment; **Property Owner** includes property and real estate owners, investors, retirees or pensioners; **Humanitarian** includes victims or witnesses or humanitarian causes; **Others** include those whose motive to stay are scientific research projects, public interest, or others.

Note on visa types: Temporary Resident Visa was previously known as FM3 and referred as such in INM documents. Permanent Resident Visa was previously known as FM2.

Table 2. Temporary Residence Card (TRT) **Issued** for Haitians, by immigration category, 2009 – May 2020

Year	Family	Work	Property Owner	Student	Humanitarian	Others	Total
2020 (Jan – May)	14	124	1	12	N/A	36	187
2019	31	569	1	44	N/A	50	695
2018	26	1,126	0	44	N/A	40	1,236
2017	21	54	1	26	N/A	13	115
2016	23	43	1	29	N/A	26	122
2015	37	37	1	127	N/A	17	219
2014	15	42	2	129	N/A	5	193
2013	13	18	0	135	1	3	170
2012	15	12	0	40	0	42	109

	Political Asylum	Correspondent	Student	Minister	Refugee	Visitor	Distinguished Visitor	Provisional Visitor	Total
2011	0	0	44	4	0	131	0	0	179
2010	0	0	44	2	20	571	0	0	637
2009	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	134

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2009-2020)*. Prepared by Katherine La Puente.

Table 3. Temporary Residence Card (TRT) **Renewed** for Haitians, by immigration category, 2010 – May 2020

Year	Family	Work	Property Owner	Student	Others	Total
2020 (Jan – May)	4	92	0	44	30	170
2019	10	678	1	235	150	1,074
2018	4	60	1	324	12	401
2017	26	52	7	356	14	455
2016	19	43	6	349	60	477
2015	29	63	1	336	13	442
2014	8	62	17	291	0	378
2013	10	89	8	196	43	346
2012	24	37	0	169	207	455

	Political Asylum	Correspondent	Student	Minister	Refugee	Visitor	Distinguished Visitor	Provisional Visitor	Total
2011	0	0	151	8	13	400	0	0	572
2010	0	0	108	16	82	132	0	0	338

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2010-2020)*. Prepared by Katherine La Puente.

Table 4. Permanent Residence Card (TRP) **Issued** for Haitians, by immigration category, 2009 – May 2020

Year	Family	Work	Property Owner	Humanitarian Reasons	Others	Total
2020 (Jan – May)	139	6	0	29	9	183
2019	257	13	0	15	32	317
2018	168	14	1	10	31	224
2017	80	9	0	15	33	137
2016	62	39	0	0	30	131
2015	54	21	0	1	21	97
2014	80	39	0	0	11	130
2013	64	32	0	4	23	123
2012	17	18	0	0	6	41

	Artists & Athletes	Assimilated	Trusted Director	Scientist	Relatives	Investor	Professional	Property Owner	Technician	Total
2011	0	5	8	0	8	0	1	0	9	31
2010	2	27	14	0	14	0	2	0	14	73
2009	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	46

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2009-2020)*. Prepared by Katherine La Puente.

Table 5. Permanent Residence Card (TRP) **Renewed** for Haitians, by immigration category, 2010 – May 2020

Year	Family	Work	Property Owner	Humanitarian Reasons	Others	Total
2020 (Jan – May)	4	0	N/A	10	0	14
2019	0	0	N/A	0	1	1
2018	1	0	N/A	0	5	6
2017	N/A	N/A	N/A	N/A	N/A	N/A
2016	N/A	N/A	N/A	N/A	N/A	N/A
2015	N/A	N/A	N/A	N/A	N/A	N/A
2014	N/A	N/A	N/A	N/A	N/A	N/A
2013	N/A	N/A	N/A	N/A	N/A	N/A
2012	32	58	0	0	21	111

	Artists & Athletes	Assimilated	Trusted Director	Scientist	Relatives	Investor	Professional	Property Owner	Technician	Total
2011	3	28	24	0	32	0	6	0	26	119
2010	4	16	18	0	17	0	5	0	9	69

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2010-2020)*. Prepared by Katherine La Puente.

Note: 2010-2012 refers to renewals as “refrendos”, which we take to mean renewals in this context.

Table 6. Permanent Residence Card (TRP) for regularization of migration situation for Haitians, 2013 – May 2020

Year	Family	Work	Property Owner	Humanitarian Reasons	Others	Total
2020 (Jan – May)	74	N/A	N/A	0	0	74
2019	107	N/A	N/A	0	0	107
2018	42	N/A	N/A	0	0	42
2017	22	N/A	N/A	0	0	22
2016	25	N/A	N/A	0	0	25
2015	18	N/A	N/A	0	0	18
2014	29	0	0	0	0	29
2013	7	0	0	0	1	8

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2013-2020)*. Prepared by Katherine La Puente.

Table 7. Haitians documented as permanent residents due to recognition of refugee status, 2012 – May 2020

Year	Number of Individuals
2020 (Jan – May)	20
2019	8
2018	6
2017	8
2016	N/A
2015	1
2014	N/A
2013	4
2012	3

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2012-2020)*. Prepared by Katherine La Puente.

Table 8. Visitor Cards for Humanitarian Reasons (TVRH) **Issues and Extensions** for Haitians, 2014 – May 2020

Year	Issues	Extensions
2020 (Jan – May)	2,031	81
2019	1,792	565
2018	42	1,337
2017	2,797	1
2016	6	N/A
2015	4	N/A
2014	5	N/A

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2014-2020)*. Prepared by Katherine La Puente.

Note: Although the condition of visitor for humanitarian reasons (TVRH) was established under the Migration Law passed in 2011, there is only publicly available data for TVRH issues beginning in 2014.

Table 9. TRT Issued under Migratory Regularization Program, by immigration category for Haitians, 2015-2018

Year	Family	Work	Property Owner	Student	Humanitarian Reasons	Others	Total
2018	0	1	0	1	N/A	1	3
2017	0	6	0	1	0	7	14
2016	0	1	0	0	0	1	2
2015	0	9	0	3	0	8	20

Sources: Government of México, Instituto Nacional de Migración. *Boletín mensual de estadísticas migratorias (2015-2020)*. Prepared by Katherine La Puente.

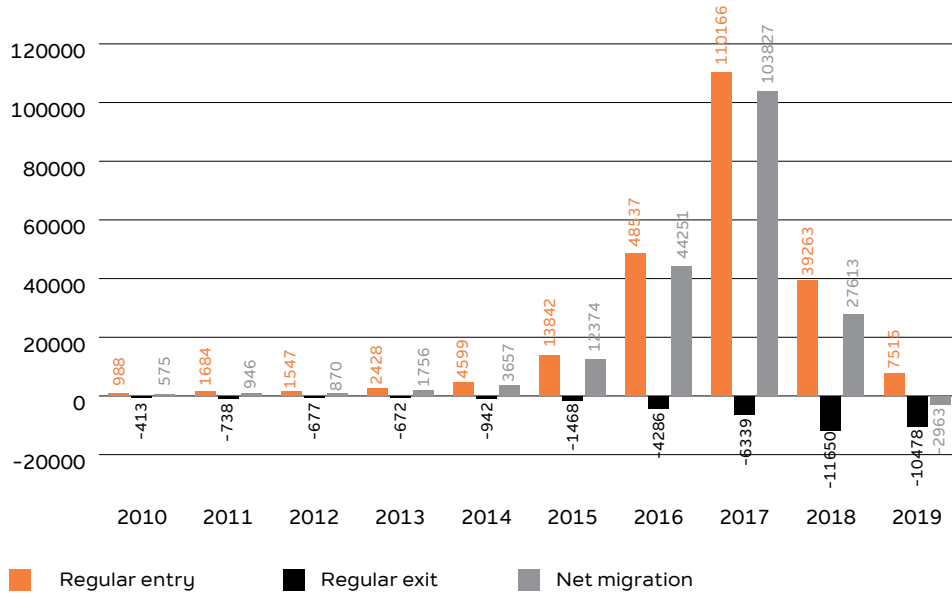
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II. Statistics of Haitian Migration in Chile

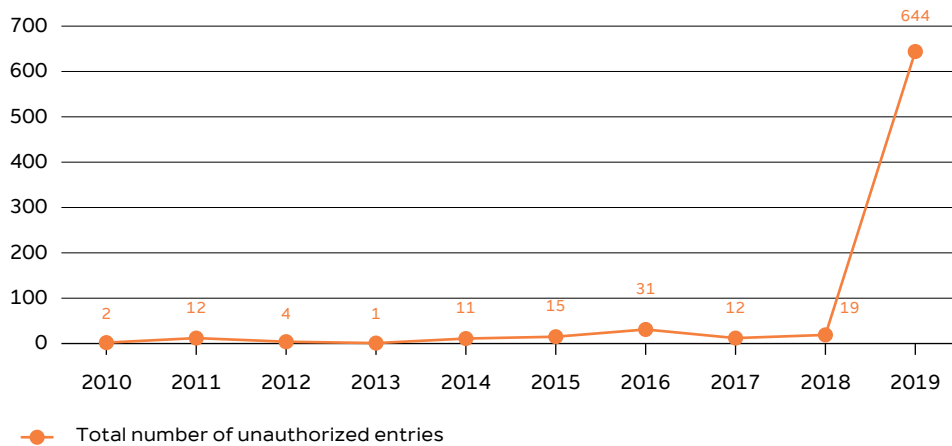
Figure 1. Regular Entries, Exits, and Net Migration for Haitian Nationals Per Year from 2010-2019



Source: Servicio Jesuita a Migrantes (SJM). *Migración en Chile. Anuario 2019, un análisis multisectorial*. 2020. Prepared by Katherine La Puente.

Note: Regular entries and exits refer to those through official ports of entry, such as borders, seaports, or airports. Net migration is defined as regular entry minus the absolute number of regular exit. 2019 documents the only negative net migration as more Haitians exited Chile than entered.

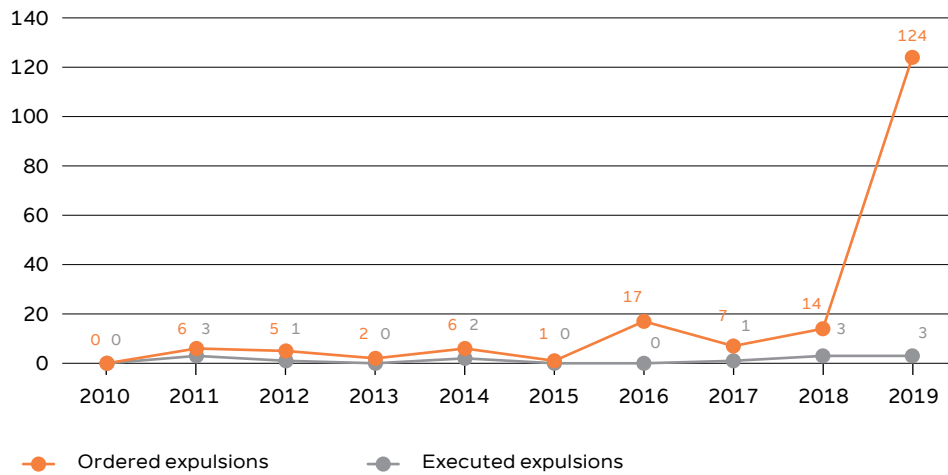
Figure 2. Total Number of Unauthorized Entries of Haitian Nationals Per Year from 2010-2019



Source: Servicio Jesuita a Migrantes (SJM). *Migración en Chile. Anuario 2019, un análisis multisectorial*. 2020. Prepared by Katherine La Puente.

