

**Thematic Hearing before the Inter-American Commission on Human Rights
183rd Period of Sessions, March 16, 2022**

on

The Situation of Human Rights of Haitian People in Human Mobility in the Region

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I. INTRODUCTION AND OBJECTIVE OF THE HEARING

The purpose of the hearing is to provide testimony and up-to-date information about the escalating cycle of migration-related abuses that Haitians face on their long and hazardous journey across the Americas. The most frequently reported abuses include violence and discrimination, including sexual and gender-based violence against migrant women and girls; arbitrary arrest, detention and imprisonment in inhumane conditions without due process; summary expulsion without access to asylum procedures; denial of access to justice; stigmatization of Haitian migrants as undesirable; and policies that target Haitian migrants for discriminatory treatment.

These issues are not isolated or idiosyncratic; rather, they are structural and take place within a context of anti-“Black” racism that normalizes the persecution of Haitians with impunity in the Americas.¹ These issues are also intersectional since Haitian women and girls are particularly vulnerable to egregious violations of their human rights, such as gender-based violence and lack of access to medical care or judicial remedies.

This thematic hearing takes place in the context of a deepening crisis in Haiti, which escalated following the significant political turmoil and natural disasters of 2021. There is an urgent need for OAS Member States to adopt an integral, immediate, effective, and lasting response to ensure the rights of Haitian people in human mobility. This hearing is a step towards realizing IACHR Resolution No. 2/2021, “Protection of Haitians in human mobility: Inter-American solidarity”, which “seeks to provide guidance for States in the region to protect the rights of Haitians who are migrants, refugees, stateless persons, or victims of human trafficking, or who have been displaced.”²

In this context, we urge the IACHR to take the steps set out in Section VIII of this submission.

II. BACKGROUND AND CONTEXT

A. Human Rights Crisis in Haiti

The IACHR and UN agencies have expressed concern about the ongoing and escalating human rights crisis in Haiti.³ For many years, Haiti has been in a multidimensional and complex crisis, marked by political violence, corruption and impunity, the destruction of democratic and judicial institutions, the systematic violation of human rights, and the proliferation of armed gangs that terrorize the civilian population. Rape, kidnapping, assassination, and serial massacres are scourges that tear society apart. The risks and threats linked to climate change and natural disasters, and the accelerated emigration of Haitians (causing a brain drain and other instability), further exacerbate the situation of crisis.

¹ See, e.g., Human Rights First and Haitian Bridge Alliance, “[Biden Administration’s dangerous Haitian expulsion strategy escalates the U.S. history of illegal and discriminatory mistreatment of Haitians seeking safety in the United States](#),” Sept. 21, 2021; D. Alissa Trotz, “[On Xenophobia, Haiti and the Guyana Times](#),” Stabroek News, Aug. 12, 2019.

² IACHR, “[Protection of Haitians in human mobility: Inter-American solidarity](#),” Resolution 02/2021, Oct. 24, 2021.

³ See, e.g., IACHR, “[Protection of Haitians in human mobility: Inter-American solidarity](#),” Resolution 02/2021, Oct. 24, 2021; “[UN agencies call for protection measures and a comprehensive regional approach for Haitians on the move](#),” Joint Statement by UNHCR, IOM, UNICEF, OHCHR, Sept. 30, 2021.

Since July 2018, the country has experienced “*Peyi lock*” (translated as country lockdown), which is characterized by protests and social violence accompanied by numerous roadblocks, recurrent fuel shortages, and a paralysis of economic activity.⁴ Since the advent of the “*Peyi Lock*” phenomenon, there has been a multiplication of acts of violence in various forms, including massacres. On November 13, 2018, in La Saline district, more than 70 people were murdered by armed gangs. During the massacre, at least 11 women were reportedly raped and numerous houses were damaged, according to the *Réseau National de Défense des Droits Humains* (RNDDH).⁵

Over the past year, the conditions in Haiti have worsened with the significant political turmoil and natural disasters of 2021, including the assassination of the former president on July 7, 2021, the earthquake of August 14, 2021, followed by Tropical Storm Grace, which devastated the southern peninsula of Haiti. In the summer of 2021 alone, at least 19,000 people were internally displaced in the capital Port-au-Prince.⁶

Since June 1, 2021, Haitian citizens, including women and children, moved to the Port-au-Prince suburb of Carrefour, fleeing violent clashes between rival gangs raging in nearby Martissant and Fontamara neighbourhoods. According to UNICEF, 302 households (1089 people) were housed in the Gymnasium du Centre Sportif de Carrefour, among them 446 children and 582 women and girls who live in very precarious conditions.⁷ Over 101 households saw their house burnt down, and 80 others had their house damaged.⁸ This is taking place within a context of structural poverty, with nearly 46% of the population facing acute food insecurity.⁹

In addition to displacement, UN agencies and local organizations have expressed concern about an increase in reports of sexual and gender-based violence.¹⁰

The insecurity crisis has led to the international migration of Haitians to countries in Latin America and the Caribbean in sometimes irregular conditions, as detailed below. In this context, UN agencies have called on states to refrain from expelling Haitians without proper assessment of their individual protection needs, stating that “conditions in Haiti continue to be dire, and not conducive to forced returns.”¹¹

B. Haitian Persons in Human Mobility Across the Americas

⁴ Action Contre la Faim, “[Lutter contre l’Insécurité alimentaire](#),” Jan. 27, 2021.

⁵ See IACHR, [Committee of Victims of La Saline regarding Haiti](#), Resolution 65/2019, PM No. 793-19, Dec. 31, 2019.

⁶ “[UN agencies call for protection measures and a comprehensive regional approach for Haitians on the move](#),” Joint Statement by UNHCR, IOM, UNICEF, OHCHR, Sept. 30, 2021.

⁷ UNICEF, “[Témoignages des déplacés de Martissant](#),” June 10, 2021.

⁸ *Id.*

⁹ “[UN agencies call for protection measures and a comprehensive regional approach for Haitians on the move](#),” Joint Statement by UNHCR, IOM, UNICEF, OHCHR, Sept. 30, 2021.

¹⁰ See, e.g., United Nations Population Fund (UNFPA), “[Crises in Haiti leave women and girls ever more vulnerable](#),” July 29, 2021.

¹¹ *Id.*

According to the International Organization of Migration (IOM), irregular migration across the Americas, principally towards the **United States** and **Mexico** (as a stop before the United States), has increased significantly, with Haitian nationals being one of the largest groups undertaking this long and hazardous journey.¹² This trend is reflected in the increase in border crossings and asylum applications in different countries of the region. The IOM reports that between January and October 2021, an estimated 100,000 migrants crossed the **Darién Gap**, of which 62% were Haitians (up from 23% in 2020). As of October 2021, an estimated average of 800 to 1,000 migrants crossed every day, moving north to join the approximately 20,000 to 25,000 Haitians in transit in **Mexico**.¹³ The Mexican Refugee Assistance Commission (COMAR) reports that the number of Haitians applying for refugee or asylum status grew from 5,500 in 2019 to over 51,000 in 2021.¹⁴

Some of these Haitian migrants are fleeing the significant political crises and natural disasters of 2021. However, many are part of a generation of Haitians who have migrated since the 2010 earthquake, which caused about 220,000 deaths, left more than 1.5 million homeless,¹⁵ and led to political instability and violence. Many Haitians first attempted to settle in **Brazil**, then **Chile**, then went to countries farther north, as local conditions changed and grew increasingly inhospitable.

As such, according to IOM, the main migration routes stretch across South America from **Brazil**, **Chile** and **Guyana** where migrants enter and depart before transiting across the continent towards the north. Migration flows pass through **Venezuela** and **Colombia**, or through the **Andean Corridor** (Bolivia, Peru, Ecuador and Colombia), crossing the treacherous **Darién Gap** to Central America, onwards to **Mexico** and ultimately the **United States** (See Figure 1).¹⁶

As border crossings increase, there has been a worsening of conditions for Haitian migrants and an escalating pattern of migration-related abuses, as detailed below.

