



Protection Delayed is Protection Denied:ⁱ Factsheet on Title 42 Expulsions, Haitian Asylum Seekers in Tijuana, and the U.S. Government’s Ongoing Evasion of Duty

April 7, 2022

An estimated 10,000 Black migrants, predominantly asylum seekers from Haiti, currently reside in Tijuana where they face discrimination and violence.ⁱⁱ Since the imposition of Title 42, the United States has refused to permit nearly all individuals their legal right to seek asylum and has instead conducted mass expulsions.ⁱⁱⁱ Title 42 has had a particularly devastating impact on Haitians, who have been expelled *en masse* without being screened for their fear of harm in Haiti despite “obligations under both domestic and international law that prohibit return of individuals to persecution and torture.”^{iv}

Most Haitians arrive in Mexico following a dangerous overland route from Brazil or Chile; these countries took in Haitian nationals in the wake of Haiti’s devastating magnitude 7.0 earthquake in 2010.^v The aftermath of the 2010 earthquake remains significant: it claimed between 200,000-300,000 lives, left over a million people homeless, and set in motion a decade of political instability, impunity, and violence.^{vi}

In July 2021, Haitian President Jovenel Moïse was assassinated.^{vii} In August 2021, another magnitude 7.2 earthquake struck the country.^{viii} A devastating tropical storm followed just two days later. The destruction from the powerful natural disasters overlaid onto the political power vacuum, exacerbating the already dire conditions. 4.3 million Haitians are experiencing acute food insecurity, fuel shortages and blackouts are the norm, and 1.5 million Haitians have been affected by gang violence.^{ix} Complicity between state officials and criminal gangs has been documented, including incidents where “perpetrators raped and tortured residents based on political associations.”^x According to Human Rights Watch, “the justice system can barely operate in a context of security and institutional breakdowns” and thus people in Haiti “face a high risk of violence and have no effective access to protection or justice.”^{xi}

The United States recognized the dangers posed to people if they are returned to Haiti and granted an 18-month Temporary Protected Status (TPS) to prevent deportations of any Haitian people already present in the country before July 29, 2021.^{xii} Despite this limited protection, over 20,000 people have been returned to Haiti during the first year of the Biden administration.^{xiii} Many of those expelled had been in a makeshift encampment in Del Rio, Texas in September 2021, where they were denied access to sufficient food, water, and medical care.^{xiv} Many were also subjected to physical violence and intimidation. The last several months have seen expulsions occur unabated with the Department of Homeland Security (DHS) conducting “near daily flights to Haiti.”^{xv} Additional flights of adults and families with babies and young children are scheduled for April. The majority of these returns occur under Title 42, denying individuals the chance to apply for asylum, even if they requested it and face dangers which would qualify them for protection.^{xvi}

The information in this factsheet was compiled from interviews conducted from March 7-11, 2022, by a delegation from the University of California, Hastings College of the Law's Hastings-to-Haiti Partnership (HHP) organization in collaboration with the Center for Gender & Refugee Studies (CGRS), the Haitian Bridge Alliance (HBA), and the École Supérieure Catholique de Droit de Jérémie (ESCDROJ). The delegation interviewed 123 Haitians across six different shelters in Tijuana. Interviewees were asked about why they left Haiti and what they have experienced as Black Kreyol-speakers traveling through Mexico and other Latin American countries.

There is a common misconception that Haitians are “economic migrants” and not refugees entitled to protection. But the stories revealed in these interviews belie such assertions. Haitians face imminent threats to their physical safety, and even death, should they be returned to the country—and face further dangers in Mexico—and they should have the opportunity to claim their legal right to asylum and reunify with family members in the United States.^{xvii} Each day that the Title 42 policy remains in effect, it places Haitians directly in harm's way.

Haitian Asylum Seekers are Fleeing for Their Lives and Face Dangers if Returned

The vast majority of Haitians interviewed in Tijuana, 92%, expressed a fear of returning to Haiti. The fear ranged from threats of gang violence, attempted murder, rape, kidnappings, theft, destruction of property, or harassment. Nearly one fifth (17.1%) of interviewees left Haiti because they were targeted by opposing political parties due to their direct work in politics or due to a politically influential family member, including even the cousin of the slain Haitian President. Many individuals had suffered such violence before fleeing Haiti or witnessed others in their families or communities experience threats. At least 14 people reported the murder of a family member. To follow are just a few examples of the dangers individuals face in Haiti:

- **Horace**^{xviii}, the cousin of assassinated President Moïse, helped Moïse during his political campaigns. He ultimately fled Haiti after the assassination because the opposition party came after him, sending him numerous death threats.
- **Calixte** fled Haiti after a gang raided her mother's business and murdered her mother and father, raped her sister, and maimed her uncle. Calixte knew she would be next, so she fled to Chile with her sister and niece. After the niece was raped, they sought safety in the United States. Calixte's sister attempted to apply for asylum, but she was expelled back to Haiti where she remains afraid and confined to her home because the same gang sent her a video of her cousin's severed head as a threat.
- **Virgil** was threatened by local gangs because he was working as an interpreter for the United Nations. He took these threats seriously because he had witnessed murders of other colleagues who were shot and killed or burned alive by the gangs. When he tried to move within Haiti to escape the gangs, they came after him there, so he decided he had to leave.
- **Patricia** left because of political persecution and domestic violence. Due to her husband's activities, an opposing political party beat her over the head with a rock. Her husband also

regularly beat her. Her four-year-old daughter has untreated medical issues including difficulty breathing.

- **Esther** fled Haiti because her ex-husband regularly beat her, and she feared for her life. When she left for the Dominican Republic, she experienced a mental breakdown and attempted suicide. After being treated at a hospital, she was sent back to Haiti. Upon her return, her husband almost killed her, beating her so badly that he damaged her stomach and reproductive organs. She has a foot-long scar along her lower belly, and she now suffers from extreme mental illness and psychosis as a result.
- **Tamara** fled due to violent, religious-motivated threats from her ex-boyfriend's family. She was threatened with a machete because she would not convert to the Vodou faith. Her ex-boyfriend's uncle performed rituals on her two young children that resulted in their deaths. She continues to receive threats from the family that she will be harmed if she returns to Haiti.
- **Samentha** left Haiti after the man who attempted to rape her as a child threatened to kill her. Despite the fact there is little trust in the police in Haiti, Samentha reported to the police, but they took no action to arrest the perpetrator. Samentha's story is not uncommon: 12 interviewees shared that they left Haiti due to gender-based violence including rape, attempted rape, or threats of rape. All experienced ostracism from their communities. Seven interviewees experienced domestic violence, including rape, at the hands of immediate family members including parents, siblings, and partners.
- **Josué** left because of political persecution. He actively supported a Presidential candidate as well as his brother running for another elected office. As a result, members of the opposition party beat him, burned down his house, and threatened to kill him, leaving him no choice but to leave Haiti.

"When I told them that I had changed my mind about becoming a cop, they . . . threatened to kill me [because of the illegal activities he had witnessed in the police force]. My mom told me that I had two choices: become a cop or leave the country. So, I left."

– **Emmanual**

The Route to Tijuana Places Haitians in Grave Danger

The route from Haiti to Tijuana often involved traveling through South and Central America before arriving at the U.S.-Mexico border. Over half (51%) of interviewees spent time in Brazil and nearly a quarter (24%) spent time in Chile. However, interviewees shared that they did not feel safe in either of these countries, where they were often victims of some kind of crime including robbery and destruction of property, and racism including harassment and threats. Due to these conditions, they could not stay in Brazil or Chile and decided to travel to the United States where they have family or other community to find safety.

For those who traveled on foot, their journey required crossing through the dangerous Darién Gap, the 60-mile jungle between Colombia and Panama. Our delegation heard stories of armed individuals who threatened to kill Haitians and stole their belongings. We also learned of three rapes that occurred in the Darién Gap, including that of a seven-year-old girl. The risks individuals are willing to take on their journey to claim asylum underscore the dire conditions they fled.

Almost 50% of interviewees are traveling with minor children—more than 65 children in total. Of those, 27 children are under five years old, an age which the California Department of Education considers critical for a child’s health and development.¹⁶ Parents shared concerns for their children’s medical well-being, ranging from trouble breathing, to life threatening infections, a serious heart condition, autism, and debilitating anxiety. These are just two examples of many highlighting the dangerous journey:

- **Peterson** was beaten in Brazil and in Mexico. In Brazil, his ear was bitten off after someone attacked him. In Tijuana, he called the police one day when he thought he was in danger, but when the police arrived, they beat him and knocked out his bottom teeth.
- **Denise** left Haiti for Brazil after she was raped and ostracized in her community when she became pregnant as a result. When traveling through the Darién Gap, a man raped her older, seven-year-old daughter. She fears reporting the assault because she does not want her daughter to be ostracized like she was. She knows that she cannot return to Haiti because she is a rape victim and single mother.

Haitians Face Perilous Conditions in Tijuana

Once Haitians arrive in Tijuana, they continue to experience violence, harassment, and racism. 16.3% (20 total) of interviewees shared experiences of violence in Mexico, including robbery at knife point, assault, and attempted kidnapping. At least two individuals witnessed other asylum seekers murdered in front of them.

Many interviewees shared fears of going out at night and leaving their cramped shelter to look for food or jobs. Some encountered discrimination in the rental market and while looking for a job. For example, scammers advertise rental properties they do not own and take asylum seekers’ money.