Note: Unauthorized entries data is derived from data of those who were denounced to the authorities, so this is very likely an underestimation of how many Haitians actually entered the country in a clandestine manner.

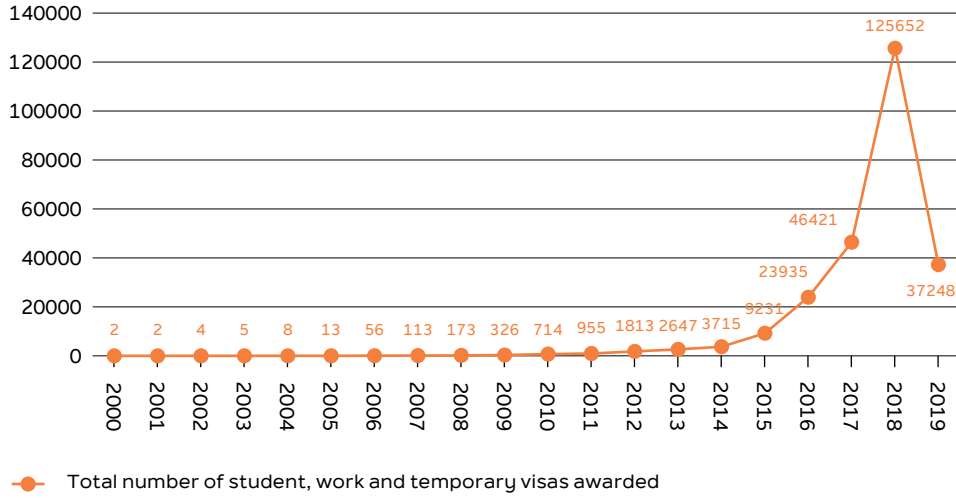
Figure 3. Total Number of Ordered and Executed Expulsions of Haitian Nationals Per Year from 2010-2019



Source: Servicio Jesuita a Migrantes (SJM). *Migración en Chile. Anuario 2019, un análisis multisectorial*. 2020. Prepared by Katherine La Puente.

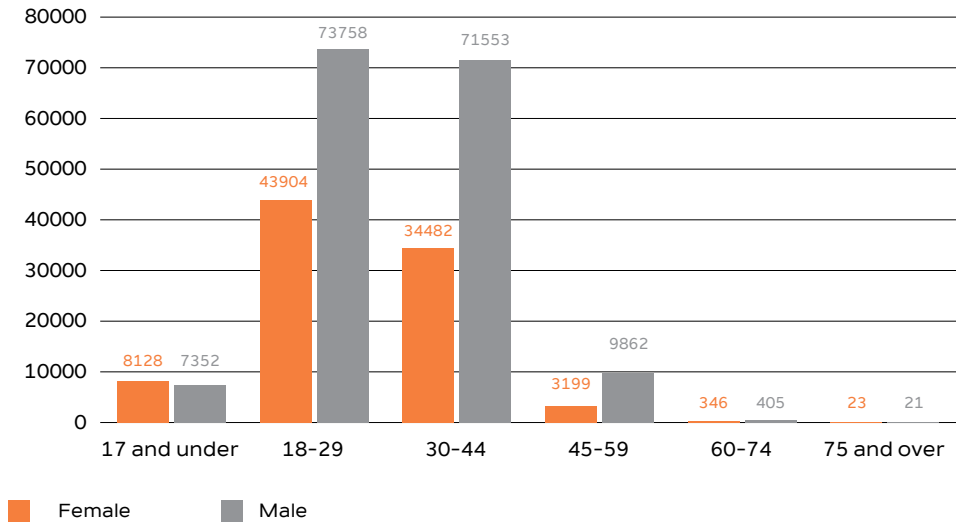
Note: Beginning in 2013, expulsions include both administrative and judicial. Administrative expulsions are ordered by the Ministry of the Interior and Public Security and judicial expulsions are ordered by a criminal judge.

Figure 4. Student, Work, and Temporary Visas Awarded to Haitian Nationals Per Year from 2000-2019



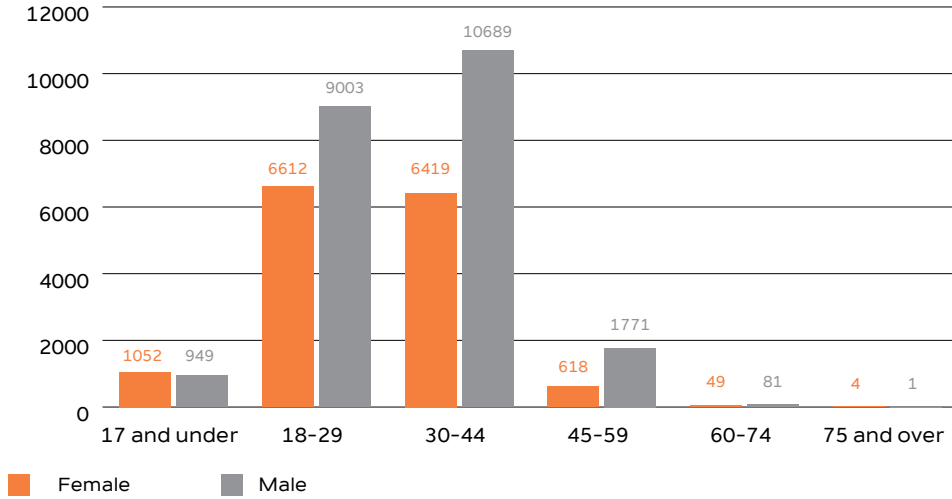
Source: Registros Administrativos del Departamento de Extranjería y Migración of the Government of Chile. *Estadísticas Migratorias*. Prepared by Katherine La Puente.

Figure 5. Total Number of Student, Work, and Temporary Visas Awarded to Haitian Nationals from 2000-2019, by gender and age group



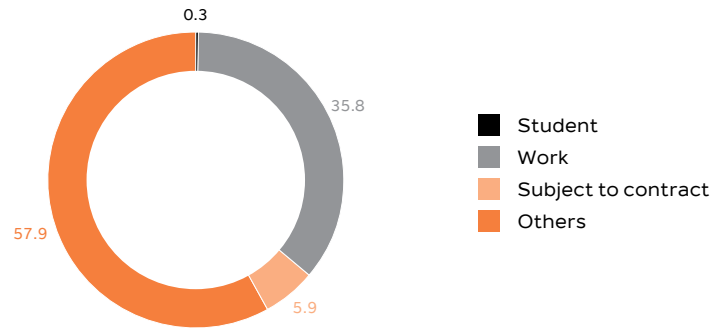
Source: Registros Administrativos del Departamento de Extranjería y Migración of the Government of Chile. *Estadísticas Migratorias*. Prepared by Katherine La Puente.

Figure 6. Student, Work, and Temporary Visas Awarded to Haitian Nationals in 2019, by gender and age group



Source: Registros Administrativos del Departamento de Extranjería y Migración of the Government of Chile. *Estadísticas Migratorias*. Prepared by Katherine La Puente.

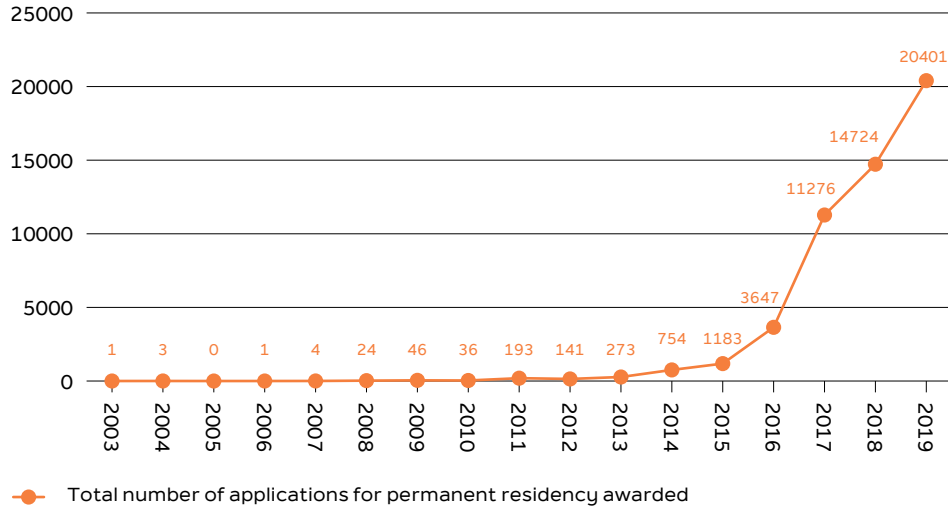
Figure 7. Temporary Visas Awarded to Haitian Nationals in 2019, by type of visa



Source: Servicio Jesuita a Migrantes (SJM). *Migración en Chile. Anuario 2019, un análisis multisectorial*. 2020. Prepared by Katherine La Puente.

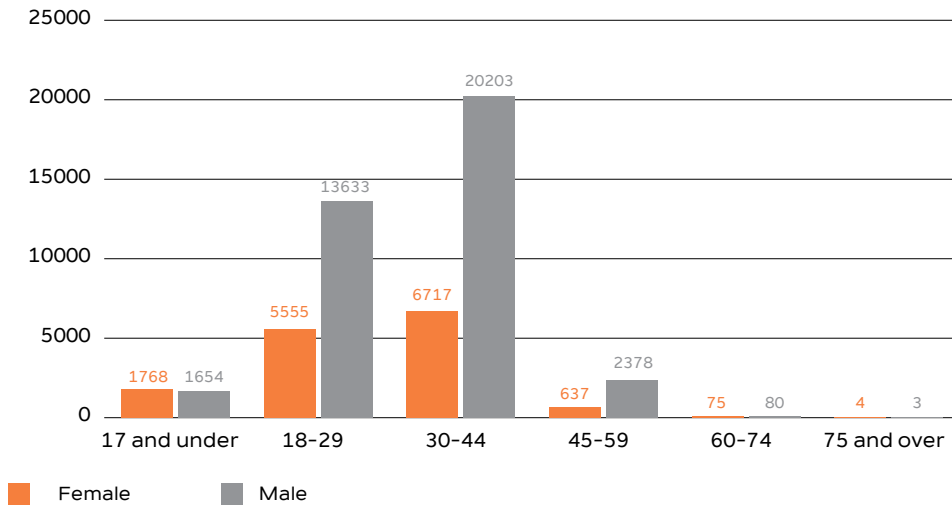
Note: In 2018, legislation was passed to stop awarding temporary visas based on work. The numbers reflected here are those who applied before 2019, but were awarded in 2019.