¹² IOM, "[Large movements of highly vulnerable migrants in the Americas from the Caribbean, Latin America and other regions August 2021-July 2022](#)," Oct. 8, 2021.

¹³ *Id.*

¹⁴ OCHA, "[Latin America & The Caribbean Weekly Situation Update \(3-9 January 2022\)](#)," Jan. 10, 2022, p. 1.

¹⁵ UN News, "[UN marks anniversary of devastating 2010 Haiti earthquake](#)," Jan. 12, 2022.

¹⁶ IOM, "[Large movements of highly vulnerable migrants in the Americas from the Caribbean, Latin America and other regions August 2021-July 2022](#)," Oct. 8, 2021.



Figure 1: Flows of Haitian Migrants in the Americas in 2021

Source: IOM, “Large movements of highly vulnerable migrants in the Americas from the Caribbean, Latin America and other regions August 2021—July 2022,” Oct. 8, 2021, p. 1.

III. VIOLENCE AND DISCRIMINATION AGAINST HAITIAN MIGRANTS

We have received horrifying reports of serious violence and discrimination against Haitian migrants who make the terrifying trek across the South American continent from **Brazil** and **Chile**, crossing **Panama’s Darién Gap** to Central America, onwards to **Mexico** and ultimately the **United States**, for those who make it that far. As detailed in the testimony below, Haitian and other migrants are exposed to various forms of violence by criminals and unscrupulous state officials, including robberies; extortion; brutal attacks; disappearances and unidentified remains; sexual abuse and human trafficking; and excessive use of force in the course of immigration operations.

Approximately 130,000 Haitian nationals migrated to **Brazil** between 2010 to 2018.¹⁷ Brazil's refugee agency denied refugee status to many Haitians arriving in 2010 and 2011 because it did not recognize natural disasters as a basis for granting asylum.¹⁸ Though Haitian migrants and other "Black" migrants were able to find some legal status in Brazil, the 2014-5 economic recession in Brazil led to a rise in racism and xenophobia towards Haitian and other "Black" migrants, and legal avenues to residency and the enjoyment of legal status in Brazil became limited.¹⁹ Violence against people of African descent and anti-immigrant sentiment by both State and non-state actors, coupled with the decreased legal avenues and unemployment, forced many Haitian and African migrants to flee Brazil.²⁰ Brazil has neither signed nor ratified the Migrant Worker Convention, and has been deemed noncompliant with CERD,²¹ ESCR,²² CCPR,²³ and CEDAW.

Forced to flee Brazil, many Haitians migrated to **Chile** starting in 2014. By December 2019, the Chilean government estimated that over 185,000 Haitians were in Chile.²⁴ Haitian and African migrants reported experiencing intense anti-"Black" and anti-immigrant discrimination that prevented them from seeking emergency medical treatment in hospitals, reporting hate crimes to law enforcement, and seeking legal remedies for discrimination or wage theft in the workplace.²⁵ In one 2015 study, 48% of Haitians interviewed (33.8% of which were women) had experienced discrimination in Chile. Haitian migrants were again forced to flee. Chile has acceded to the relevant human rights instruments, but the committees recently deemed Chile out of compliance

¹⁷ S. Priya Morley et al., [A Journey of Hope: Haitian Women's Migration to Tapachula](#), Mexico (2021), [S. Priya Morley et al.] at 44.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ CERD et al., [Concluding observations of the Committee on the Elimination of Racial Discrimination](#), Brazil, U.N. Doc. CERD/C/64/CO/2 (Apr. 28, 2004), at ¶ 12 (expressing concern over the "persistence of deep structural inequalities affecting black and mestizo communities and indigenous peoples.").

²² CESCR et al., [Concluding observations of the Committee on Economic, Social and Cultural Rights](#), Brazil, UN Doc. E/C.12/BRA/CO/2, (June 12, 2009).

²³ CCPR et al., [Concluding observations of the Human Rights Committee](#), Brazil, UN Doc. CCPR/C/BRA/CO/2 (Dec. 1, 2005).

²⁴ S. Priya Morley et al., *supra* note 16, at 49.

²⁵ *Id.*

with the Migrant Worker Convention,²⁶ CERD,²⁷ CESCR,²⁸ ICCPR,²⁹ and CEDAW,³⁰ with the Committee on Migrant Workers expressing “concern about discrimination and violence directed at Haitian migrants, migrants from other continents and migrants of African descent on the basis of their skin colour.”³¹

Both **Panama** and **Columbia** are currently reporting “COVID bottlenecks” of migrants.³² Migrants heading from South America towards the United States and Canada pass the **Darién Gap**, a treacherous journey that consists of one hundred miles of tropical rainforest between Columbia and Panama that migrants traverse on foot, often with traffickers. Migrants’ rights to life and security are regularly violated on the journey, including assault and death.³³ Haitian migrants who successfully make it into Panama report “makeshift camps of concrete block shelters and wooden shacks” with extremely hostile border security agents. The main camp in 2019, designed to hold between 100-200 migrants, held 1,500 migrants.³⁴ According to UNICEF, in 2021, at least 5 children were found dead in the jungle of the Darién Gap.³⁵ According to OCHA, officials reported the discovery of over 40 human remains in the dense Darién jungle during one

²⁶ CMW et al., [Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the second periodic report of Chile](#), UN Doc. CMW/C/CHL/CO/2 (May 11, 2021), at ¶ 10 (expressing concern “that there is insufficient focus on the rights of migrants and members of their families, the protection of the rights of migrants in an irregular situation, regularization mechanisms, the right to due process and procedural guarantees, the recognition of refugee status and other forms of international protection, and access to social services.”); ¶ 27 (expressing particular concern “about discrimination and violence directed at Haitian migrants, migrants from other continents and migrants of African descent on the basis of their skin colour.”); ¶ 29 (expressing concern “about the potential discriminatory effects of the humanitarian orderly return plan introduced in 2018, which has made the return of Haitians a priority and which allows for the voluntary return of persons to their countries of origin but prohibits return to Chile for nine years.”); ¶ 47 (expressing that it is very concerned about Chile’s expulsion policies that violate migrants’ right to due process).

²⁷ CERD et al., [Concluding observations of the Committee on the Elimination of Racial Discrimination](#), Brazil, U.N. Doc. CERD/C/64/CO/2 (Apr. 28, 2004), at ¶ 12 (expressing concern over the “persistence of deep structural inequalities affecting black and mestizo communities and indigenous peoples.”).

²⁸ CESCR et al., [Concluding observations of the Committee on Economic, Social and Cultural Rights](#), Brazil, UN Doc. E/C.12/BRA/CO/2, (June 12, 2009).

²⁹ CCPR et al., [Concluding observations of the Human Rights Committee](#), Brazil, UN Doc. CCPR/C/BRA/CO/2 (Dec. 1, 2005),.

³⁰ CEDAW et al., [Concluding observations on the seventh periodic report of Chile](#), UN Doc. CEDAW/C/CHL/CO/7 (Mar. 18, 2018), at ¶ 36 (expressing concern at “limited access for migrant and indigenous women and women with disabilities to the formal labour market.”); ¶ 38 (expressing concern about “[t]he difficulty facing migrant women, indigenous women and women with disabilities in gaining access to non-emergency health care, including gynaecological services”); ¶ 44 (noting with concern that “migrant women continue to face intersecting forms of discrimination in terms of access to political life, education, employment and health care.”).

³¹ *See supra* note 26.

³² *See, e.g.*, [À la Une: de nombreux Haïtiens bloqués à Necoclí, en Colombie](#), RFI (July 29, 2021).

³³ S. Priya Morley et al., *supra* note 16, at 54.

