



Center for Gender & Refugee Studies

200 McAllister Street  
San Francisco, CA 94102  
[cgrs.uclawsf.edu](http://cgrs.uclawsf.edu)



**The Bridge**

4560 Alvarado Canyon Road, Suite 1H  
San Diego, CA 92120  
[haitianbridgealliance.org](http://haitianbridgealliance.org)

**Submission to the UN Committee Against Racial Discrimination (CERD) and the UN Committee for the Protection of the Rights of Migrant Workers and Their Families (CMW)**

**Obligations of State Parties on public policies for addressing and eradicating xenophobia and its impact on the rights of migrants, their families, and other non-citizens affected by racial discrimination**

Center for Gender & Refugee Studies  
University of California College of the Law, San Francisco  
together with  
Haitian Bridge Alliance

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We appreciate the opportunity to contribute input to help inform the Joint General Comment/Recommendation on this critical issue. This submission focuses on Haitian and other Black migrant women navigating the Americas in pursuit of safety. As the CERD and CMW suggest in the call for submissions, xenophobic policies are antithetical to the commitments of the Universal Declaration and all International Human Rights Instruments. We therefore regret that many policies in the region continue to hasten in entirely the wrong direction. We believe the intersectional focus on Haitian and other Black migrants, specifically, will elucidate some of the protections needed in the forthcoming Joint General Comment/Recommendation.

In 2021, the Center for Gender & Refugee Studies (CGRS) and Haitian Bridge Alliance (HBA), together with Instituto para las Mujeres en la Migración (IMUMI), prepared a report, [A Journey of Hope: Haitian Women's Migration to Tapachula, Mexico](#) (attached), which provides extensive analyses responsive to several questions presented in the call for input. CGRS and HBA returned to Tapachula and Mexico City in March 2024 with delegates from the University of California College of the Law, San Francisco (UC Law SF) Haiti Justice Partnership to assess the current situation confronting Haitian migrants. The findings, drawn from over 100 interviews that will be the subject of a forthcoming report,

underscore that previously dire circumstances are only deteriorating. We would welcome the opportunity to submit the updated report upon its imminent completion.

Please also find attached two additional reports spearheaded by HBA: (1) [\*Anti-Black discrimination against non-citizens and ongoing violations of international protections for migrants, refugees, and asylum seekers of African descent\*](#), submitted to the Human Rights Committee in 2023, and (2) [\*Treatment of Foreign Nationals, including Refugees and Asylum-seekers, Disparately Impacting Black People and other Peoples Protected by the Covenant and the Convention on the Elimination of All Forms of Racial Discrimination\*](#), provided to CERD in 2022. The reports describe the entrenched xenophobia endemic to U.S. policy and highlight the reality that anti-Blackness is an appalling “feature,” rather than anomaly, of U.S. immigration enforcement.

We hope this research will be of assistance in the effort to prevent and eradicate xenophobia in migrant-receiving societies and generally.

### **I. Addressing Xenophobia Through an Intersectional Lens**

To develop policies that effectively confront and combat the intersectional harms of xenophobia and gender-based discrimination, it is crucial they be informed by realities on the ground. We therefore draw particular attention to the persistent challenges, obstacles, and dangers Haitian and other Black women face throughout the arduous journey in pursuit of refuge in the Americas.

In March 2020, CGRS, HBA, and IMUMI interviewed Haitian women in Mexico about their experiences in migration. The aim was to understand barriers to humanitarian aid and legal protection, and how these relate to intersectional discrimination faced by Black migrants. The team interviewed 30 Haitian women and spoke with local service providers and stakeholders; and HBA had already interviewed Black migrant women from several African countries on prior delegations. Haitian migrant women found—and continue to find—themselves isolated, unsupported, and marginalized. As migrants, they face complicated legal and social challenges obstructing access to services and security. As Haitian *Kreyòl* speakers, migrants encounter severe language barriers throughout the Americas. They also endure discrimination based on race and gender from both local populations and authorities. Furthermore, there is no meaningful support to combat entrenched anti-Black racism among authorities, which results in delays and arbitrary denials of Haitian protection claims. The reports highlight widespread mistreatment of Haitian migrant women throughout the Americas. Sadly, findings documented during former U.S. President Donald Trump’s administration have only endured or since worsened.