Figure 8. Applications for Permanent Residency Awarded to Haitian Nationals Per Year from 2003-2019



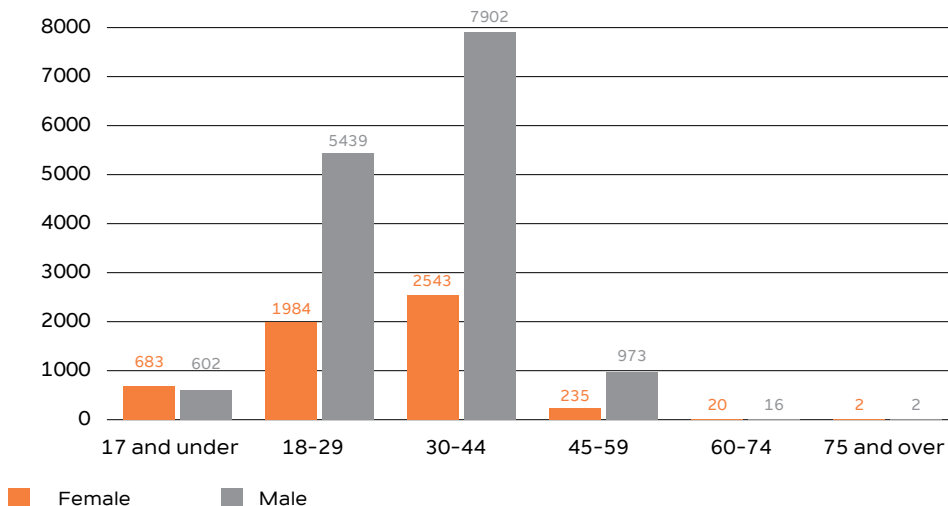
Source: Registros Administrativos del Departamento de Extranjería y Migración of the Government of Chile. *Estadísticas Migratorias*. Prepared by Katherine La Puente.

Figure 9. Total Number of Applications for Permanent Residency Awarded to Haitian Nationals from 2003-2019, by gender and age group



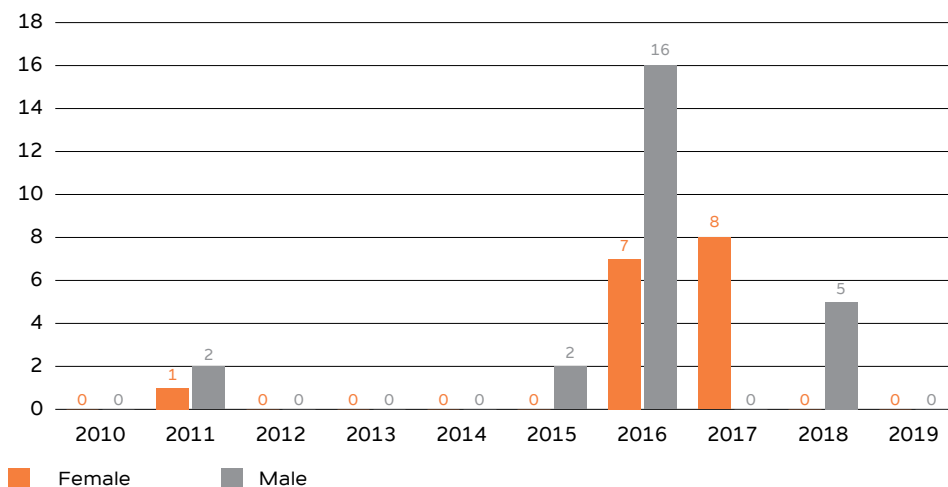
Source: Registros Administrativos del Departamento de Extranjería y Migración of the Government of Chile. *Estadísticas Migratorias*. Prepared by Katherine La Puente.

Figure 10. Applications for Permanent Residency Awarded to Haitian Nationals in 2019, by gender and age group



Source: Registros Administrativos del Departamento de Extranjería y Migración of the Government of Chile. *Estadísticas Migratorias*. Prepared by Katherine La Puente.

Figure 11. Asylum/Refugee Status Applications Submitted by Haitian Nationals from 2010 – 2019, by gender



Source: Registros Administrativos del Departamento de Extranjería y Migración of the Government of Chile. *Estadísticas Migratorias*. Prepared by Katherine La Puente.

Note: According to data published by the *Departamento de Extranjería y Migración*, no Haitian nationals have been recognized as refugees in Chile during this same time period.

Table 1. Work Visas Awarded to Haitian Nationals Per Year from 2005-2014, by region

Region of Chile	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	TOTAL
Arica y Parinacota	-	-	-	-	-	-	-	-	-	-	-
Tarapacá	-	-	-	-	-	-	-	-	-	-	-
Antofagasta	-	-	-	-	-	-	-	-	-	-	-
Atacama	-	-	-	-	-	-	-	-	-	-	-
Coquimbo	-	-	2	-	1	-	-	9	20	33	65
Valparaíso	-	-	-	-	3	2	5	12	9	22	53
Metro-politana	3	17	6	77	226	294	727	1,390	2,010	2,806	7,556
O'Higgins	-	-	-	-	-	-	5	5	5	5	20
Maule	-	-	-	-	-	-	-	-	-	-	-
Biobío	-	-	-	-	-	-	-	-	-	-	-
La Arica	-	-	-	-	-	-	-	-	-	-	-
Los Ríos	-	-	-	-	-	-	-	-	-	-	-
Los Lagos	-	-	-	-	-	-	-	-	-	-	-
Aisén	-	-	-	-	-	-	-	-	-	-	-
Magallanes	-	-	-	-	-	-	-	-	-	-	-

Source: Sección Estudios del Departamento de Extranjería y Migración del Ministerio del Interior y Seguridad Pública of the Government of Chile. *Migración en Chile 2005-2014*. 2016. Prepared by Katherine La Puente.

Table 2. Permanent Residency, Work Visas, and Temporary Visas Awarded to Haitian Nationals Per Year from 2005-2014 in Metropolitana Region

Type of Visa	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total per category for time period
Permanent Residency	-	1	4	39	54	48	224	138	288	741	1,537
Work Visa	3	17	6	77	226	294	727	1,390	2,010	2,806	7,556
Temporary Visa	7	26	90	44	49	352	178	338	473	717	2,274
Total per year for all categories	10	44	100	160	329	694	1,129	1,866	2,771	4,264	11,367

Source: Sección Estudios del Departamento de Extranjería y Migración del Ministerio del Interior y Seguridad Pública of the Government of Chile. *Migración en Chile 2005-2014*. 2016. Prepared by Katherine La Puente.

Table 3. Number of Complaints Filed by Haitian Nationals and Total Migrants for Violation of Workers' Rights from 2012 to 2019

Migrant Nationality	2012	2013	2014	2015	2016	2017	2018	2019	TOTAL
Haitian Nationals	28	27	43	122	232	872	2,151	2,114	5,589
Total Migrants	727	808	1,118	1,344	1,855	3,419	7,427	8,839	25,537
Haitian % of Total	3.9%	3.3%	3.8%	9.1%	12.5%	25.5%	29.0%	23.9%	21.9%

Source: Servicio Jesuita a Migrantes (SJM). *Migración en Chile. Anuario 2019, un análisis multisectorial*. 2020. Prepared by Katherine La Puente.

References

Servicio Jesuita a Migrantes (SJM). *Migración en Chile. Anuario 2019, un análisis multisectorial*. Santiago, Chile. <https://www.migracionenchile.cl/publicaciones>. 2020.

Chile. Sección Estudios del Departamento de Extranjería y Migración del Ministerio del Interior y Seguridad Pública. *Migración en Chile 2005-2014*. 2016.

Chile. Registros Administrativos del Departamento de Extranjería y Migración. *Estadísticas Migratorias*. <https://www.extranjeria.gob.cl/estadisticas-migratorias/>.

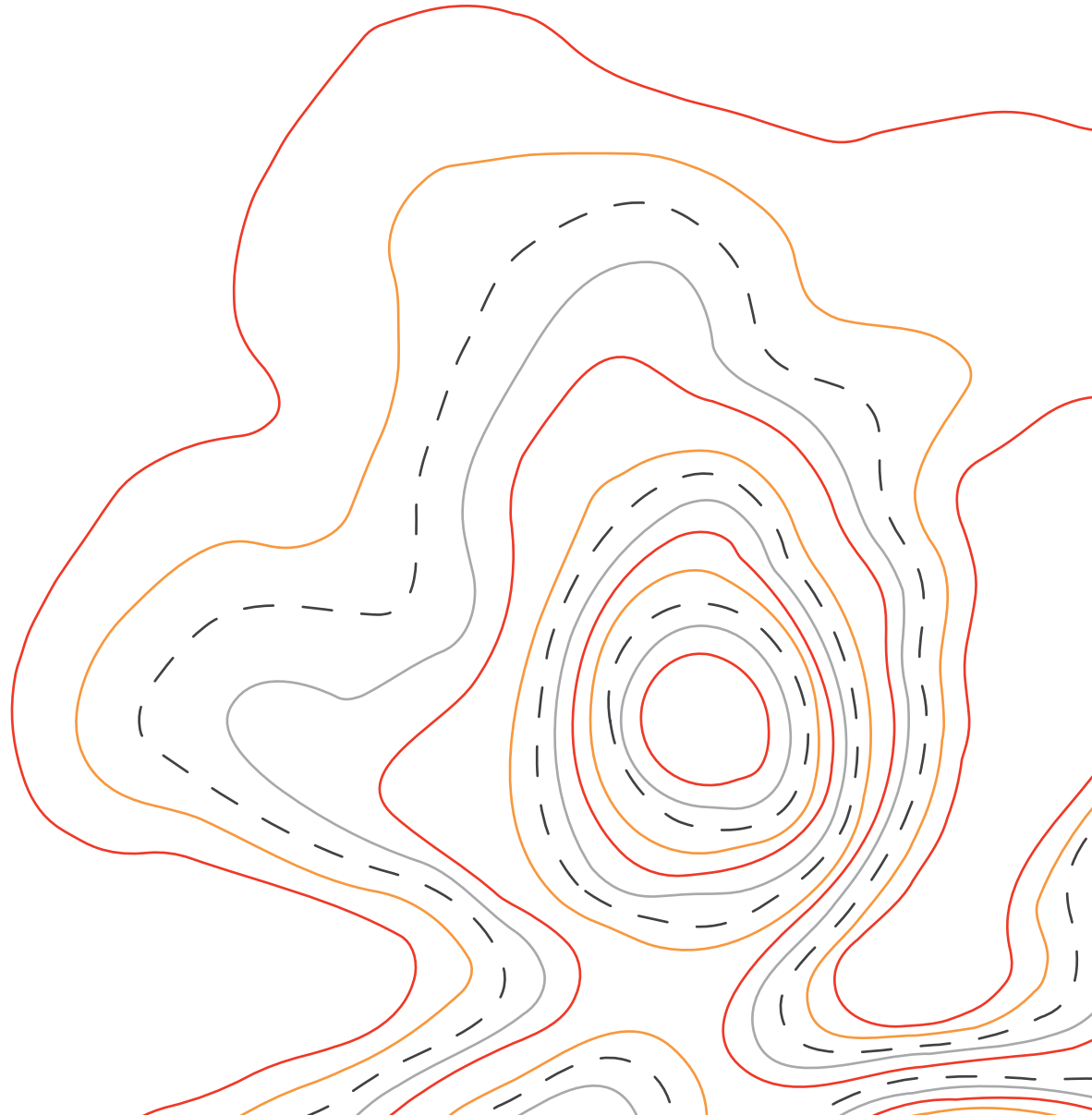
III. Overview of Anti-Asylum Policies Implemented in the U.S. Southern Border