³⁴ *Id.*

³⁵ UNICEF, [“2021 records highest ever number of migrant children crossing the Darien jungle towards the US - UNICEF,”](#) Oct. 11, 2021.

week in late September.³⁶ Panama has neither signed nor ratified the Migrant Worker Convention, and has been judged noncompliant with CERD,³⁷ CCPR,³⁸ and CEDAW.³⁹

To better understand the violence and discrimination faced by Haitian migrants in these countries, we present the testimony of Pierre (not his real name), a Haitian migrant who travelled across **Panama's Darién Gap** in late 2021, and who was interviewed by Myrtha Desulmé.

Pierre fled Haiti in 2016 and travelled to **Brazil** because his life was threatened. Like many other Haitian migrants, Pierre faced exploitation and abuse in Brazil, where he worked for “slave wages” at a construction company and experienced an increasingly inhospitable environment. In August 2021, Pierre began his travel from Brazil on the same day as a caravan of 14,000 migrants, including Haitians. He traveled through Bolivia, Peru, Ecuador, and Colombia, until he reached **Panama's Darién Gap** in September 2021.

Pierre reports that the group of migrants came across several dead bodies on the path. At one point they encountered a toddler sitting by her dying mother, who had been stabbed. The group had to take the child with them. According to Pierre, when the group reached the **Darién Gap**, they encountered criminals who robbed and beat them badly, including pregnant women who were with them in the group. Pierre's own wife was also pregnant, and she was also beaten. Pierre reports that the criminals raped women and sodomised some men. Right before Pierre's eyes, the criminals raped an 11-year-old girl and murdered three Haitians who had refused to give up their money. Pierre states that he later discovered that the criminals who attacked them were Panamanian soldiers who had taken off their uniforms. According to Pierre, because the 11-year-old girl's mother tried to report the soldiers who had raped her daughter to the military authorities, they came for her in the night, took her into the plantation field, and she was never seen again.

Further on their journey, in **Mexico**, Haitian migrants also complain of anti-“Black” discrimination finding work, at immigration offices, and on the streets. “Black” migrants, who are easily targeted as foreigners because of their skin color, regularly experience violent crimes such as sexual assault,

³⁶ OCHA, “[Latin America & The Caribbean Weekly Situation Update \(27 September - 3 October 2021\) As of 27 September 2021](#),” Oct. 4, 2021.

³⁷ CERD et al., [Consideration of reports submitted by States parties under article 9 of the Convention: Concluding observations of the Committee on the Elimination of Racial Discrimination](#), UN Doc. CERD/C/PAN/CO/15-20 (May 19, 2010), at ¶ 17 (expressing serious concern at the “refugee recognition process under way in the State party”); ¶ 9 (noting with concern “the persistence of racial discrimination and its historical roots, which have led to the marginalization, impoverishment and vulnerability of Afro-Panamanians and indigenous peoples.”).

³⁸ Human Rights Committee et al., [Concluding observations of the Human Rights Committee](#), Panama, UN Doc. CCPR/C/PAN/CO/3 (Apr. 17, 2008), at ¶ 14 (noting with concern that “many refugees, particularly those who do not have a formal status, live in a precarious economic and legal situation and that, in general, legislation does not guarantee to all foreigners in Panamanian territory who require international protection, including refugees, stateless persons and persons falling into other categories, the rights to which they are entitled under international law, including refugee law, in particular the State's obligation not to expose such persons to treatment contrary to articles 6 and 7 of the Covenant (articles 2, 6, 7 and 9 of the Covenant).”).

³⁹ CEDAW et al., [Concluding observations of the Committee on the Elimination of Discrimination against Women: Panama](#), UN Doc. CEDAW/C/PAN/CO/7 (Feb. 5, 2010), at ¶ 48 (regretting “the lack of detailed information in relation to vulnerable groups of women, such as refugee women, rural women, older women, women with disabilities and other women facing multiple forms of discrimination.”).

armed robberies, and burglaries, particularly at the hands of cartels (gangs) near the U.S.-Mexico border.⁴⁰

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.⁴¹ Due to the lack of Haitian Kreyol interpretation available, migrants in Mexico have difficulty understanding the immigration system and how to access the networks of legal and humanitarian services available to them.⁴² This contributes to delays and procedural violations with asylum claims that result in Haitians from 2013-2020 receiving asylum approval only 20% of the time while other nationals from Venezuela, Honduras, and El Salvador, had 98% approval, 67% approval, and 71% approval, respectively.⁴³ Mexico's long history of xenophobia against Afro-descendant and migrant populations in Mexico also contributes to Haitians' exceptionally low asylum rate compared to other non-"Black" applicants.⁴⁴ Mexico has acceded to the relevant

⁴⁰ For interviews conducted by Haitian Bridge Alliance with Haitian and other migrants in 2020 and 2021, see also Human Rights First, Haitian Bridge Alliance, Al Otro Lado, [Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger](#), (Apr. 20, 2021), at 8; [There is a Target on US: The Impact of Anti-Black Racism on African Migrants at Mexico's Southern Border](#) (2021).

⁴¹ S. Priya Morley et al., *supra* note 16, at 61 (describing how "[f]ew to none of the immigration officials or nongovernmental service providers in Tapachula speak Creyol, 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 Haitians migrants are significant, and legal and humanitarian organizations, as well as government agencies, lack the resources to effectively assist them.")

⁴² *Id.* at 65 (explaining that "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. 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.")

⁴³ *Id.* at 66.

⁴⁴ *Id.* at 70 (reporting that "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.")

human rights instruments, but several anti-migrant violations have been found by the Committees on the Migrant Workers,⁴⁵ CERD,⁴⁶ CESCR,⁴⁷ CCPR,⁴⁸ and CEDAW.⁴⁹

⁴⁵ CMW et al., [Concluding observations on the third periodic report of Mexico](#), UN Doc. CMW/C/MEX/CO/3 (Sept. 27, 2017), at ¶ 9 (expressing concern that “all of the provisions of the Convention have not yet been fully incorporated into national, state and municipal legislation, particularly the Migration Act and its regulations.”); ¶ 13 (expressing concern about “the decisive role played by the National Institute for Migration in responding to migration, particularly irregular migration, since it was made a national security agency in 2005.”); ¶ 21 (expressing particular concern about “the violation of the human rights of migrant activists. It notes that they are subjected to violence and threats by organized crime groups and trafficking networks, sometimes in collusion with the authorities, as well as harassment and efforts to delegitimize their work by migration officials and government and private security forces that handle migration control activities or provide services to monitor transport along migration routes.”); ¶ 25 (expressing concern about “reports of increasing xenophobia in social and institutional contexts, and at the role of the media in creating and perpetuating negative stereotypes of migrants” and “the information received regarding migration control and verification procedures that are based on the individual’s ethnic profile.”); ¶ 27 (expressing concern about “reports that migrants with leave to remain on humanitarian grounds face difficulties in obtaining the civil registry identity number that serves as proof of identity and is required for access to social rights and benefits.”); ¶ 29 (noting “gaps in legislation and in practice that affect the rights of women migrant workers”); ¶ 31 (expressing concern about “the lack of access to justice and reparation for the victims of abuses and violations of the rights recognized under the Convention. It notes with great concern the widespread impunity for crimes reported, the lack of confidence in the public authorities, and the scant budget provision for the proper investigation of such crimes and for appropriate reparation.”); ¶ 37-39 (expressing multiple concerns over conditions of detention at migrant detention centers and the lack of adequate procedures to challenge arbitrary detention).

⁴⁶ CERD et al., [Concluding observations on the combined eighteenth to twenty-first periodic reports of Mexico](#), UN Doc. CERD/C/MEX/CO/18-21 (Sept. 19, 2019), at ¶ 30 (expressing grave concern that “human rights defenders, including leaders and defenders of the rights of indigenous peoples, Mexican persons of African descent and migrants, continue to be subjected to violence, threats and attempts on their lives.”); ¶ 34 (recognizing Mexico as a “migration corridor” and expressing concern that “the implementation of the migration policies that have been adopted does not properly ensure that the rights of migrants and asylum seekers, children in particular, are given effective protection” and notes arbitrary detention, systematic refoulement without adequate legal advice, discrimination and excessive use of force against migrants, and an increase in “discriminatory views, racial hatred and xenophobia targeting migrants (arts. 2 and 5)”).