*Brazil:* Xenophobic sentiments in Brazil, for example, often manifest through false narratives of employment competition, e.g., through physical violence targeting Haitians

ostensibly because they are “stealing” jobs. Tragically, such attacks disproportionately target Black women, and have resulted in injury and even death. Compounding the issue, the Brazilian government has limited the legal avenues for Haitians to obtain residency. In 2018, the government shortened humanitarian visas for Haitians entering Brazil and also made it more difficult to obtain employment. In 2023, the government extended humanitarian visas for Haitians from six to twelve months and allowed Haitians already established in Brazil to apply for residence for their family members who are still in Haiti.<sup>1</sup> This is a welcomed measure, but family reunification is limited to Haitians lucky enough to obtain permanent residence in Brazil.

*Chile:* In Chile, racism and xenophobia remain pervasive throughout society. A 2017 study revealed that a third of Chileans consider themselves “whiter,” and therefore superior to other Latin Americans.<sup>2</sup> Afro-descendant migrant women face sexualization and exoticization, often attributed to discriminatory stereotypes associating migrant women with sex work. They continue to face greater difficulties in securing employment than many other migrant groups due to such additional layers of marginalization.

*Mexico:* In Mexico, Haitian migrants encounter many challenges in their daily lives. One prevalent issue is the struggle to secure employment. This difficulty is especially pronounced among Haitian women. According to one woman interviewed in 2020, police would pursue migrants and confiscate baskets of goods they were attempting to sell: prohibiting them from working to meet basic survival needs. Migrants recently interviewed in 2024 indicated they experienced violence at the hands of the police: precluding recourse.

Moreover, it is difficult for Haitian migrants to find adequate housing, further compounding their hardships. Shelters are scant and overwhelmed. In 2020, interviewees and their families were living in rundown block homes or apartment complexes that lacked basic amenities. Most occupants resorted to sleeping on concrete floors, with only thin sleeping pads or broken chairs for comfort. Today, many migrants are forced to simply live in the streets in informal encampments.

Although medical access is provided free of charge in Mexico, it is unfortunately highly unreliable for Haitian women. Interviewees recounted instances of being prescribed incorrect medication or administered shots that ultimately induced early labor. Due to migrants’ arduous journeys—marked by severe malnutrition, dehydration, and potential violence—many pregnancies are high-risk. However, prenatal care remains limited in availability and quality.

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<sup>1</sup> Ministério das Relações Exteriores, [Advancement in the Migratory Policy of humanitarian shelter and family reunion in favor of Haitians and stateless people residing in Haiti](#), (2023).

<sup>2</sup> Instituto Nacional De Derechos Humanos, [Annual Report on the Situation of Human Rights in Chile: Manifestations of Racial Discrimination in Chile: A Study of Perceptions](#), (2018).

Haitian migrant women interviewed expressed feeling isolated and trapped due to such varied factors as language barriers, unfamiliarity with the city, high transportation costs, xenophobia, and childcare. Despite these difficulties, almost everyone feared returning to Haiti because of escalating violence, rape, and kidnappings. The situation in Haiti has declined precipitously since.

A primary challenge for Haitian migrants is the difficulty in obtaining asylum and legal protections due to obstacles in Mexico's asylum system. These obstacles include procedural issues, limited understanding of Haiti's country conditions by the asylum agency *Comisión Mexicana de Ayuda a Refugiados* (COMAR), and barriers like marginalization and lack of language access. This makes it difficult if not impossible for Haitians to even express claims for asylum. Interviews revealed that only a few Haitian Spanish-speaking women understood the concept of asylum or the status of their claims, highlighting the lack of qualified interpreters. Other common complaints include long decision delays, difficulties obtaining help at COMAR offices, lack of transparency, and seemingly arbitrary decisions.

Haitians face such arbitrary decision-making and denial of protection despite a high risk of being subject to persecution or torture if returned Haiti's deteriorating conditions. In 2022, the approval rate among Haitian applicants was only 12%<sup>3</sup> and in 2023, merely 13%.<sup>4</sup> Compare this to the grant rates for nationals of countries to which Mexico applies a more expansive refugee definition under the Cartagena Declaration, and one can see the failure of protection. For example, the grant rate for Venezuelans was 87% and 82% for the same years.<sup>5</sup> It is important to note, however, that these grant rates only describe positive decisions against the number of individuals who actually present for their scheduled COMAR appointment. As such, it does not account for those who fail to arrive for their interview; and therefore, the grant rate for Haitians is in reality even lower.