Policy	Description	Is this policy being implemented?
Asylum Ban 1.0 (entry ban)	Implemented in November 2018, this policy banned individuals who did not enter the United States through an official port of entry (POE) from receiving asylum.	No. The policy was halted by the courts starting on December 2018.
Migrant Protection Protocols (MPP)	Beginning in January 2019, the Administration instituted the MPP under which the government returns asylum seekers arriving at the border to wait in Mexico, under dangerous conditions, for the duration of their immigration proceedings in the U.S. This policy has returned thousands of asylum seekers to extremely dangerous areas and has directly impacted their access to a due process.	Yes. While federal courts have briefly halted the policy at times, it currently remains in effect.
Asylum Ban 2.0 (transit bar)	Effective July 16, 2019, this policy bars asylum to anyone who transited a third country en route to the southern border unless they (a) applied for international protection in a third country and was denied such protection; or (b) meet definition of “victims of a severe form of trafficking.” This policy has separated families across borders and resulted in many being denied relief entirely or left with access to forms of protection that are harder to get and grant less benefits.	No. The transit bar was vacated by a federal court on June 30, 2020.
Asylum Cooperative Agreements (ACAs)	During the summer of 2019, the Administration signed agreements with Guatemala, El Salvador, and Honduras to enable the U.S. government to “transfer” asylum seekers to these countries to seek protection there, rather than process their claims in the United States. The implementation of the ACA with Guatemala began in November 2019. Through this policy, hundreds of asylum seekers from El Salvador and Honduras were sent to the same region they escaped from, and were deprived from the chance of accessing full and fair asylum proceedings.	Yes. However, the ACA with Guatemala has been suspended since March 2020 due to the COVID-19 pandemic.

Policy	Description	Is this policy being implemented?
CDC Order Suspending Introduction of Persons from a Country Where a Communicable Disease Exists	<p>Citing the COVID-19 pandemic, on March 2020 the Centers for Disease Control (CDC) issued an order restricting non-essential travel through the land borders. Following the CDC order, and without any sound public health rationale, DHS determined that asylum seekers lacking proper documentation, including unaccompanied minors, are not engaged in essential travel. This policy authorizes border officials to expel those apprehended along the border back to Mexico or other countries, without asking if they fear persecution or torture or providing any due process protections. Since its implementation, this policy has effectively shut down asylum in the Southern Border.</p>	<p>Yes. The CDC order was extended indefinitely and its reviewed on a monthly basis.</p>

ANNEXES

PROFILES OF SELECTED INTERVIEWEES



Profiles from three of the 30 Haitian migrant women interviewed for this Report are included here to humanize the interviewees and portray their larger story of migration. These three women were selected because their interview responses were particularly detailed and emblematic of “typical” narratives of the women interviewed.

Profile One

“Marianne”⁴¹⁹ left Haiti for the sake of her family and in fear for her life. She now lives in a shelter outside of Tapachula, Mexico, seven months pregnant and with a Haitian man she met during the journey through Latin America. The expectant mother first left Haiti for Chile because she feared what would happen to her children if she were killed in Haiti. Now she fears what will happen to them if she cannot continue moving forward.

In Haiti, Marianne worked as a street vendor. Her education was limited, as her family was unable to pay for the tuition, uniforms, and books she needed to attend school. She was forced to drop out when she was 14. Working as a vendor was dangerous, however, and Marianne did not feel she had the community support she needed to survive in Haiti. After her sister’s husband, a store owner, was shot and paralyzed, Marianne made the difficult decision to leave her two children with family and emigrate to Chile.

In Chile, Marianne worked as a hairdresser. Even now, she takes great pride in her hair. She met a group of people through the salon where she worked who were pooling their money to leave for the United States. They each contributed a part of their paycheck; one person would leave, and then that person would send money and information for the next person when they could. Marianne met the father of her third child while in Chile. When it was her turn to use the pooled money, the couple decided that Marianne would leave first, and her partner promised to meet up with her in Mexico and send additional money on the journey.

As she traveled by foot through Latin America, Marianne feared that she would have to give birth in the bushes. She began the trip with a group, but she was separated from them when she grew weak and was forced to slow down. One man stayed with her and brought her to the shelter in Tapachula.

Marianne is skeptical about the healthcare in Tapachula and would rather not have her baby there either. She also worries that if her child is born in Mexico, where she herself is not a citizen, there will be complications later. While she has been able to access some services through the UNHCR, she does not understand her legal rights as a migrant in Mexico. She still has family to support in Haiti, and she is determined to leave for the United States as soon as she has the necessary papers.

While the journey has been difficult, Marianne is deeply religious and believes God will help her reach where she needs to be.

Profile Two

It's like the blood that runs through their veins is not the same as the blood in our veins. They look at you like you are nothing because you are Black. You have a profession, being ignored completely. – “Fabiola”

“Fabiola”⁴²⁰ is a devoted nurse, mother, and wife intending to seek asylum in the United States where she believes that, in addition to finding safety, she will have a healthier living environment, better work opportunities, and most importantly an education that will permit a prosperous life. She is determined to do anything and everything it takes to provide financial freedom for her children and future generations.

Despite having completed university in Haiti and becoming a nurse, Fabiola had a hard time finding work due to the economic crisis. Because her husband was working in Brazil, her family was perceived to be affluent and was a target for kidnapping and ransom in Haiti. After being threatened, Fabiola was forced into hiding and fled for Chile in 2017. After 9 months in Chile and 11 months in Brazil, the family decided to head for Mexico.

The family traveled by foot and bus for two months to reach Mexico from Brazil. They slept in bushes, buses, and sometimes hotels. They encountered thieves in the forest and were forced to give up US\$500, leaving them without food for four days. There were easier ways to travel, but not having visas made the journey difficult. Fabiola reflected on the journey to Mexico, “The path is not something someone should have to do. I would not recommend it. But we had to, there is no protection in Haiti, we had to seek a better life.” Fabiola relied on faith and the word of others to lead her family to Mexico.

On October 11, 2019, border patrol spotted Fabiola and her family on the bus to Tapachula, but by “God’s grace” they were not apprehended. Despite all they went through she thanks God for the strength and willpower to reach Mexico safely. However, life in Mexico has been unpleasant.

Fabiola complained that Black migrants disproportionately are victimized by having to pay higher prices for groceries on the street than Mexican counterparts. She also feels as if the voices of Haitians are not heard in public offices. For example, a public hospital gave her child the wrong prescription for his age to treat his bronchitis. Fabiola also feels frustrated by the lack of progress, “Two times we went to a human rights organization and tried to advocate for ourselves. Friday, we went to the human rights office, they said we needed to find the status of our case from the immigration office. We went yesterday again to the immigration office and they had no updates.”

Desperately wanting to seek asylum in the United States, life in Mexico has only brought depression to a once persistent, ambitious, and educated woman looking to advance her nursing career. “Look at the state we are in, sitting on the floor, sleeping on the floor, no chairs. We want papers to leave Tapachula to find jobs and get out of this situation.”

Profile Three

“Marie-Flore”⁴²¹ is a Haitian woman, currently living in Tapachula with her husband and eight-month old son. The three share a room in a friend’s house. In Haiti, Marie-Flore was studying to be a third-grade teacher.

Haiti’s ruling party is *Parti Haitien Tèt Kale* (“Haitian Bald-Headed Party” or “PHTK”). A close member of Marie-Flore’s family was the political coordinator of an opposition party. PHTK members threatened to kill her husband due to her family’s politics, and attempted to kill him several times. When PHTK members could not find her husband, they began to threaten her life directly, and Marie-Flore followed her husband to Chile.

Marie-Flore and her husband initially escaped to Chile, but left in November 2019 due to racial discrimination. They traveled to Peru, then through Ecuador, Colombia, Panama, and Costa Rica on their way to Mexico.

The family spent 18 taxing days walking through the Colombian forest to Panama. “Things were very hard then,” Marie-Flore told us. “We saw people who had died during the journey, and there were thieves who took our food and money. They even stole the baby’s food. We spent seven days without food, but we had some salt so we would get water and add salt to it and give it to the baby.”

In Costa Rica, Marie-Flore fell ill and was hospitalized. She still suffers from lower abdomen and back pains from her strenuous journey. After a month, the family crossed through the river in Guatemala into Mexico. They spent their first 11 days in Mexican detention.

Marie-Flore has faced less racial discrimination in Mexico than in other parts of South America, but struggles to meet her basic needs of food, water, and sanitation. A language barrier obstructs the potential for interaction with Mexican citizens, but Marie-Flore remains connected to members of the Haitian community in Mexico. Marie-Flore and her husband have looked for work but have not had any success. She hopes for more visible support from the Mexican government in addition to job opportunities.

Profile Four

Warsan Shire once said, “No one leaves home unless home is the mouth of a shark.” This explains the case of “Darlene.”⁴²² Darlene complained that her home country, Haiti, is plagued with poverty, crime, and violence, making her everyday life there unpredictable and harsh. Darlene talked about political unrest and natural disasters affecting her already struggling nation that forced her to leave in 2001 for the Dominican Republic.