⁴⁷ CESCR et al., [Concluding observations on the combined fifth and sixth periodic reports of Mexico](#), UN Doc. E/C/12/MEX/CO/5-6 (Apr. 17, 2018), at ¶ 24 (expressing concern that “unemployment and underemployment continue to disproportionately affect young persons, persons with disabilities, members of indigenous peoples, migrants, asylum seekers and refugees.”); ¶ 65 (expressing concern about “difficulties faced by child migrants, child asylum seekers and refugee children in accessing education.”).

⁴⁸ Human Rights Committee et al., [Concluding observations on the sixth periodic report of Mexico](#), UN Doc. CCPR/C/MEX/CO/6 (Dec. 4, 2019), at ¶ 32 (expressing concern about “recurrent allegations that migrants, particularly those in an irregular situation, are subjected to violations including torture and cruel, inhuman and degrading treatment, enforced disappearance, extortion, trafficking, homicide and other crimes” and the widespread use of detention, including with children, and use of force by State agents. It further expressed concern about the “remain in Mexico” policy negotiated with the US as having exposed a number of persons to violations including kidnapping and extortion.).

⁴⁹ CEDAW et al., [Concluding Observations on the Ninth Periodic Report of Mexico](#), UN Doc. CEDAW/C/MEX/CO/9 (July 25, 2018), at ¶ 11 (expressing concern about “[t]he lack of effective mechanisms and the insufficient state-level budgetary allocations to implement and monitor the laws relating to gender equality and women’s right to a life free of violence have failed to eliminate discrimination, notably intersecting forms of discrimination, in particular against indigenous women, Mexican women of African descent, migrant women, women with disabilities, lesbian, bisexual and transgender women and intersex persons”); ¶ 19 (expressing concern about “[s]tereotyped media portrayals and negative images of indigenous women, Mexican women of African descent, migrant women and refugee and asylumseeking women.”); ¶ 29 (expressing concern about “[t]he insufficient assistance, rehabilitation and reintegration measures for victims, including the inadequate number of shelters and the limited access to counselling, medical treatment, psychological support and redress, such as compensation for victims of trafficking, in particular migrant women”); ¶ 47 (expressing concern that “migrant women continue to face automatic detention,” that “many

In the **United States**, Haitian migrants have experienced decades of racist and xenophobic migration policies based in the right to exclude that includes a series of illegal and discriminatory policies designed to keep Haitian and other “Black” migrants out of the United States.⁵⁰ More recently, a series of draconian policies (Metering,⁵¹ Migrant Protection Protocol,⁵² and Title 42⁵³) have resulted in a failure of protection, prolonged family separation, and myriad human rights violations of migrants. Together, these policies, as intended, have prevented most migrants from seeking asylum and resulted in their immediate deportation, in direct violation of non-refoulement principles.

These policies have had a particularly devastating impact on Haitian and other “Black” migrants.⁵⁴ After their long and traumatic journeys of several months or even years through South and Central America, they arrive at the U.S.-Mexico border to find it closed. Unable to return to their home countries and unable to firmly settle elsewhere in the Americas, “Black” migrants are often stuck for years in Mexico in dangerous and hostile environments in cartel-controlled territories.

Anti-“Black” discrimination in the U.S. immigration system results in low numbers of successful asylum screenings and approval rates, longer periods in immigration detention, higher bonds for release from detention, higher rates of deportations, medical neglect against “Black” pregnant women in detention,⁵⁵ and racial profiling in enforcement in the interior.⁵⁶ “Black” migrants in the United States face both anti-“Black” and anti-immigrant discrimination and abuse by law enforcement and other State agencies.⁵⁷

In response to numerous reports of serious violence and discrimination against Haitian migrants and asylum seekers in the United States, Haitian Bridge Alliance, one of the requesters of this hearing, as well as Justice Action Center, and Innovation Law Lab filed a federal class action complaint against the U.S. government in December 2021 on behalf of Haitian migrants abused in Border Patrol custody under the bridge in Del Rio, Texas in September 2021. One example of this serious violence and discrimination, which was photographed and shown around the world, was when a Border Patrol officer on horseback rein whipped and tried to physically force Plaintiff Mirard Joseph back to the river.⁵⁸ Another, not so well-known example is that of Plaintiff [REDACTED]

asylumseeking women and girls do not have effective access to asylum procedures,” and about “the impact of enforced disappearances on migrants and the high levels of gender-based violence”).

⁵⁰ See Brief of Haitian Bridge Alliance, Institute for Justice & Democracy in Haiti, Ira Kurzban, and Irwin Stotzky as Amici Curiae in Support Of Plaintiffs’ Motion For Summary Judgment, *Al Otro Lado, Inc. v. Wolf*, Case No. 3:17 cv02366, at 3.

⁵¹ *Id.* at 2.

⁵² See Nicole Philips, Tom Ricker, et al., [The Invisible Wall: Title 42 and its Impact on Haitian Migrants](#) (2021) at 34.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See RAICES, Haitian Bridge Alliance, Cameroon American Council, and the UndocuBlack Network [complaint filed with the Office for Civil Rights and Civil Liberties, U.S. Department of Homeland Security](#) (Mar. 12, 2021).

⁵⁶ See The Georgetown University Law Center Federal Legislation Clinic and the UndocuBlack Network, [Life on Hold: Black Immigrations & the Promise of Liberation Refugee Immigration Fairness](#) (June 2021).

⁵⁷ BAJI, [The State of Black Immigrants](#) (2020).

⁵⁸ See [Haitian Bridge Alliance, et al. v. Biden, et al.](#), No. 1:21-cv-03317 (D.D.C.), at ¶113.

■■■■ who also experienced being forced back by the mounted officers and escaped being trampled by their horses as she fled deep into the river waters.⁵⁹

IV. THE SITUATION OF HAITIAN WOMEN AND GIRLS

As Pierre’s testimony illustrates, Haitian women and girls in human mobility are particularly vulnerable to violations of their human rights given the intersecting forms of discrimination they face as “Black” Haitian migrants. As noted by UNICEF, for example,

in the Darien jungle, sexual violence is increasingly and intentionally used by criminal gangs as an instrument of terror. Between January and September 2021, UNICEF registered 29 reports of sexual abuse of adolescent girls during the journey. Many more women have reported sexual abuse.⁶⁰

In interviews with Haitian migrants having gone through the **Darién Gap**, Haitian Bridge Alliance heard stories of “Black” women and adolescent girls between the ages of 12 and 24 being gang raped by armed men, who took them from large groups of migrants traveling together. The rapes often happen in front of helpless, sobbing family members. Survivors have no access to safe housing or law enforcement in the jungle of the **Darién Gap**, and most fear retaliation if they report the crime and a legal system that will not protect them or adequately respond to their complaint. Survivors’ first contact with State officials comes through Panama’s border patrol and law enforcement agency, *Servicio Nacional de Fronteras* (SENAFRONT), which has been responsible for the safety and security of migrants in the **Panama’s Darién Gap** since 2008.⁶¹

In one case in 2021, a group of 10 or so armed men robbed a group of approximately 50 “Black” migrants from Haiti, Cuba, and Africa, and raped around 15 of the women, ages 15-25 years old. One of the Haitian rape survivors saw some of her rapists playing basketball with Panamanian military officials in uniform at a refugee center in Panama as they exited the jungle.⁶² The survivor did not report the rape to Panamanian officials because she feared violence, but she did report the incident when she sought treatment for her injuries at the refugee center.⁶³ In another case, one man said he witnessed armed men who were wearing military boots and holding military weapons rape two women from his group of 25 people.⁶⁴ In another case, a migrant from Africa who was raped in the **Darién Gap** in 2021 did report the rape to Panamanian police but was later murdered at or near the refugee center.⁶⁵ In another, HBA interviewed a Haitian woman who witnessed armed gang members kill her brother in the **Darién Gap** in 2020 in front of her, her child and her

⁵⁹ See [Haitian Bridge Alliance, et al. v. Biden, et al.](#), No. 1:21-cv-03317 (D.D.C.), at ¶114.