Almost half of interviewees shared medical concerns for either themselves or a loved one. Common medical concerns include ongoing and painful stomach issues such as colitis, hernias, and ulcers. The lack of clean, accessible drinking water in Mexico and throughout the Darién Gap is a likely cause of these issues. These conditions are also exacerbated by physical and emotional trauma, lack of adequate medical access, and lack of resources for routine appointments and medication. While we were in Tijuana, we learned of the passing of a 17-year-old Haitian girl who died of a pancreatic infection, an entirely preventable disease. The story of another family, described below, highlights the deplorable conditions asylum seekers face in Mexico:

- **Landy**, her partner, and their three young children, traveled across the desolate jungle of the Darién Gap, where they experienced unrelenting rain. Because there were three young children, the parents could not carry additional supplies, so they drank ground water from the river. Unfortunately, one of the children developed a skin condition soon after their journey, which caused her skin to become inflamed and itchy, and then crack and bleed. The infection covers her entire body, including her face and scalp. She experiences severe headaches, swollen lymph nodes, and fevers. A doctor from UCSF's Health and Human Rights Initiative diagnosed her with a potentially fatal skin condition, a parasitic disease that she likely contracted during the journey. She was unable to obtain medical care in Mexico, causing the condition to worsen dramatically.^{xix}

Haitian Lives in the Balance: Ophelie's Story

Ophelie has experienced unimaginable horrors throughout her life. Her father was the victim of a political killing when she was seven years old. The perpetrators raped Ophelie and shot her mother in the foot. She and her mother then moved, and her mother eventually remarried. The brother of Ophelie's stepfather, who lived next door, raped Ophelie twice when she was 15 years old.

After Ophelie married, they left Haiti for Chile. Her husband went first, and she followed to join him. But after she arrived, he became extremely abusive. Her husband hit her, tearing out tufts of her hair.

She then escaped to Chile with her uncle. They traveled with a group of 200 others on the route through the Darién Gap in Panama, but the size of the group did not keep her safe. A group of armed men robbed the group and forced everyone to take off their clothes. They raped Ophelie, and then she witnessed them rape a 15-year-old Haitian girl. The girl died in the Darién. The men also stabbed the girl's uncle when he tried to intervene, and he died the next day. They shot and killed another man who also tried to intervene. Ophelie saw several other women get raped and heard of rapes happening every day in the jungle, including of two young boys.

When she made it to Tapachula, Mexico, Ophelie slept in the street because she did not know anyone and eventually arrived in Tijuana where she remains extremely vulnerable as a single woman. Recently, a cousin came to Tijuana and told everyone in the shelter what happened to Ophelie, which has stigmatized her in the community.

The United States Must Take Action to Protect the Lives of Haitian Asylum Seekers

On April 1, the Biden administration announced it would terminate the Title 42 policy as of May 23, 2022. This is welcome news for asylum seekers who have been denied their rights for the last two years. The administration can and should also take immediate steps to save lives and ensure that no Haitian is returned to persecution or torture. The administration must:

- **Halt all expulsions** and deportations to Haiti during the current political and humanitarian crises.^{xx}
- **Redesignate Haiti for TPS** to extend the eligibility date for those currently with TPS and those who have arrived since July 29, 2021, recognizing that conditions have not improved in Haiti but only worsened.
- **Coordinate with HBA and other humanitarian groups** on the border to open the ports of entry and establish a fair and humane system for processing asylum seekers in the United States that does not put them in immigration detention or require them to prepare their asylum claims from Mexico.^{xxi} Provide funding for increased staff at ports of entry, for the non-profit shelters near the border, and for legal counsel and community support programs for asylum seekers.

ⁱ This title is [attributed](#) to Haitian Bridge Alliance Co-founder and Executive Director Guerline Jozef.

ⁱⁱ Haitian Bridge Alliance and RFK Human Rights, [Beyond the Bridge Documented Human Rights Abuses and Civil Rights Violations Against Haitian Migrants in the Del Rio, Texas Encampment](#) (2022), at 45.

ⁱⁱⁱ [Doubling Down on Deterrence](#) (2021).

^{iv} Amnesty International et al., [Stop US Deportations and Abuse Against Haitians on The Move: An Urgent Step Towards Creating Just Policies for Haitians](#) (2021).

^v HBA, CGRS, IMUMI, [A Journey of Hope: Haitian Women's Migration to Tapachula, Mexico](#) (2021). at 43-44, 46.

^{vi} *Id.* at 38.

^{vii} Human Rights Watch, [Haitians Being Returned to a Country in Chaos](#) (2022).

^{viii} Amnesty International *supra* note iv.

^{ix} *Id.*

^x *Id.*

^{xi} Human Rights Watch *supra* note vii.