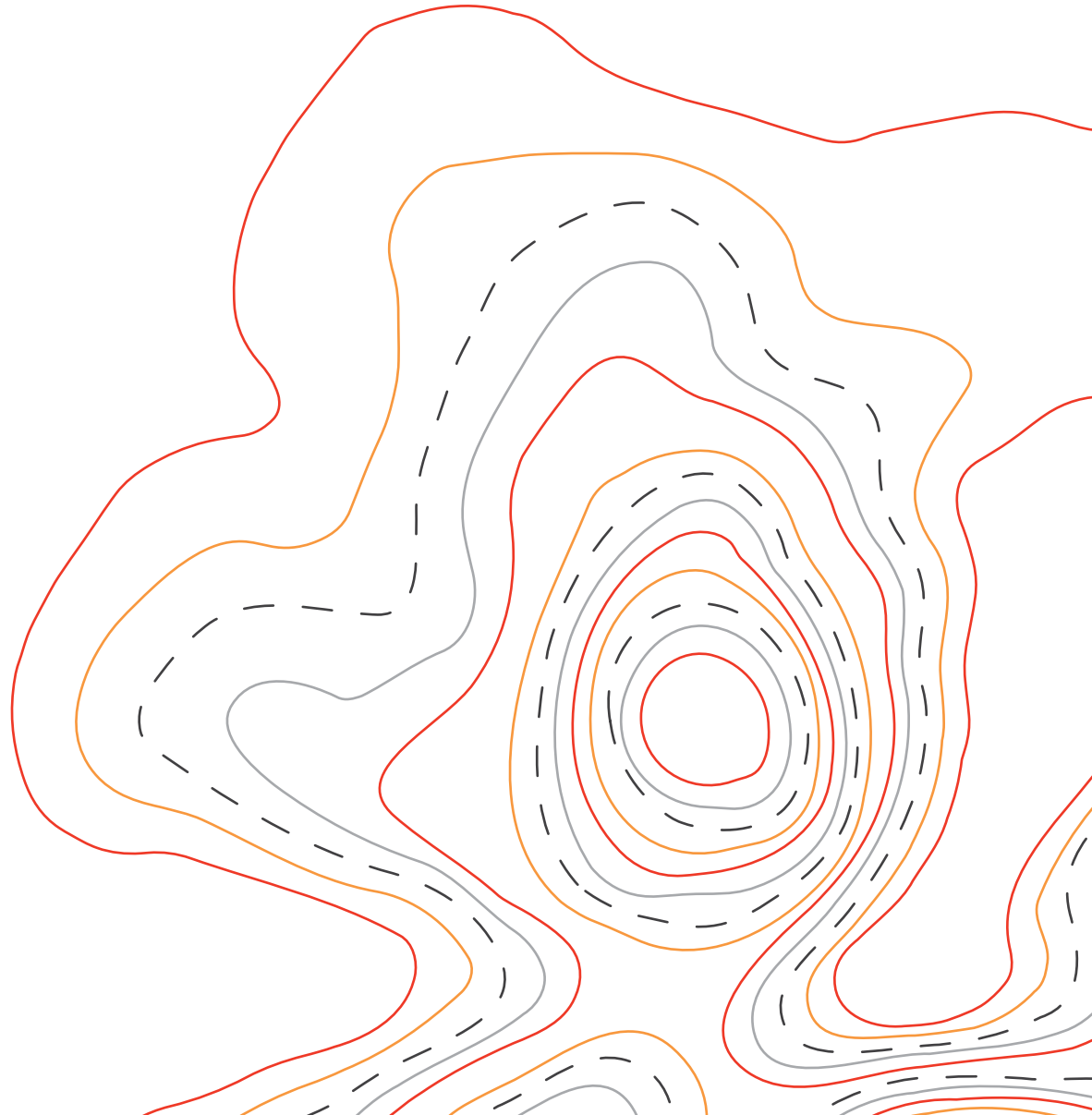
Darlene is a middle-aged woman who does not have any children of her own, but has taken in a boy who is now 16. The boy wants to be a mechanic and made the journey with her from Chile to Mexico. Growing up, Darlene did not have it easy. Her mother had to provide for seven children, with no assistance.

Darlene left the Dominican Republic for South America, traveling through Ecuador and Brazil to arrive in Chile, where she found work. During her time in Chile, she was able to provide financial assistance for her mother who was still in Haiti. However, this did not last. Civil unrest, protests, and looting plagued the country. She lost her job and was unable to pay for her apartment. It seemed that everywhere she went, Darlene had no luck in obtaining the life she envisioned. Yet, she did not stop and instead persisted. Her next journey was to Mexico.

The voyage to Mexico was perilous. Darlene “took the bushes,” which is a term used to describe the journey through the forest of Colombia and Panama. Over a year after the journey, Darlene’s feet still had sores that represented the journey itself. The trip lasted 15 days where she slept in the forest. When the rain came, 5 adults and an 18-month-old baby within her travel group drowned in the rising water. She and the group also encountered thieves, and their only option was to give all their money to avoid being killed. This caused them to starve for 12 days.

While Darlene awaits her papers in Mexico, she survives off of the money her sister sends, who lives in the Dominican Republic. She is clear that she does not want to return to Haiti, “We cannot work. They were kidnapping people in Haiti and if you did not have any money, they would rape you in your vagina, in your anus, until you pass out. That is why I left.”

Notes



- 1 *Who is a Migrant?*, IOM – UN Migration, <https://www.iom.int/who-is-a-migrant>, (last visited July 30, 2020).
- 2 *What is a Refugee?*, USA for UNHCR, <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/> (last visited July 30, 2020).
- 3 *Sexual and Gender Based Violence*, UNHCR, <https://www.unhcr.org/sexual-and-gender-based-violence.html> (last visited July 30, 2020).
- 4 Name changed to protect her identity. See Annexes for the profiles of “Fabiola” and three other women the Research Team interviewed.
- 5 The Research Team also included eight law students from UC Hastings College of the Law, working under the supervision of HBA and CGRS, who were part of a seminar on human rights in Haiti, co-taught by professors Blaine Bookey, Moira Duvernay, and Nicole Phillips.
- 6 Lauren Villagran, ‘*All I Want is a Tranquil Life*’: *Asylum Claims Skyrocket in Mexico as Haitians Flee to U.S. Border*, EL PASO TIMES (April 28, 2020), <https://www.elpasotimes.com/in-depth/news/2020/04/16/asylum-us-mexico-border-migrants-refugee-trump/5108171002/>.
- 7 Interview with Woman Migrant “CAE006,” in Tapachula, Mexico (March 1 – 7, 2020).
- 8 Blaine Bookey and Lisa Davis, *Fanm Ayisyen Pap Kase: Respecting the Right to Health of Haitian Women and Girls (Health and Human Rights: An International Journal)*, INSTITUTE FOR JUSTICE AND DEMOCRACY IN HAITI (2011), <https://www.ijdh.org/2011/07/topics/womens-issues/fanm-ayisyen-pap-kase-respecting-the-right-to-health-of-haitian-women-and-girls-health-and-human-rights-an-international-journal/>.
- 9 For more information, see *Haiti: Gender-Based Violence and Rule of Law*, CGRS, <https://cgrs.uchastings.edu/our-work/haiti-gender-based-violence-and-rule-law>.
- 10 Comision Mexicana de Ayuda a Refugiados [COMAR] [Mexican Commission for Refugee Aid], *Cierre de Marzo* [Close of May], formato PDF, https://www.gob.mx/cms/uploads/attachment/file/544676/CIERRE_DE_MARZO_2020_1-abril-2020_-2_1L.pdf (consultada el 4 June 2020).
- 11 Salvador Cobo and Pilar Fuerte, *Refugiados en Mexico: Perfiles Sociodemograficos e Integracion Social*, [Refugees in Mexico: Sociodemographic Profiles and Social Integration], ALTO COMISIONADO DE LOS NACIONES UNIDAS PARA LOS REFUGIADOS [ACNUR] 13 (2012), [https://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9167](https://www.acnur.org/fileadmin/Documentos/Publicaciones/2013/9167.pdf?file=t3/fileadmin/Documentos/Publicaciones/2013/9167).
- 12 *Id.* at 14.
- 13 Helen Kerwin, *The Mexican Asylum System in Regional Context*, 33 MD. J. OF INT’L LAW 297 (2018) [Kerwin].
- 14 Convention Relating to the Status of Refugees Refugee Convention art. 1, July 21, 1951, 189 U.N.T.S. 2545, available at: <https://www.unhcr.org/en-us/3b66c2aa10> [hereinafter Refugee Convention]; Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 879, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/protocolrefugees.pdf> [hereinafter Refugee Protocol].

- 15 The United Nations High Commissioner for Refugees [UNHCR], *States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol*, <https://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf> (last visited June 2, 2020); Sanjula Weerasinghe (UNCHR Consultant), *In Harm's Way: International Protection in the Context of Nexus Dynamics Between Conflict or Violence and Disaster or Climate Change, Legal and Protection Policy and Research Series*, 78 PPLA/2018/05 (December 2018); Refugee Convention, *supra* note 14, art. 1; Ley Sobre Refugiados, Protección Complementaria y Asilo Político [Law on Refugees, Complementary Protection and Political Asylum], Diario Oficial de la Federación [DOF] 01-27-2011, ultima reforma DOF 10-30-2014, formato PDF, http://www.diputados.gob.mx/LeyesBiblio/pdf/LRPCAP_301014.pdf [hereinafter Law on Refugees] (consultada el July 30, 2020).
- 16 In 2011, Mexico passed the Ley Sobre Refugiados y Protección Complementaria [Law on Refugees and Complementary Protection] which was later amended to include political asylum in the Law on Refugees cited above. The implementing Regulation of the Law on Refugees and Complementary Protection contains provisions such as the process of submitting an asylum claim (Title Four), and the cancellation of refugee status and withdrawal of complementary protection (Title Six). Refugees are entitled to institutional assistance (Title Eight). This includes determining the vulnerability of refugees and the necessity of special care, addressing immediate needs such as immigration regularization, medical care, temporary accommodation and subsistence, access to educational services, and integration efforts to help refugees settle. Reglamento de la Ley Sobre Refugiados y Protección Complementaria [RLRPC], Diario Oficial de la Federación, [DOF] 02-21-2012, formato PDF, http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LRPC.pdf [hereinafter Regulation of the Law on Refugees and Complementary Protection] (consultada el July 30, 2020).
- 17 See Asylum Access, *Mexican Asylum System for U.S. Immigration Lawyers* FAQ (2019), available at: <https://asylumaccess.org/wp-content/uploads/2019/11/Mexican-Asylum-FAQ-for-US-Immigration-Lawyers.pdf> (last visited July 8, 2020); Ariel G. Ruiz Soto, *One Year after the U.S.-Mexico Agreement: Reshaping Mexico's Migration Policies*, MIGRATION POLICY INSTITUTE (June 2020), <https://www.migrationpolicy.org/research/one-year-us-mexico-agreement>. Note: The Law on Refugees confers refugee status on a person who, “due to well-founded fears of being persecuted for reasons of race, religion, nationality, gender, belonging to a certain social group or political opinions, is outside the country of their nationality and cannot or, because of said fears, does not want to avail itself of the protection of such country.” Law on Refugees, art. 13, sec. I. Refugee status will also be considered for persons who do not want to return to their country of origin because they fear that their “security or freedom could be threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances that have seriously disturbed public order;” Law on Refugees, art. 13, sec. III; Regulation of Law on Refugees and Complementary Protection, art. 4, sec. I-VI provides: The regulation specifies protected grounds as: Race: “belonging to a particular ethnic group, a group that shares characteristics of common heritage”. Religion: “the profession or non-profession of religious belief, as well as the practice of corresponding ceremonies, devotions, or worship”. Nationality: “belonging to a particular group based on cultural, ethnic, or linguistic identity, common geographic or political origins, or common convictions that are fundamental to identity or consciousness”. Gender: “the gender or sexual preferences of the applicant”. Particular social group: “Belonging to a group of persons who possess common characteristics or antecedents or share convictions that are fundamental to identity or consciousness.” Political opinion: “The profession of opin-

ions or ideas, actual or imputed, that constitute, or are interpreted as, a criticism or opposition to the politics/policies, customs, or methods of the persecutor.”