⁶⁰ UNICEF, “[2021 records highest ever number of migrant children crossing the Darien jungle towards the US – UNICEF](#)” (Oct. 11, 2021).

⁶¹ Caitlyn Yates, [A Case Study in the Outsourcing of U.S. Border Control](#), Lawfare (Apr. 11, 2019).

⁶² HBA interview with Haitian male, age 40, in October 2021 in Tapachula, Mexico.

⁶³ HBA interview with Haitian male, age 40, in October 2021 in Tapachula, Mexico.

⁶⁴ Amnesty International, [Not Safe Anywhere: Haitians on the move need urgent international protection](#) (Oct. 2021), at note 52 and associated text.

⁶⁵ HBA interview with Haitian male, age 40, in October 2021 in Tapachula, Mexico.

brother's child. She reported the crime to authorities when she reached the refugee center in **Panama** but said that the crime was never prosecuted.⁶⁶

These stories of indifference and impunity by Panamanian authorities circulate within the migrant community and create a climate of fear. As a result, armed gangs patrol the jungle looking for victims with impunity. The Panamanian government has not taken adequate measures to ensure “Black” migrant women have access to justice for sexual and gender-based violence, which would require them to prevent, investigate or prosecute cases of sexual assault.

The NGO *Médecins Sans Frontières/Doctors without Borders* (MSF) set up a treatment center in April 2021 at the edge of the **Darién Gap** in **Panama**, where migrants who survived the journey are registered by SENAFRONT. Between April and November of 2021, MSF reported it had treated 288 victims of sexual violence in the **Darién Gap**, and doctors estimated that number only accounted for 25% of the actual victimizations occurring.⁶⁷ MSF noted that victims felt they could not report any crimes to SENAFRONT because of the perceived criminalization of their status that they experience from these authorities.⁶⁸

MSF also noted that, in instances where they were aware of State investigations, “Black”-migrant-women witnesses would be detained for weeks or months in migrant detention camps with “inadequate food and shelter, lack of clean water and showers, and no way to communicate with their families.”⁶⁹ MSF demanded in Panamanian media that the State take actions to protect migrant women. It observed that SENAFRONT increased its presence in the **Darién Gap**, that a prosecutor was appointed to look at cases in the area, and that these actions led to a reduction in reported SGBV. While this is a positive step forward and shows the capacity to address this issue, SENAFRONT soon returned to its prior practice, unfortunately, and reports of victimization increased again.⁷⁰

The **Dominican Republic** is another stark illustration of the various forms of gender violence and discrimination that Haitian migrants face in the context of human mobility in the Americas. On July 26, 2021, The *Centre de Réflexion et de Recherche sur la Migration et l'Environnement* (CERREMEN), one of the requesters of this hearing, received a report from a 15-year-old girl who declared that she had been raped by a Dominican soldier during her trip to the **Dominican Republic**.

Human rights bodies, including the IACHR, have also expressed concern about the expulsion of pregnant women, mainly of Haitian origin or descent, from the **Dominican Republic** without the

⁶⁶ HBA interview with a Haitian woman, age 30, in Tapachula, Mexico in March 2020.

⁶⁷ Médecins Sans Frontières/Doctors without Borders (MSF), [Safe routes urgently needed for thousands of migrants crossing the Darién Gap](#) (Nov. 18, 2021).

⁶⁸ *Id.*

⁶⁹ Médecins Sans Frontières/Doctors without Borders (MSF), [The Darién Gap: “A nightmare with 1,001 demons”](#) (Aug. 5, 2021).

⁷⁰ Médecins Sans Frontières/Doctors without Borders (MSF), [Safe routes urgently needed for thousands of migrants crossing the Darién Gap](#) (Nov. 18, 2021).

State taking into account the women's need for humanitarian protection.⁷¹ Civil society organizations report that pregnant women have been the target of migration authorities who carry out migration control operations in hospitals that report large influxes of pregnant migrant women, mainly of Haitian origin or descent. The aim of these operations is to expel the women in question from the Dominican Republic.⁷² According to information in the public domain, in one such case, a pregnant woman, [REDACTED] was reportedly detained in the Altagracia maternity hospital on November 10, 2021. Her water had already broken, and she was in labor when they put her on a bus to **Haina** immigration detention center.⁷³ Because she was bleeding upon arrival, she was taken to the hospital where she gave birth to her baby.⁷⁴

CERREMEN also was given testimony of two women who it welcomed at the Belladère border in November 2021. Ketié (not her real name), 23 years old, mother of two, from Port-de-Paix in Haiti, is one of the pregnant women arrested inside a hospital in the **Dominican Republic**. She describes the violence suffered during her deportation: “The immigration officers arrested me on November 9 [2021] around 6:30 AM. They went through many streets and went to other hospitals with us in search of other Haitians. That day, I did not have my breakfast. I arrived in Haina around 2 PM without eating anything. Once I arrived in Haina, we were given food around 7 o'clock in the evening. The food was of poor quality. Sanitary conditions were also deplorable. I slept on the floor. The next day they took us to the border. We were thirsty, the heat flustered us, they don't give a damn about us who are carrying a baby. They didn't give us the opportunity to pee. The truck ran at high speed and did not spare the holes on the road. It destroyed us and tired us a lot.” (Translation)

Pamela (assumed name), lived for three years in the **Dominican Republic**. Aged 23, she is from Gonaïves. She was doing informal trade in the **Dominican Republic**. She dreamed of becoming a nurse, but she was in the **Dominican Republic** in search of better living conditions. She had no legal status. She was deported on November 9, 2021. She was arrested inside a hospital, like many other deported pregnant women. She will have to give birth to two boys in less than two months at the time of this request. She reported to CERREMEN, “[a]round 6:00 AM, they captured me from the hospital and headed to Haina. It was very serious in prison. It was humiliating for me. At the time of the deportation, we were 60 pregnant women in an iron-framed bus. Some of them vomited. It was tough for us. The treatment was bad. The drivers were speeding. When we shouted, the drivers insulted us”. (Translation)

According to information in the public domain, on September 28, 2021 the National Migration Council adopted an interpretation of the **Dominican Republic's** migration regulations that prevents any foreign person who implies an unreasonable burden on public finances from entering the country, including women who are at least six months pregnant.⁷⁵

⁷¹ IACHR Press Release, “[IACHR Expresses Concern Over Pregnant Women Expelled from the Dominican Republic and Calls on State to Guarantee Access to Protection Mechanisms and Reproductive Health Services](#),” Dec. 1, 2021.

⁷² *Id.*

⁷³ “[Deportadas a Haití con un hijo en el vientre](#),” Agencia EFE, Dec. 1, 2021.

⁷⁴ *Id.*

⁷⁵ Presidencia de la República Dominicana, “[Gobierno anuncia acciones para hacer cumplir las normas migratorias a las empresas que contratan ciudadanos extranjeros ilegales](#),” Sept. 28, 2021.

V. ARBITRARY ARREST, DETENTION, AND IMPRISONMENT IN INHUMANE CONDITIONS

The testimony of Ketié and Pamela above regarding the **Dominican Republic** points to another issue related to the arbitrary arrest, detention, and imprisonment of Haitian migrants in inhumane conditions, without due process. As described further below, the undersigned nongovernmental organizations and individuals have received disturbing reports from Haitian migrants who describe being held in deplorable facilities, for example, with human feces on the floor and no mattress, no running water, the lack of edible food or the refusal of food and medication, no bathroom facilities, no observance of COVID-19 safety protocols, and no privacy to meet with their attorneys. This takes place within a wider structural context related to the criminalization of irregular migrants. Indeed, in a number of States across the region, the detention of irregular migrants is not an exceptional measure of last resort. In this regard, we present the following testimony from **Guyana**, the **Dominican Republic**, the **United States** and **Mexico**.