^{xii} Haitian Bridge Alliance *supra* note ii, at 13.

^{xiii} Human Rights Watch *supra* note vii.

^{xiv} Haitian Bridge Alliance *supra* note ii, at 6.

^{xv} Haitian Bridge Alliance *supra* note ii, at 18.

^{xvi} Human Rights Watch *supra* note vii.

^{xvii} The vast majority of interviewees who responded to the question (92%) shared that they have close family members—adult children, parents, cousins—in the United States who could sponsor them and help them through the asylum process.

^{xviii} Names have been changed to protect the identities of interviewees.

^{xix} Although their first request was unsuccessful, working with AI Otro Lado, our delegation was able to support the family's request for a [humanitarian exception](#) to Title 42. It took weeks of advocacy, during which her daughter's condition worsened dramatically causing severe discomfort and likely long-lasting impacts that could have been prevented.

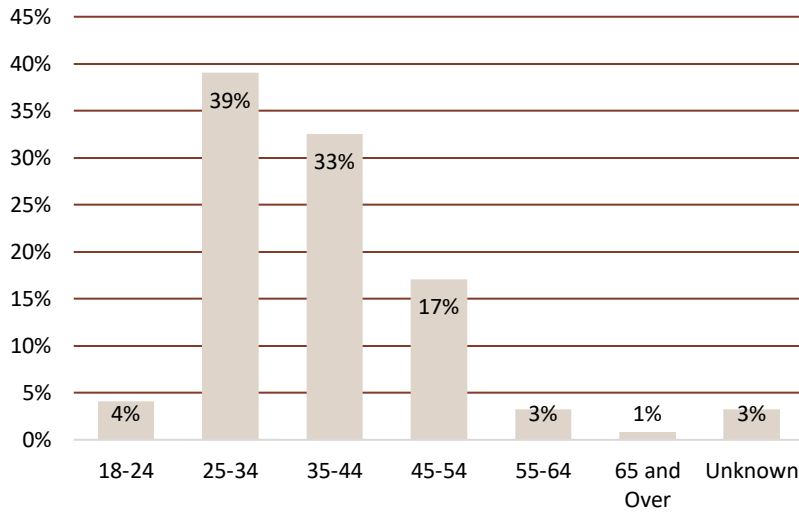
^{xx} *Huisha-Huisha v. Mayorkas*, 27 F.4th 718 (D.C. Cir. 2022).

^{xxi} Border groups have issued recommendations for the administration. See, e.g., [CA Welcoming Task Force: Human Rights First and Women's Refugee Commission](#).

Appendix 1: Summary of Interviews with 123 Haitian Asylum Seekers from March 7-11, 2022

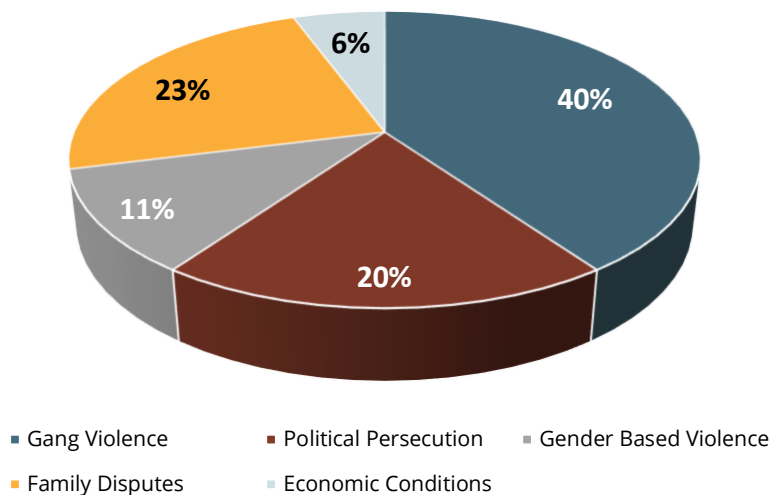
Demographics of Interviewees

Of the 123 interviews conducted, 51% of interviewees identified as women and 49% as men. The interviewees spanned in age with the majority falling between 25-44 years old.



Primary Reasons for Leaving Haiti

As described above, the vast majority, 92%, of those interviewed made it clear that they are afraid to return to Haiti due to direct experiences with violence, fears due to pervasive insecurity in the country, and/or witnessing those around them get egregiously harmed without the availability of protection. The perpetrators of violence include political parties, gangs, family members, and religious organizations.



The Journey to Tijuana

Most of the people interviewed (~75%) spent time in Brazil or Chile and many were victims to crime or discrimination in those countries that precipitated their travel to Mexico and eventually the United States to find safety. Of the interviewees who responded, 42% indicated they had experienced violence in Brazil, Chile, and/or Panama on their journey to Mexico.