- 18 Soto, *supra* note 17. Law on Refugees, art. 2 sec. I.
- 19 Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mex.-Pan., Nov. 22, 1984, https://www.oas.org/dil/1984_cartagena_declaration_on_refugees.pdf; Law on Refugees, art.13, sec. II; Regulation of Law on Refugees and Complementary Protection, art. 4, sec. I-VI, VII-XI.
- 20 Weerasinghe, *supra* note 15, at 195.
- 21 Asylum Access, *supra* note 17, at 5; see e.g., Gobierno de México, *Boletín Estadístico de Solicitantes de Refugio en México*, formato PDF, <https://www.gob.mx/comar/articulos/boletin-estadistico-de-solicitantes-de-refugio-en-mexico-182244?idiom=es> (consultada el July 6, 2020).
- 22 Kerwin, *supra* note 13, at 295.
- 23 Asylum Access, *supra* note 17, at 5.
- 24 *Id.*
- 25 Constitución Política de los Estados Unidos Mexicanos [CPEUM], DOF 02-05-1917, última reforma DOF 08-05-2020, available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/L_080520.pdf [hereinafter Constitution of Mexico]; Stephen Meili, *Constitutionalized Human Rights Law in Mexico: Hope for Central American Refugees?*, 32 HARV. HUM. RTS. J., 116-117 (2019), available at: https://harvardhrj.com/wp-content/uploads/sites/14/2019/07/Meili_Constitutionalized-Human-Rights-Law-in-Mexico.pdf.
- 26 Constitution of Mexico, art. 11: Toda persona tiene derecho para entrar en la República, salir de ella, viajar por territorio y mudar de residencia, sin necesidad de carta de seguridad, pasaporte, salvoconducto u otros requisitos semejantes. El ejercicio de este derecho estará subordinado a las facultades de la autoridad judicial, en los casos de responsabilidad criminal o civil, y a las de la autoridad administrativa, por lo que toca a las limitaciones que impongan las leyes sobre emigración, inmigración y salubridad general de la República, o sobre extranjeros perniciosos residentes en el país. Toda persona tiene derecho a buscar y recibir asilo. El reconocimiento de la condición de refugiado y el otorgamiento de asilo político, se realizarán de conformidad con los tratados internacionales. La ley regulará sus procedencias y excepciones.
- 27 INSTITUTO NACIONAL DE MIGRACIÓN [INM] [NATIONAL MIGRATION INSTITUTE], GOBIERNO DE MÉXICO, formato HTML, <https://www.gob.mx/inm>.
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- 32 Law on Refugees, arts. 24; Regulation of Law on Refugees, arts. 45-47.
- 33 See Asylum Access, *supra* note 17.
- 34 Regulation of Law on Refugees and Complementary Protection, art. 24.
- 35 *Id.* art. 23.
- 36 *Id.* Chapter III.
- 37 Law on Refugees, art. 23; Regulation of Law of Refugees and Complementary Protection, arts. 29-30.
- 38 Law on Refugees, art. 21.
- 39 For information about the factors COMAR considers in adjudicating a claim, see Regulation of Law of Refugees and Complementary Protection, Chapter V.
- 40 Law on Refugees, art. 25. See Regulation of Law of Refugees and Complementary Protection, arts. 45-47.
- 41 Law on Refugees, art. 48.
- 42 Law on Refugees, art. 25; Regulation of Law of Refugees, arts. 59-60.
- 43 Kerwin, *supra* note 13, at 298-299.
- 44 Ley de Migración [LM], Diario Oficial de la Federación [DOF] 05-25-2011, formato HTML, http://dof.gob.mx/nota_detalle.php?codigo=5190774&fecha=25/05/2011 [hereinafter Migration Law].
- 45 Migration Law, art. 52 sec. V. See also Reglamento de la Ley de Migración art. 137, Diario Oficial de la Federación [DOF] 9-28-2012, última reforma DOF 23-05-2014 http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LMigra.pdf [hereinafter Regulation of Law on Migration]. Note: The Migration Law also provides for the regularization of status, and subsequent permanent residency. This pathway is available where a migrant has close family ties with a Mexican national or legal resident, in cases of extreme vulnerability, or in other circumstances.
- 46 Kerwin, *supra* note 13, at 296.
- 47 Weerasinghe, *supra* note 15, at 190.
- 48 Kerwin, *supra* note 13, at 296-297.
- 49 Telephone Interviews with Servicio Jesuita a Migrantes [JRS] and El Instituto para las Mujeres en la Migración, A.C. [IMUMI] (May-July, 2020); Regulation of Law on Migration, art. 3, XVII : “Oficio de salida del país: a la resolución que expide la autoridad migratoria del lugar destinado al tránsito internacional de personas, que autoriza a la persona extranjera en situación migratoria irregular a abandonar territorio nacional dentro del plazo otorgado.”

- 50 Telephone Interviews with JRS and IMUMI (May-July, 2020); Caitlyn Yates, *As More Migrants from Africa and Asia Arrive in Latin America, Governments Seek Orderly and Controlled Pathways*, MIGRATION POLICY INSTITUTE, October 22, 2019, <https://www.migrationpolicy.org/article/extracontinental-migrants-latin-america>.
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- 52 Maureen Meyer and Adam Isacson, *The ‘Wall’ Before the Wall: Mexico’s Crackdown on Migration at its Southern Border*, WASHINGTON OFFICE ON LATIN AMERICA [WOLA] 38 (December 17, 2019), <https://www.wola.org/analysis/mexico-southern-border-report/>; Telephone Interviews with JRS, in Tapachula, Mexico (May-July, 2020); Regulation of the Law on Migration, art. 54: El Instituto podrá autorizar la salida del territorio nacional de personas extranjeras sin documentación migratoria o que tengan documento migratorio vencido, o bien que cuenten con pasaporte o documento de identidad y viaje vencido, siempre y cuando se dirijan al país que emitió dicho documento y sean identificados plenamente como nacionales de ese país o sean residentes legales y tengan permitido reingresar al mismo. En todo caso, el Instituto verificará las listas de control migratorio y, de no existir coincidencia, procederá a emitir un oficio de salida del país. Cuando exista una alerta migratoria la autoridad migratoria actuará de conformidad con la instrucción de la alerta.
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- 55 Mario J. Penton, *Mexico Seguirá Entregando ‘Salvoconductos’ a Migrantes Cubanos con Destino a EEUU [Mexico Will Continue to Provide ‘Safe Conducts’ to Cuban Migrants Bound for the U.S.]*, EL NUEVO HERALD, April 2, 2019, <https://www.elnuevoherald.com/noticias/mundo/america-latina/cuba-es/article228733559.html>; Yates; Telephone Interviews with JRS and IMUMI (May-July, 2020). Note: Some practitioners discussed that some Haitians who were detained by the INM in Tapachula received *oficios de salida de la estación migratoria*, which allowed them to exit detention in order to seek regularization of their immigration status within a prescribed amount of time. It does not appear that this is the document which, for years, was called/confused with a “*salvoconducto*.” However, it may be that once the INM stopped issuing the *oficios de salida del país* to Haitians and others, those who were detained sought this other exit permit (from detention), whether or not their intention was to regularize their status and stay in Mexico. It is clear that many of the Haitian migrants in Tapachula, including those who initiate refugee/asylum claims, do not intend to stay in Mexico but rather seek any kind of immigration documentation from the Mexican government. Regulation of Law on Migration, art. 3, sec. XVI: Oficio de salida de la estación migratoria: a la resolución que permite la salida de la persona extranjera de la estación migratoria, para iniciar trámites de regularización, dentro del plazo que otorgue la autoridad migratoria; o bien, en el supuesto del último párrafo del artículo 111 de la Ley.
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- 229 *Muere Joven Haitiana que fue Acusada de Abandonar a su Bebé* [Young Haitian Woman Who was Accused of Abandoning Her Baby Dies], CNN CHILE (Sept. 30, 2017), www.cnnchile.com/pais/muere-joven-haitiana-que-fue-acusada-de-abandonar-su-bebe-20170930/; *INDH Estudia Acciones Legales por Muerte de Ciudadana Haitiana* [INDH Studies Legal Actions for Death of Haitian Citizen], INSTITUTO NACIONAL DE DERECHOS HUMANOS (INDH) (Oct. 2, 2017), www.indh.cl/indh-estudia-acciones-legales-muerte-ciudadana-haitiana-estaba-detenido-hospitalizada/.
- 230 Note: the INDH surveyed a sample of 2,047 Chileans that, as a group, represent the Chilean population in general. See INDH Report, 22.

- 231 *Manifestaciones de Discriminación Racial en Chile: un Estudio de Percepciones [Manifestations of Racial Discrimination in Chile: A Study of Perceptions]*, Informe Anual Situación de los Derechos Humanos en Chile 2017 [Annual Report on the Situation of Human Rights in Chile 2017], SANTIAGO DE CHILE: INSTITUTO NACIONAL DE DERECHOS HUMANOS (2017, https://www.indh.cl/bb/wp-content/uploads/2017/12/01_Informe-Anual-2017.pdf at 22-23 [hereinafter INDH Report]).
- 232 INDH Report, *supra* note 232, at 23.
- 233 INDH Report, *supra* note 232 at 27.
- 234 *Ser Mujer Migrante En Chile: Discriminación Racial, Cosificación Sexual y Violencia Económica [Being a Migrant Woman in Chile: Racial Discrimination, Sexual Objectification, and Economic Violence]*, EL MOSTRADOR (Aug. 6, 2019), www.elmostrador.cl/braga/destacados-braga/2019/08/06/ser-mujer-migrante-en-chile-discriminacion-racial-cosificacion-sexual-y-violencia-economica/.
- 235 CENEM, *supra* note 223, at 12, 15, 22, and 23.
- 236 CENEM, *supra* note 223, at 18.
- 237 Doña Reveco, *supra* note 205; Telephone Interview with Clinic Lawyer, Universidad Alberto Hurtado, Facultad de Derecho, Clínica Jurídica de Migrantes (April 22 2020).
- 238 INDH Report, *supra* note 232, at 24.
- 239 Doña Reveco & Camilo Carreno, *Pinera: ‘Muchas de las Bandas de Delincuentes en Chile son de Extranjeros’ [Pinera: ‘Many of the Criminal Gangs in Chile are Made up of Foreigners’]*, LA TERCERA (Nov. 29, 2016), <https://www.latercera.com/noticia/pinera-muchas-las-bandas-delincuentes-chile-extranjeros/>.
- 240 *Presidente Piñera Anuncia Reforma Migratoria, [President Piñera Announces Immigration Reform]*, GOBIERNO DE CHILE (Apr. 9, 2018), <https://prensa.presidencia.cl/discurso.aspx?id=73020>; Diego Acosta, Marcia Vera-Espinoza, & Leiza Brumat, *The New Chilean Government and its Shifting Attitudes on Migration*, MPC BLOG (May 3, 2018), <https://blogs.eui.eu/migrationpolicycentre/new-chilean-government-shifting-attitudes-migration-governance/#fn4>; *Chilean, Haitian Presidents Discuss Immigration Policy Reforms*, TELESUR (Apr. 14, 2018), <https://www.telesurenglish.net/news/Chilean-Haitian-Presidents-Discuss-Immigration-Policy-Reforms-20180414-0022.html>. Note: The Piñera Administration proposed a new immigration law to replace the Decree-Law 1094 as well which has not been passed into law yet.
- 241 GOBIERNO DE CHILE, *supra* note 242. Note: The Piñera Administration also created a one-year family reunification/humanitarian visa for Haitians, which must be obtained at the Chilean Consulate in Haiti.
- 242 Circular N°8 de fecha 20 de abril de 2018, Departamento de Extranjería y Migración.
- 243 Jaime Liencura, *La Razón por la que se Eliminó la Visa que Facilitaba a Extranjeros Llegar de Turista y Quedarse Trabajando*, PUBLICMETRO (Apr. 24, 2018), <https://www.publicmetro.cl/cl/noticias/2018/04/24/razon-por-la-que-se-elimino-la-visa-que-facilitaba-a-extranjeros-llegar-de-turista-y-que-darse-trabajando.html>.