Of recent, there is an increasingly high "no-show" rate among Haitian migrants: a large number of Haitians fail to appear for scheduled appointments with COMAR. This is likely due to several factors, but some salient themes emerged from interviews conducted during the 2024 delegation. Individuals feel a sense of hopelessness, that attending their interview would be futile, and become desperate due to system delays that leave them stranded in the street for prolonged periods. Migrants must visit multiple offices in different parts of town to advance their claim and in the interim are unable to work or move freely within Mexico.

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<sup>3</sup> CGRS, [Far from Safety: Dangers and Limits to Protection for Asylum Seekers Transiting through Latin America](#), (April 2023) 5.

<sup>4</sup> Mexican Commission for Aid to Refugees, [The COMAR in numbers](#), (February 2024).

<sup>5</sup> *Id.*

Mexico has just one migrant detention facility in Tapachula: Centro de Detención Siglo XXI. In addition to enduring poor conditions, Haitian migrants experience racism and xenophobia from the center's agents, who have derogatorily referred to them as "dogs" and "assholes," and given migrants spoiled food and water. Mexico's inconsistent policy of issuing humanitarian visas, which allow migrants entering the country to travel freely in Mexico, at times force migrants to languish in the effective open-air prison of Tapachula while their claims are processed: a process which can take months.

UN treaty bodies have repeatedly expressed concern over the treatment of Haitian migrants in Mexico. In 2019, CERD stated that "indigenous women, women with disabilities, women of African descent, domestic workers, women living in poverty and transsexual women, among other groups of women who have faced multiple discrimination" are particularly vulnerable.<sup>6</sup> The UN Committee on the Elimination of Discrimination against Women (CEDAW) shared similar concerns and urged Mexico to "[a]dopt a road map that includes adequate resources, a timeline, and measurable targets requiring authorities at the federal, state and local levels to implement relevant laws to prevent and eliminate such discrimination."<sup>7</sup>

*United States:* The U.S. has a long history of discriminating against Haitians, persistently granting asylum among the lowest rates of any nationality. The U.S. has unwaveringly effectuated mass deportations to Haiti despite deteriorating conditions, and continues to do so—over 25,000 Haitians have been returned to Haiti on more than 250 flights since September 19, 2021.<sup>8</sup> Recently, the U.S. interdicted and repatriated 65 Haitians at sea despite unprecedented levels of violence in Haiti that even forced the country's main airport to close down.<sup>9</sup> More than 160,000 people are currently displaced in the Haitian capital's metropolitan area<sup>10</sup> while others are internally displaced throughout the country due to expanding violence.

It is unconscionable to send migrants fleeing chaos—especially women—back to such harm. CGRS and HBA interviewed several Haitians who had only recently fled due to the violence, including many who had been expelled by the U.S. only to face their fears and flee again. Many individuals expressed fear regarding the fate of their loved ones in Haiti,

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<sup>6</sup> CERD et. al, [Concluding observations on the combined eighteenth to twenty-first periodic reports of Mexico](#), United Nations Comm. On The Elimination Of Racial Discrimination, U.N. Doc. Cerd/C/Mex/Co/18-21, (September 19, 2019) §94.

<sup>7</sup> CEDAW et. al, [Concluding Observations On The Ninth Periodic Report Of Mexico](#), U.N. Document CEDAW/C/MEX/CO/9, (July 25, 2018) §12.

<sup>8</sup> Tom Cartwright, [ICE Air Flights](#), Witness at the Border (March 4, 2024).

<sup>9</sup> Julia Ainsley, [The U.S. is still sending Haitians intercepted at sea back to Haiti despite the violence in their home country](#), NBC News, (March 15, 2024).

<sup>10</sup> United Nations News, [Waves of violence hit Haiti hard, as Security Council condemns gang attacks](#), (March 11, 2024).

including one man whose family had been tied up and beaten by gang members after he escaped: magnifying a cycle of compounding trauma.