In **Guyana**, Haitian migrants, as Caribbean Community nationals, have a right of hassle-free entry under the Revised Treaty of Chaguaramas (RTC). However, the State of **Guyana** has arbitrarily stripped Haitian migrants of that right, first through the arbitrary practices of immigration authorities, and then through **Guyana's** Immigration (Revocation) Order 2021, which revokes the entitlement of Haitian nationals to enter and remain in **Guyana** for six months and imposes visa requirements on Haitian nationals, in violation of the RTC. Moreover, in **Guyana**, irregular migration is punishable by the criminal penal code, but the State has not designated a specific migration detention center. This means that Haitian migrants, including asylum seekers, are exposed to re-traumatization through detention at police stations, with no separation or distinction from the general population, or in prisons if sentenced to imprisonment. The conditions of detention are deplorable, as recognized by **Guyana's** own Chief Justice.⁷⁶

The Haiti Support Group (Guyana) observed cases in which Haitian migrants in **Guyana** were cruelly targeted and persecuted through arbitrary deprivation of liberty. In March 2021, for example, the Haiti Support Group provided support to a Haitian couple, Jane Doe and John Doe (not their real names), asylum seekers who were arrested within hours of entering **Guyana** by land with a valid passport. At the time of their arrest, they were not informed of the charges against them in a language they could understand, nor were they informed of their right to consular assistance. The couple spent 15 days detained in inhumane conditions. They spent the first 12 days at the **Lethem Police Station** then three days at **Penitence** (Jane) and **Brickdam Lockups** (John) before seeing a judge. At the **Lethem Police Station**, Jane and John were subjected to a humiliating and degrading strip search. Jane was searched in an open space with no privacy and had to pull down her underwear as part of the search.

John spent the first 12 days in his underwear in an outside holding cell that was kept in a filthy condition with no mattress, no running water, and no bathroom facilities. **The floor of the holding cell was covered with human feces.** John had to use a paper plate to push aside the feces so that he could have somewhere to sleep. He was only allowed to bathe twice. He was fed sporadically.

⁷⁶ Femi Harris-Smith, "[Jamaican awarded \\$3.1m in damages over unlawful detention by police](#)," Stabroek News, Sept. 30, 2021.

John and Jane were not given masks or sanitizers to protect themselves against the spread of COVID-19. In fact, they were only tested for COVID-19 after another detainee in John's cell got sick and tested positive for COVID-19 (see section on The Impact of COVID-19).

When the Haitian couple finally appeared before a **Guyana** court, they were fined \$30,000 each in Guyanese currency and sentenced to one-year imprisonment and deportation to Haiti thereafter. As per the court, the sentence handed out was in response to Jane and John's failure to present themselves "forthwith" to the nearest immigration officer in violation of section 34(1) of **Guyana's** Immigration Act. Yet, the previous day, Cuban nationals, who were convicted under section 34(1) for arriving by sea and disembarking without the consent of an immigration officer, were fined half the amount (\$15,000), were not sentenced to imprisonment, but were sentenced to deportation.

The Haitian couple spent over 5 months in prison before their appeal was heard by the **Guyana's Full Court**. The *Court* ruled that the one-year sentence was excessive and ordered the couple's immediate release for time served. However, the *Full Court* failed to entertain the deportation order, even though the Haitian couple expressed a fear of returning to Haiti due to the significant rise in political turmoil and insecurity. They were released to State immigration custody and then handed over to the custody of a Haitian interpreter in **Guyana**, since the government did not have the resources to deport them. The State impounded their passports. To date, over 60 Haitian passports are being held by the **Guyana's** immigration services.

Guyana has also used human trafficking as a pretext to arrest and detain Haitian migrants without due process. In November 2020, a group of 26 Haitians, including children, were arrested within hours of arriving legally by air and clearing immigration in **Guyana**. Some of them were arrested at their hotel; others were arrested on a highway. The group of Haitians was then detained in State facilities for one month without access to asylum procedures.

Guyana's authorities initially claimed the group of Haitians provided a wrongful address to immigration authorities, but the authorities later claimed the group was being held on suspicion of human trafficking.⁷⁷ They kept the Haitians, alleged trafficking victims, in guarded facilities with no freedom of movement. Two of the children were separated from the adults and kept at the Sophia facility. Others in the group were detained at Hugo Chavez Centre for Rehabilitation at Onverwagt on the East Coast of **Guyana**, a center built to accommodate drug addicts and homeless people.

The State then ordered their deportation without a hearing, even though the Haitians entered **Guyana** legally with valid documents. Legal action was taken against the government, resulting in the Chief Justice quashing the deportation order for breach of natural justice.⁷⁸ However, State agents whisked away the detainees in the middle of the night from the detention centers and dropped them outside the hotel they removed them from. It was later reported to the Haiti Support Group by the father of two of the detained children that an elderly woman was so traumatized by the Guyanese experience that she died while getting off a plane in Brazil.

⁷⁷ Guyana Chronicle, [Haitians should have had a court hearing](#), January 28, 2021.

⁷⁸ *Id.*

In the **Dominican Republic**, CERREMEN has received testimony about the deplorable conditions at the **Haina immigration detention center**. Deportees report that no protective measures are adopted by the Dominican State to protect them against the spread of COVID-19 during detention (see section on The Impact of COVID-19). They claim that they slept on the floor piled up in the cell, that the shower and toilet are in deplorable conditions, and that the food is not distributed in decent conditions and is served with indignity.

In the **United States**, in response to numerous testimonies of detention in inhumane conditions, HBA, Justice Action Center, and Innovation Law Lab alleged in their federal class action complaint that the State's agency responsible for immigration enforcement, U.S. Customs and Border Protection, committed numerous violations of Haitian asylum seeker's rights during their detention under the bridge in Del Rio, Texas, in September 2021. Plaintiff ██████████ reported that Haitian asylum seekers could not use the washroom to wash or brush their teeth, and he was denied painkillers to relieve his infected tooth.⁷⁹ Another plaintiff was not only denied milk for his child when he asked, but was handcuffed, separated from his child, and commanded to "shut up."⁸⁰

In **Mexico**, the Center for Gender and Refugee Studies, *Instituto para las Mujeres en la Migración* (IMUMI), and HBA interviewed 31 Haitian migrant women, as well as experts and service providers in Tapachula, Mexico, in March 2020, to assess the treatment of Haitian migrants and refugees. These interviews revealed inhumane detention conditions, with the lack of edible food and limited access to the lavatory and washroom.⁸¹ They also learned that a Haitian man and a Haitian pregnant woman died in August 2019 because of poor treatment in migrant detention centers in Tapachula.⁸²

VI. SUMMARY EXPULSIONS AND VIOLATION OF THE PRINCIPLE OF NON-REFOULEMENT

According to the IOM, returns of Haitian nationals have been on-going since March 2018, with over 11,000 Haitians returned from the **United States**, the **Bahamas**, **Mexico**, **Turks and Caicos**, and **Cuba** between 19 September and 27 October 2021.⁸³ The situation in the **United States** at the **US-Mexico border** provides a stark example of the seriousness and urgency of the situation, while developments in other countries show a disturbing pattern of increased deportations of Haitians. In this regard, we present the following information and testimony from the **United States**, the **Dominican Republic**, and **Guyana**.

Human rights bodies and organizations have expressed serious concern about the summary, mass expulsion of Haitian migrants from the **United States** under the emergency public health order known as Title 42 without screening for protection needs.⁸⁴ As of mid-January 2022, the **United States** has sent over 180 deportation/expulsion flights to Haiti in less than one year.

⁷⁹ See [Haitian Bridge Alliance, et al. v. Biden, et al.](#), No. 1:21-cv-03317 (D.D.C.), at ¶133.

⁸⁰ See [Haitian Bridge Alliance, et al. v. Biden, et al.](#), No. 1:21-cv-03317 (D.D.C.), at ¶134.