- 244 The Piñera Administration also created two temporary resident visa categories targeted at highly skilled/professional foreign nationals.
- 245 Telephone Interview with Guerline Joseph, Director, Haitian Bridge Alliance (July 30, 2020).
- 246 Lucia Newman, *Why is Chile Flying Migrants Back Home?*, AL JAZEERA (Nov. 8, 2018), <https://www.aljazeera.com/news/2018/11/chile-flying-migrants-home-181108100212637.html>; *Plan Humanitario de Regreso Ordenado*, DEPARTAMENTO DE EXTRANJERÍA Y MIGRACIÓN (Mar. 27, 2020), <https://www.chileatiende.gob.cl/fichas/56635-plan-humanitario-de-regreso-ordenado>.
- 247 Maria Jose Navarrete, *Plan de Retorno Humanitario Finaliza con 1.393 Ciudadanos que Regresaron Puerto Príncipe [Humanitarian Plan for Orderly Returns Program Ends With 1,393 Citizens Who Returned to Port-au-Prince]*, LA TERCERA (May 29, 2019), www.latercera.com/nacional/noticia/plan-retorno-humanitario-finaliza-1-393-ciudadanos-regresaron-puerto-principe/675546/.
- 248 Telephone Interview with Clinic Lawyer, Universidad Alberto Hurtado, Facultad de Derecho, Clinica Juridica de Migrantes (April 22, 2020); *Chile Repatriates Haitian Migrants*, ASSOCIATED PRESS (Nov. 7, 2018), www.apnews.com/6b1c1ab9100b410cb4451efbe14a9e53; Aislinn Laing & Natalia A. Ramos Miranda, *Chile Sends 176 Haitian Migrants Home on Criticized 'Humanitarian Flight'*, REUTERS (Nov. 7, 2018), www.reuters.com/article/us-chile-migrants/chile-sends-176-haitian-migrants-home-on-criticized-humanitarian-flight-idUSKCN1NC30V; Lucia Newman, *Why is Chile Flying Migrants Back Home?*, AL JAZEERA (Nov. 8, 2018), <https://www.aljazeera.com/news/2018/11/chile-flying-migrants-home-181108100212637.html>.
- 249 Appendix 2.
- 250 Jacqueline Charles, *New Migration: Haitians Carve a Dangerous 7,000 Mile Path to the U.S.*, MIAMI HERALD (Sept. 24, 2016), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article103920086.html>.
- 251 *Id.*
- 252 Arelis R. Hernández, *Immigration Officials Partner with Panama to Boost Screening of Migrants Passing Through to the U.S.*, THE WASH. POST (Aug. 27, 2019), https://www.washingtonpost.com/immigration/immigration-officials-partner-with-panama-to-boost-screening-of-migrants-passing-through-to-us/2019/08/26/532f6150-c81d-11e9-a4f3-c081a126de70_story.html.
- 253 *Id.*
- 254 *Id.*
- 255 Kirk Semple, *Haitians, After a Perilous Journey, Find Doors to the U.S. Abruptly Shut*, N.Y. TIMES, (Sept. 23, 2016), <https://www.nytimes.com/2016/09/24/world/americas/haitians-mexico-brazil-deport-united-states.html>.
- 256 *Id.*
- 257 Kate Linthicum, *The Desperate Trek: Crossing the Darién Gap*, L.A. TIMES (Dec. 22, 2016) <https://www.latimes.com/projects/la-fg-immigration-trek-america-colombia/>.

- 258 Associated Press, *Panama Sees Surge of Migrants Crossing Dangerous Darién Gap*, NBC NEWS (May 16, 2019, 6:35 AM), <https://www.nbcnews.com/news/latino/panama-sees-surge-migrants-crossing-dangerous-darien-gap-n1006376>).
- 259 Arelis R. Hernández, *supra* note 253.
- 260 Associated Press, *supra* note 259.
- 261 Oswaldo Rivas, *Nicaragua Closes Border to Cuban Migrants, Rebukes Costa Rica*, REUTERS, (Nov. 15, 2015, 4:50 PM), <https://www.reuters.com/article/us-nicaragua-cuba/nicaragua-closes-border-to-cuban-migrants-rebukes-costa-rica-idUSKCN0T502920151116>.
- 262 Jacqueline Charles, *Chile is Used to Welcoming Migrants; but Haitians Don't Always Get a Warm Reception*, MIAMI HERALD (March 5, 2018, 8:12 PM), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article202589599.html>.
- 263 Jacqueline Charles, *supra* note 85.
- 264 *Id.*
- 265 See, e.g., Cheryl Little, *United States Haitian Policy: A History of Discrimination*, 10 N.Y.L. SCH. J. HUM. RTS. 269 (1993).
- 266 See *Haitian Refugee Center v. Civiletti*, 503 F. Supp. 442, 452 (S.D. Fla. 1980), *aff'd as modified*, *Haitian Refugee Center v. Smith*, 676 F.2d 1023 (5th Cir. 1982) (“The manner in which INS treated the more than 4,000 Haitian plaintiffs violated the Constitution, the immigration statutes, international agreements, INS regulations and INS operating procedures. It must stop.”).
- 267 See *Jean v. Nelson*, 711 F.2d 1455 (11th Cir. 1983) (finding “stark pattern” of discrimination against Haitian asylum seekers); *Sale v. Haitian Centers. Council*, 509 U.S. 155 (1993) (holding repatriation of interdicted Haitians did not violate U.S. refugee obligations).
- 268 Miriam Pensack, *Remembering Haitian Internment in Trump’s America*, NACLA (July 19, 2018), <https://nacla.org/news/2018/07/20/remembering-haitian-internment-trump%E2%80%99s-america>.
- 269 See Ali Vitali, Kasie Hunt and Frank Thorp, *Trump Referred to Haiti and African Nations as ‘Shithole’ Countries*, NBC NEWS (Jan. 11, 2018) <https://www.nbcnews.com/politics/white-house/trump-referred-haiti-african-countries-shithole-nations-n836946>.
- 270 The Administration has further attempted to undermine protections by ending the Temporary Protected Status (“TPS”) designated for Haitians following the 2010 earthquake. Although this policy does not benefit Haitians currently in Mexico—as only those present in the United States within a year following the earthquake qualify for TPS—the discriminatory treatment highlights the conditions Haitians continue to face. See *Saget v. Trump*, 375 F. Supp. 3d 280, 368-69 (E.D.N.Y. 2019) (finding that the decision to terminate TPS for Haitians was motivated by non-white animus).
- 271 See, e.g., Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons into United States From Designated Foreign Countries or Places for Public Health Purposes, 85 Fed. Reg. 16559-01 (Mar. 24, 2020) (effective date Mar. 20, 2020); Order Under Sections 362 and 365 of the Public Health Service Act Suspending

Introduction of Certain Persons From Countries Where a Communicable Disease Exists.” 85 Fed. Reg. 17,060-17088 (Mar. 26, 2020) (effective date Mar. 20, 2020); Extension of Order Under Sections 362 and 365 of the Public Health Service Act, 85 Fed. Reg. 22,424 (Apr. 22, 2020) (effective date Apr. 20, 2020); Amendment and Extension of Order Under Sections 362 and 365 of the Public Health Service Act, 85 Fed. Reg. 31,503 (May 26, 2020) (effective date May 21, 2020).

- 272 As of mid-May, over 20,000 people had been expelled under the policy. Of that number, only 59 people were allowed to even request asylum and, of those, only two individuals were permitted to enter the United States to pursue their claim. See Camilo Montoya-Galvez, *Only 2 Migrants Allowed to Seek Humanitarian Protection Under Trump’s Coronavirus Border Order*, CBS NEWS (May 13, 2020), <https://www.cbsnews.com/news/only-2-migrants-allowed-to-seek-humanitarian-protection-under-trumps-coronavirus-border-order/>. See also Hum. Rts First, *Pandemic as Pretext: Trump Administration Exploits COVID-19, Expels Asylum Seekers and Children to Escalating Danger* (May 2020), available at: <https://www.humanrightsfirst.org/sites/default/files/PandemicAsPretextFINAL.pdf>.
- 273 See, e.g., 84 Fed. Reg. 63,994 (Nov. 19, 2019); Hum. Rts. Watch and Refugees Int’l, *Deportation with a Layover: Failure of Protection under the US-Guatemala Asylum Cooperative Agreement* (May 19, 2020), <https://www.hrw.org/report/2020/05/19/deportation-layover/failure-protection-under-us-guatemala-asylum-cooperative>.
- 274 The agreements are currently being challenged in U.S. federal court. See *U.T. v. Barr*, 1:20-cv-00116-EGS (filed Jan. 15, 2020).
- 275 See TRAC Immigration, *Details on MPP (Remain in Mexico) Deportation Proceedings* (June 2020), available at: <https://trac.syr.edu/phptools/immigration/mpp/>.
- 276 According to government statistics, only 558 of the 65,499 cases heard under MPP were granted protection and less than three percent were represented. See *id.* The Ninth Circuit Court of Appeals upheld a lower court decision enjoining MPP. However, the injunction is stayed pending U.S. Supreme Court Review. See *Innovation Law Lab v. Nielsen*, No.3:19-cv-00807-RS (N.D. Cal.), *prelim. inj. stayed pending petition for cert.*, *Wolf v. Innovation Law Lab*, -- S.Ct.--, 2020 WL 1161432 (Mar. 11, 2020) (Mem.); see also *Innovation Law Lab v. Wolf*, 951 F.3d 986 (9th Cir. 2020).
- 277 This policy has been enjoined and is not in effect. See *East Bay Sanctuary Covenant v. Trump*, 950 F.3d 1242 (9th Cir. 2020); *O.A. v. Trump*, 404 F.Supp.3d 109 (D.D.C. 2019), *appeal pending*.
- 278 This policy was enjoined and is not in effect at the time of writing, but litigation is ongoing and the situation evolving rapidly. See *East Bay Sanctuary Covenant v. Barr*, --- F.3d ---, 2020 964 F.3d 832 (9th Cir. 2020); *Capital Area Immigrants’ Rights Coal. v. Trump*, --- F.Supp.3d ---, 2020 WL 3542481 (D.D.C. June 30, 2020).
- 279 *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018) (casting doubt on the viability of gender defined particular social groups and “private” persecutor claims more generally); *Matter of L-E-A-*, 27 I&N Dec. 581 (A.G. 2019) (casting doubt on the viability of family based particular social groups); *Matter of E-R-A-L-*, 27 I&N Dec. 767 (B.I.A. 2020) (rejecting particular social group defined by landownership).