The recent “Circumvention of Lawful Pathways” rule (known as the “Asylum Ban”) presents additional barriers for Haitian and other Black migrants seeking safety. The rule effectively requires asylum seekers to make an appointment via phone app (“CBP One”) or be presumed ineligible for asylum, subject to very limited exceptions.<sup>11</sup> Among many issues plaguing CBP One, the app’s facial recognition software often does not recognize darker skinned people.<sup>12</sup> Haitian migrants thus experience xenophobia and racism throughout their interaction with the U.S., including, moreover, receiving deliberately indifferent treatment “related to prenatal, maternal, gynecological, and pediatric medical needs.” This prompted a federal complaint in March 2021.<sup>13</sup> Some Black women have even been forced to undergo hysterectomies.<sup>14</sup> Such policies and treatment violate U.S. domestic law and numerous international treaties.<sup>15</sup>

The dire circumstances for Haitian migrants, especially women, underscore the immense need for comprehensive and structural changes in societal attitudes, legal frameworks, and treatment by authorities. There are immediate actions governmental authorities can take to significantly improve the situation for marginalized migrants and cultivate an inclusive environment.

## II. Recommendations

States must take several concerted actions to address anti-Black racism in laws and policies as applied to asylum seekers and other migrants, with special attention provided to the double discrimination faced by women. These measures, as detailed in the attached reports, include:

1. Expediting application processing and expanding the availability of lawful pathways for individuals to pursue safety without having to undertake dangerous journeys—such as expanding access to parole programs—to ensure protections are extended widely and expeditiously.

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<sup>11</sup> CGRS, [Far from Safety: Dangers and Limits to Protection for Asylum Seekers Transiting through Latin America](#), (April 2023) 2.

<sup>12</sup> CGRS, HBA, et al., [Making a Mockery of Asylum: The Proposed Asylum Ban, Relying on the CBP One App for Access to Ports of Entry, Will Separate Families and Deny Protection](#) (March 2023).

<sup>13</sup> Black Alliance for Just Immigration, HBA, Human Rights First, et al., [Anti-Black discrimination against non-citizens and ongoing violations of international protections for migrants, refugees, and asylum seekers of African descent](#), (August 2022) 17.

<sup>14</sup> *Id.*

<sup>15</sup> HBA and partners, [Treatment of Foreign Nationals, including Refugees and Asylum-seekers, Disparately Impacting Black People and other Peoples Protected by the Covenant and the Convention on the Elimination of All Forms of Racial Discrimination](#), (September 14, 2023) 3.

2. Utilizing all domestic legal frameworks to provide, at the very least, temporary protection from removal to life threatening conditions, and finding pathways to permanent status wherever possible.
3. Ceasing, immediately, all deportations and maritime interdiction returns to Haiti.<sup>16</sup> Individuals must not under any circumstances be sent to such dire and deteriorating circumstances.
4. Ensuring the use of detention is a last resort in line with UNHCR guidelines and permitting asylum seekers unrestricted freedom of movement.
5. Committing to language access by providing professional Haitian *Kreyòl* interpreters for every stage of the asylum process. Adequate language support is crucial for safeguarding due process, including translating written notes and facilitating effective communication during hearings.
6. Improving access to medical care for Haitian migrants, accompanied with adequate *Kreyòl* translation to ensure understanding. Efforts should be made to provide essential medical services, which include adequate language access. It is especially important to provide free pre- and post-natal, neo-natal, and pediatric medical services.
7. Providing adjudicating agents with comprehensive training on Haiti's country conditions to enhance their understanding of claims and eliminate harmful biases. Regular updates and accessible resources are necessary to improve case management and increase success rates for asylum applicants.
8. Applying a gender-specific lens in processing claims to ensure officials are trained to recognize and address gender-based persecution experienced by women. Gender-specific care and evaluation should be integrated into asylum processes to address the unique experiences of migrant women. It is vital to ensure wives and partners of male applicants are screened separately and evaluated for their own potential claims, as they may have experienced gender-based persecution at the hands of their partner or without his knowledge.
9. Increasing capacity and resources to adequately address asylum claims and ensure timely processing.

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<sup>16</sup> OHCHR, [Press Release, Stop deporting Haitians, move Americas, UN committee warns](#), (April 2023); see also CERD, [Situation of migrants, asylum seekers and refugees of Haitian origin in the Americas region](#), (April 2023).

10. Encouraging the adoption and application of the Cartagena definition to Haitian asylum seekers, especially considering the ongoing and recently precipitous deterioration in governance, violence, gang activity, human rights violations, and widespread impunity in Haiti. This violence includes pervasive commissions of rape and other forms of sexual violence against Haitian women and girls.
11. Providing anti-racism and anti-Blackness training for authorities on the ground to address discrimination experienced by Haitian migrants. Training should focus on recognizing and addressing systemic and deep-rooted racism within immigration systems.