⁸¹ See S. Priya Morley et al., [A Journey of Hope: Haitian Women's Migration to Tapachula, Mexico](#) (2021), at 13.
⁸² *Id.*, at 13.

⁸³ IOM, [IOM Assistance for Haitian Returnees, 19 September – 27 October 2021](#).

⁸⁴ UNHCR, "[News Comment by UN High Commissioner for Refugees Filippo Grandi on conditions and expulsions at US border](#)", Sept. 21, 2021.

Under the guise of public health, the **United States** has misused Title 42 to conduct mass expulsions and block Haitians and others from seeking asylum. The practice of using Title 42 in these circumstances has been criticized by many including the United Nations, lawyers, health experts, human rights organizations and even State officials. Since President Joe Biden took office in January 2021, the State has turned away almost one million asylum seekers pursuant to Title 42.⁸⁵ After being expelled, thousands of these asylum seekers have been murdered or suffered kidnapping, rape, human trafficking, and violent armed assault in **Mexico**.⁸⁶ The anti-“Black” racism in **Mexico** has led to further discrimination and racism, particularly regarding access to food and housing.⁸⁷

Most of the deportation flights to Haiti in 2021 are believed to be Title 42 expulsions. By expelling Haitians under Title 42, the **United States** violates its legal obligations to individually assess the claims of asylum seekers and to ensure that individuals are not returned to persecution or torture. Many expelled Haitians have disembarked **United States**’ deportation flights sick, handcuffed, hungry, traumatized, and disoriented only to find themselves in a “humanitarian nightmare.”⁸⁸ With Haiti having never fully recovered from the earthquake⁸⁹ and now facing an ongoing political crisis where gang violence is used as a political tool,⁹⁰ in entire neighborhoods,⁹¹ with victims often having no recourse from the justice system,⁹² it is illegal and unconscionable for the **United States** and other States to return Haitians to Haiti now.

The situation reached an inflection point in September 2021 at the **US-Mexico border**, where more than 14,000 migrants and asylum-seekers, mostly Haitian, gathered at a makeshift camp under the Del Rio International Bridge in Texas in deplorable conditions after arduous journeys from a number of countries in the Americas. The **United States** flew people back to Haiti, despite the political turmoil and natural disasters, while others were expelled back into **Mexico** under Title 42. Some Haitians crossed back into **Mexico** due to the poor conditions on the US side.⁹³ These asylum seekers were summarily expelled, forced onto buses, without being allowed to request asylum or any other sort of protection.⁹⁴

⁸⁵ U.S. Customs and Border Protection, [Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions FY2021](#). Accessed Jan. 19, 2022.

⁸⁶ See Human Rights First, “[Human Rights Tracker of Reported Attacks During the Biden Administration Against Asylum Seekers and Migrants who are Stranded in and/or Expelled to Mexico](#).”

⁸⁷ Nisha Venkat, “[Black Immigrants Are Facing Rampant Racism In Mexico While Waiting For US Asylum: “We Have No Choice”](#),” BuzzFeed News, Mar. 27, 2021.

⁸⁸ Amnesty International et al., “[Stop US Deportations and Abuse Against Haitians on the Move: An Urgent Step Towards Creating Just Policies for Haitians](#),” Dec. 15, 2021.

⁸⁹ Maria Abi-Habib, “[Why Haiti Still Despairs After \\$13 Billion in Foreign Aid](#),” The New York Times, Aug. 16, 2021.

⁹⁰ Harvard Law School International Human Rights Clinic and Observatoire Haïtien des crimes contre l’humanité, “[Killing with Impunity: State-Sanctioned Massacres in Haiti](#),” 2021.

⁹¹ RNDH, “[Massacres in Bel-Air and Cité Soleil under the Indifferent Gaze of State Authorities](#),” May 20, 2021.

⁹² Bureau des Avocats Internationaux et al., “[Justice Sector Challenges in Haiti](#),” Submission to the United Nations Human Rights Council, Universal Periodic Review, 40th Session of the UPR Working Group (January – February 2022).

⁹³ UNHCR, [The Refugee Brief – 24 September 2021](#).

⁹⁴ See [Haitian Bridge Alliance, et al. v. Biden, et al.](#), No. 1:21-cv-03317 (D.D.C.), at ¶126.

Recently the **United States** announced that Haitians will be subject to the Migrant Protection Protocols (MPP), which will force Haitians not expelled to Haiti under Title 42 to await their immigration proceedings in Mexico. The UNHCR reports that, in January 2022, the **United States** began returning asylum seekers to the **US-Mexico border** city of Tijuana as part of its reinstatement of the MPP program.⁹⁵

In the **Dominican Republic**, CERREMEN has received reports about the arbitrary expulsion of Haitian migrants, including those with valid documents. Albert (assumed name), 32 years old, from Artibonite in Haiti told CERREMEN that he was deported in October 2021 with his valid passport and a Dominican visa. According to his statements, the State authorities abused their authority because he was not in an irregular situation in the Dominican territory. He lamented the fact that he was expelled because he is “Black” in color. “I can’t understand why the officers arrested me. I have my visa, I have complied with the administrative procedures. Despite this, they expelled me, it is because I am black and Haitian,” he lamented (excerpt from CERREMEN report, October 2021).

Maggie (not her real name), a 29-year-old woman from Port-au-Prince, told CERREMEN that she was arrested inside her residence in the **Dominican Republic** by State authorities. She had her valid visa in hand. Her final destination was Turkey. However, she was taken to the Belladère border on October 26, 2021. She deplored the poor conditions of **Haina** prison, which has no facilities that take into account adequate hygienic conditions for women (excerpt from CERREMEN report, October 2021).

CERREMEN further reports that migrants are deported in deplorable conditions. Some arrive with dirty clothes and bare feet. Others come with COVID-19; the Dominican authorities are not taking strict measures to prevent the spread of COVID-19. CERREMEN notes that minors are deported in difficult conditions like adults. There is no special treatment adapted to their case.

Human rights bodies and organizations have also expressed extreme concern about the expulsion of pregnant women, especially those of Haitian origin or descent, from the **Dominican Republic**. (see section on The Situation of Haitian Women and Girls).

In **Guyana**, in November 2020, 26 Haitian nationals, including children, were arrested and detained in State facilities shortly after being granted entry by **Guyana’s** immigration authorities, first under the pretext that they provided a wrongful address and then under the pretext of human trafficking. The state then issued an order for their deportation without a hearing, which was later quashed by the Chief Justice.⁹⁶

Unfortunately, in **Guyana**, the majority of Haitians do not have access to the court in these circumstances. Between May 23 and May 24, 2021, 17 Haitian nationals who had arrived aboard Caribbean Airlines flights were refused entry into the country under the pretext that they did not satisfy immigration requirements.⁹⁷ However, as noted earlier, Haitians have a right of hassle-free entry under the RTC and, at the time, that right was part of **Guyana’s** own domestic laws. The

⁹⁵ UNHCR, [The Refugee Brief – 7 January 2022](#).

⁹⁶ Guyana Chronicle, [Haitians Should Have Had a Court Hearing](#), Jan. 28, 2021.

⁹⁷ Kaieteur News, [“Seventeen Haitians Packed on to Return Flight Yesterday,”](#) May 26, 2021.

Haiti Support Group, one of the requesters of this hearing, spoke to one of the returned passengers who reported that she travelled to **Guyana** with a valid passport. Once she got off the plane, a State official took her passport without explanation and refused to give it back to her. The Haitian traveler was placed in a room with other Haitians where she was detained in inhumane conditions before being returned to her port of embarkation.