- 280 The highest immigration tribunal in the United States has also ruled in a precedential opinion that Haitians who were offered permanent residence in Brazil should be deemed firmly resettled in that country, whether they were able to access that status or not, and therefore ineligible for asylum. *Matter of K-S-E-*, 27 I&N Dec. 818 (B.I.A. 2020). The case is on appeal at the Ninth Circuit.
- 281 Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear, 85 FR 36264 (June 15, 2020), <https://www.federalregister.gov/documents/2020/06/15/2020-12575/procedures-for-asylum-and-withholding-of-removal-credible-fear-and-reasonable-fear-review>. The public comment period for this rule closed on July 15, 2020. Over 80,000 comments were made, which the agencies must review. The timing for publication of a final rule is unknown.
- 282 Interview with Woman Migrant “CME004,” in Tapachula, Mexico (March 1 – 7, 2020).
- 283 Interview with Staff Member, Centro de Derechos Humanos Fray Matías de Cordova [Fray Matías], in Tapachula, Mexico (Feb. 11, 2020).
- 284 *Id.*
- 285 Interview with Woman Migrant “ABS002,” in Tapachula, Mexico (March 1 – 7, 2020).
- 286 Interview with Woman Migrant “BB003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 287 Interview with Woman Migrant “CME002,” in Tapachula, Mexico (March 1 – 7, 2020).
- 288 Interview with Woman Migrant “CAE003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 289 Interview with Woman Migrant “AB001,” in Tapachula, Mexico (March 1 – 7, 2020).
- 290 Interview with Woman Migrant “CAE006,” in Tapachula, Mexico (March 1 – 7, 2020).
- 291 Interview with Woman Migrant “AB004,” in Tapachula, Mexico (March 1 – 7, 2020).
- 292 Interview with Woman Migrant “CME003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 293 Interview with Woman Migrant “BB003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 294 Interview with Woman Migrant “CAE003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 295 Interview with Woman Migrant “BB004,” in Tapachula, Mexico (March 1 – 7, 2020).
- 296 Interview with Woman Migrant “CAE006,” in Tapachula, Mexico (March 1 – 7, 2020).
- 297 Interview with Woman Migrant “AB001,” in Tapachula, Mexico (March 1 – 7, 2020).
- 298 The Research Team did not speak with any medical service providers.
- 299 Interview with Woman Migrant “AB003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 300 Interview with Woman Migrant “BB003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 301 Interview with Woman Migrant “AB003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 302 Interview with Woman Migrant “CAE005,” in Tapachula, Mexico (March 1 – 7, 2020).

- 303 Interview with Woman Migrant “SG003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 304 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 305 *Id.*
- 306 When asked whether she accesses social services, one interviewee replied, “When I try to go out, cars won’t stop even though I’m pregnant. If I have to go to the health center, I walk. We don’t have rights here.” Interview with Woman Migrant “CME002,” in Tapachula, Mexico (March 1 – 7, 2020). Another woman responded, “Outside, people don’t respect you. You aren’t in your own country and people are mad at you. If anything happens to you, you can’t talk to anyone about it. It’s worse than Haiti.” Interview with Woman Migrant “CAE003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 307 Interview with Staff Member, JRS, in Tapachula, Mexico (March 1- 7, 2020)
- 308 Interview with Woman Migrant “CME002,” in Tapachula, Mexico (March 1 – 7, 2020).
- 309 Interview with Woman Migrant “CAE003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 310 Interview with Woman Migrant “ABS005,” in Tapachula, Mexico (March 1 – 7, 2020).
- 311 Interview with Woman Migrant “CAE004,” in Tapachula, Mexico (March 1 – 7, 2020).
- 312 Dara Lind, *The 2014 Central American Migrant Crisis*, VOX NEWS (Oct. 10, 2014), <https://www.vox.com/2014/10/10/18088638/child-migrant-crisis-unaccompanied-alien-children-rio-grande-valley-obama-immigration>.
- 313 Interview with Staff Member, Comisión Nacional de los Derechos Humanos en México [CNDH], in Tapachula, Mexico (Mar. 2, 2020).
- 314 *Id.*
- 315 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 316 Comisión Mexicana de Ayuda a Refugiados [COMAR] [Mexican Commission for Refugee Aid], *Estadística Mayo 2020 [Statistics May 2020]*, (Jun. 1, 2020) https://www.gob.mx/cms/uploads/attachment/file/555168/cierre_DE_MAYO_2020__1-junio-2020_.pdf.
- 317 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 318 COMAR, *supra* note 317.
- 319 *Id.*
- 320 Interview with Staff Member, Fray Matías (Feb. 11, 2020). It is believed that complementary protection is preferred because of external political pressure on COMAR offices to keep asylum rates low for Haitians.
- 321 Villagran, *supra* note 6.
- 322 Interview with Staff Member, CNDH, in Tapachula, Mexico (Mar. 2, 2020).
- 323 Villagran, *supra* note 6.

- 324 Interview with Staff Member, JRS, in Tapachula, Mexico (Mar. 6, 2020).
- 325 Law on Refugees, Complementary Protection, and Political Asylum, art. 24; Regulation of Law on Refugees and Complementary Protection, arts. 45-47.
- 326 *Id.*
- 327 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 328 Sin Fronteras IAP, *Evolución y Retos del Asilo en México: 20 años de asistencia legal e incidencia por las personas Refugiadas*, 15 (Sept. 2016).
- 329 *Id.*
- 330 Interview with Staff Member, JRS, in Tapachula, Mexico (Mar. 6, 2020).
- 331 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 332 The Haitian Constitution provides for two national languages – French and Haitian Creole (*Kreyol*), Constitution of Rep. of Haiti, March 29, 1987, art. 5. An estimated five percent of Haitians speak French fluently, but 100 percent are fluent in *Kreyol*. See Cordelia Hebblethwaite, *Should Creole Replace French in Haiti's Schools?*, BBC NEWS (Aug. 24, 2011), <https://www.bbc.com/news/world-latin-america-14534703>.
- 333 Interview with Woman Migrant “AB004,” in Tapachula, Mexico (March 1 – 7, 2020).
- 334 Grace Benton, “*Speak English: Language Access and Due Process in Asylum Proceedings*,” 34 GEO. IMMIGR. L.J., 453 (2020).
- 335 *Id.* at 485.
- 336 Law on Refugees, Complementary Protection, and Political Asylum, art. 23; Regulation of Law on Refugees and Complementary Protection, arts. 29-30.
- 337 Interview with Woman Migrant “SMA003,” in Tapachula, Mexico (March 1 – 7, 2020).
- 338 Interview with Woman Migrant “ABS001,” in Tapachula, Mexico (March 1 – 7, 2020).
- 339 Interview with Woman Migrant “SG001,” in Tapachula, Mexico (March 1 – 7, 2020).
- 340 Sin Fronteras IAP, *supra* note 329, at 15, 35. “Although the Law and its Regulations contemplate guidelines to be followed, the resolutions that are issued exhibit serious process omissions which, in turn, reveal the lack of a methodology orienting the reviewing mechanism. This should consist of taking each step and recourse contemplated by the law in every case, thus assuring the same conditions and possibilities to all seekers. In contrast, there are attestations of telephone interviews instead of personal interviews, and also of the absence of interviews with some members in family groups and the undertaking of studies of the country of origin using unofficial sources and a lack of qualified interpreters, among other deficiencies.”
- 341 Interview with Staff Member, JRS, in Tapachula, Mexico (Mar. 6, 2020).
- 342 Sin Fronteras IAP, *supra* note 329, at 15. Haitian interviewees often sent their male partner to COMAR on their behalf because of fear of leaving their home in Tapachula (*see*

Chapter 8, section B above). However, women's asylum claims are linked to their spouses' claims. If the spouse is denied, the entire family is also denied, although women often have their own, separate grounds for asylum. Sometimes women are not communicated this by male partners. While some Haitian women interviewed met their partner in Haiti, many had met their partner in Brazil or Chile, or even on the voyage to Mexico. Women are left with the option of an arduous process to appeal COMAR's decision and re-submitting their own claim if their spouse's claim is denied.

- 343 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 344 In addition to having a pending asylum application, one can apply for a TVRH card if they are a minor elderly, ill, or have been a witness to a crime and are assisting with its investigation or prosecution. Minors can directly apply for a TVRH card without filing an asylum application. There is a specialized "minor process" (*proceso de menor*) that takes place in a different manner through representatives from National System for Comprehensive Family Development (*Sistema Nacional para el Desarrollo Integral de la Familia*, or SNDIF or DIF).
- 345 Lineamientos para Trámites y Procedimientos Migratorios [Guidelines for Immigration Procedures], Diario Oficial de la Federación [DOF]: 08-11-2012, formato HTML, http://dof.gob.mx/nota_detalle.php?codigo=5276967&fecha=08/11/2012.
- 346 TVRH cards are valid for one year, and are renewable under the law. However, in practice advocates state that INM does not renew the visas unless the visa has been awarded due to witnessing a crime, and the related criminal case is still pending. Interview with Staff Member, JRS, in Tapachula, Mexico (March 6, 2020).
- 347 Interview with Staff Member, CNDH, in Tapachula, Mexico (Mar. 2, 2020).
- 348 Interview with Staff Member, JRS, in Tapachula, Mexico (Mar. 6, 2020).
- 349 Interview with Staff Member, CNDH, in Tapachula, Mexico (Mar. 2, 2020).
- 350 *Id.*
- 351 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 352 The Research Team spoke with a foreign journalist based in Mexico City who was denied entry to *Siglo XXI* in February 2020.
- 353 Interview with Staff Member, Fray Matías, in Tapachula, Mexico (Feb. 11, 2020).
- 354 Jonathan Greig, *Two Haitians, Including A Pregnant Woman, Die From Poor Treatment in Mexican Detention Center*, THE HAITIAN TIMES (Sep. 26, 2019), <https://haitiantimes.com/2019/09/26/two-haitians-including-a-pregnant-woman-die-from-poor-treatment-in-mexican-detention-center/>.
- 355 Chiara Giordano, *Mother pleads for help in harrowing video from Mexico detention centre: 'My son is dying'*, THE INDEPENDENT (Jun. 27, 2019), <https://www.independent.co.uk/news/world/americas/mexico-woman-help-detention-centre-video-feriamesoamericana-a8977326.html>.
- 356 *Muere una Persona Interna en el Centro de Detención Migratoria de Tapachula* [An Inmate Dies in the Tapachula Detention Center], *supra* note 78.

- 357 *Id.*
- 358 Interview with Staff Member, CNDH, in Tapachula, Mexico (Mar. 2, 2020).
- 359 Interview with Staff Member, Fray Matías (Feb. 11, 2020).
- 360 Interview with Woman Migrant “CME002,” in Tapachula, Mexico (March 1 – 7, 2020).
- 361 Interview with Woman Migrant “SG001,” in Tapachula, Mexico (March 1 – 7, 2020).
- 362 Interview with Woman Migrant “CME004,” in Tapachula, Mexico (March 1 – 7, 2020).
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