The policies and practices described above across multiple States evidence a wider structural context related to the absence of refugee laws and policies, as well as the misuse of laws—as is the case of the **United States**' use of its Title 42. Several States have not acceded to the *1951 Convention relating to the Status of Refugees*, nor to its *1967 Protocol*. In the absence of a State asylum systems that provide for refugee status determination and guarantee respect for the principle of non-refoulement, there is a risk that vulnerable people in search of protection might be turned back at borders and denied access to the territory without adequate protection screening or consideration to their need for international protection. In addition, since refugees and asylum-seekers do not have legal status in these situations, they are not able to fully exercise their rights and freedoms, most notably in the area of employment. Without access to work authorization, asylum-seekers and refugees have very limited opportunities to achieve self-reliance, and women and children will be particularly vulnerable to sexual exploitation and trafficking.

VII. THE IMPACT OF COVID-19

COVID-19 and related travel measures and border closures have had a severe impact on Haitian migrants. These measures make it difficult for asylum seekers to access the procedures and seek international protection. Largely due to these restrictions on movement and border closures, the number of new asylum applications lodged globally in the first half of 2020 was 33% lower than in the same period in 2019.⁹⁸ There was a slight increase in 2021, but applications were still well below pre-pandemic levels in 2019.⁹⁹

Furthermore, the mass expulsion and deportation of Haitian migrants across the Americas heightens the risk of COVID-19 transmission across State borders, including in Haiti where vaccination rates are among the lowest in the Americas.

Additionally, we, the undersigned nongovernmental organizations and individuals, have received disturbing reports that Haitian migrants are being detained in facilities where COVID-19 safety protocols are not observed and deported on crowded flights without COVID-19 testing. According to CERREMEN, for example, migrants have said that in the **Haina immigration detention center** in the **Dominican Republic**, no protective measures are adopted by the State to protect them against the spread of COVID-19 during detention. According to migrants' statements, the **Dominican Republic's** state authorities do not distribute masks, either in the prison or on the transportation bus. Haitian migrants told CERREMEN that they slept on the floor piled up in the cell. The Haiti Support Group received similar reports from the Haitian couple, John and Jane (not their real names), who were detained in the **Lethem Police Station** as described above, without masks and hand sanitizers. Moreover, John shared a cell with someone who got sick and tested positive for COVID-19.

⁹⁸ UNHCR, [Mid-Year Trends 2020](#), p.5.

⁹⁹ UNHCR, [Mid-Year Trends 2020](#), p.5.

As the COVID-19 pandemic spirals again, deportations present significant dangers to the health and safety of both migrants and the receiving States. In the **United States**, for example, 9% of the 21,805 individuals detained in immigration detention facilities have tested positive for the COVID-19 as of January 18, 2022.¹⁰⁰ It is therefore unsurprising, but very discouraging, to learn from interviews with Haitian officials that most of the 79 passengers on a deportation flight from the **United States** on January 18 tested positive upon arrival to Haiti. Less than 1% of Haitians have been vaccinated, and the country's health system is woefully inadequate to deal with a surge in COVID-19 cases. Current State regulations in Haiti require that passengers traveling to Haiti obtain a negative COVID test within 72 hours of arrival, yet the **United States** is not following these guidelines by not having strict standards for testing migrants before deporting them. These deportation flights could substantially spread the pandemic to Haiti, endangering everyone on the island.

VIII. REQUESTS

For the foregoing reasons, we, the undersigned nongovernmental organizations and individuals, urge the IACHR to take the following steps:

We ask the IACHR to:

1. Conduct a fact-finding visit to border areas and places of detention that house migrants so that the IACHR can gather information and testimony on the human rights situation of Haitian persons in human mobility across the Americas;
2. Prepare a thematic report on the situation of human rights of Haitian people in human mobility in the region;
3. Provide states and organizations in the region technical assistance for institutional strengthening based on an integral-protection-of-rights approach and applicable international standards for the protection of Haitians in human mobility;
4. Ensure that Haitians have equal access to Inter-American mechanisms, including through translation and interpretation services that enable Haitians to participate in their native language;
5. Urge the United Nations High Commissioner for Refugees to ensure that Haitians have equal access to protection mechanisms and develop guidance on international protection considerations for Haitians.

We ask the IACHR to call upon OAS States to:

1. Implement the recommendations set out in Resolution No. 2/2021 on the Protection of Haitians in Human Mobility: Inter-American Solidarity, adopted by the IACHR on October 24, 2021;
2. Respect their human rights obligations at all border crossings, including the right to due process for all Haitians in human mobility regardless of their status;
3. Immediately end abusive practices and policies that target Haitian and other migrants for discriminatory treatment and abuse, including Title 42 expulsions in the **United States**;

¹⁰⁰ U.S. Immigration and Customs Enforcement, [ICE Guidance on COVID-19](#).

4. In the case of **CARICOM Member States**, comply with their obligations under the Revised Treaty of Chaguaramas with respect to the free movement of Haitian nationals without discrimination on the basis of nationality;
5. Ensure that Haitian migrants who have suffered human rights violations or abuses as a result of border governance measures have equal and effective access to justice and remedies, including adequate and effective compensation, and that violators are prosecuted and appropriately punished;
6. Take steps necessary to ensure that victims of sexual and gender-based violence have access to high-quality medical care, counselling, financial support, adequate housing, training opportunities and free legal services;
7. Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* and adopt national refugee legislation which establishes fair and efficient refugee status determination procedures, and ensure that persons in need of international protection have access to national services, including health services and access to employment;
8. Ensure that national laws, policies and practices adequately respect the right to liberty and prohibition of arbitrary detention of migrants. In particular:
 - a. Decriminalize irregular migration and ensure that Haitian migrants and members of their families have access to legal aid, effective remedies, justice and consular services;
 - b. Provide accessible information on the number of Haitian migrants arrested, detained and expelled for immigration-related infractions, the reason for their detention and expulsion and their detention conditions, including the length of detention; and
9. In the case of **Haiti**, provide consular protection for citizens residing abroad in conformity with principles of international law.

IX. SUPPORTING ORGANIZATIONS AND INDIVIDUALS

AFRIKAN CULTURAL AND EDUCATIONAL ASSOCIATION

Ms. Desiree Charles

ANBESSA FOUNDATION

Wozero Esther Gittens

CALCUTTA CULTURAL GROUP

Beverly Peters

CARIBBEAN PROGRESSIVE PERSPECTIVES

Nigel Westmaas

CENTRE DE REFLEXION ET DE RECHERCHE SUR LA MIGRATION ET L'ENVIRONNEMENT (CERREMEN)

Léo D. Pizo Bien-Aimé

COLLEGE OF VIRTUAL SCIENCES

George Goddard

FREEDOM IMAGINARIES

Malene C. Alleyne

GHANA DAY ASSOCIATION

Penda Guyan

GUYANA UNITED APOSTOLIC MYSTICAL COUNCIL

Brenda Williams

HAITI SUPPORT GROUP (GUYANA)

Myrtha Desulmé

Mark Jacobs

Pierre Eric Jean

Elton McRae

Sherlina Nageer

Danuta Radzik

Vanda Radzik

Karen de Souza

Kesnel Toussaint

Alissa Trotz

Charlene Wilkinson

HAITIAN BRIDGE ALLIANCE

Erik Crew

Guerline Jozef

Nicole Phillips

Charlotte Wiener

ISRAELITE RESEARCH INSTITUTE

Royston Peters

KAY FANM

Yollette Andrée Jeanty

NATIONAL FARMERS ORGANISATION

Mike Rahman

NATION OF RASTAFARI

Ronald Marks (Ras Dallo)

NÈGÈS MAWON

Lucia Dominique

Pascale Solages

NOU PAP DÒMI

Velina Elysée Charlier

**RASTAFARI INITIATIVE FOR SOCIAL AND ECONOMIC EMPOWERMENT
(RISEE)**

Ras Richard Taylor

Ras Xola

Ras Kali

**THE INTERNATIONAL DECADE FOR PEOPLE OF AFRICAN DESCENT
ASSEMBLY**

Olive Cannings-Sampson

Reginald Daniels

Individuals

Stael Achille

Caroline Dyché

Sinikka Henry

Finella Martin

Brian Massay

Mondy Methelus