

Submission of Human Rights First to the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 47/21

United States policies and practices subjecting African asylum seekers and asylum seekers of African descent to human rights violations, discriminatory treatment, arbitrary detention in life-threatening conditions, and denials of refugee protection

This submission has been produced on the basis of Human Rights First's years of experience in representing, researching, and advocating for refugees seeking humanitarian protection in the United States. The submission provides relevant excerpts of recent Human Rights First reports and other research on U.S. policies and practices of, and implemented by, U.S. agencies, that endanger the lives and safety of African people and people of African descent seeking refugee protection, subject them to arbitrary detention in life-threatening conditions, and deny asylum in violation of U.S. law and international treaty obligations. Many of these policies and practices disproportionately inflict harm on African asylum seekers and asylum seekers of African descent. The following sections address: **the proposed asylum ban regulation** (Section I); **immigration detention** (Section II); **the Title 42 expulsion policy** (Section III); **expedited removal** (Section IV); the **Remain in Mexico policy** (Section V); **"metering" of asylum seekers at ports of entry** (Section VI); and **one-year filing asylum deadline** (Section VII). The agencies engaging in these practices and implementing these policies include the U.S. Department of Homeland Security (DHS), and its component agencies, Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS), as well as the Department of Justice (DOJ).

Human Rights First urges the High Commissioner to recommend that the United States withdraw the proposed asylum ban regulation and take all steps to firmly and permanently remove barriers to asylum, including the use of expedited removal, immigration detention, and Title 42, which inflict disproportionate harm on African refugees and refugees of African descent and block them from seeking and receiving asylum protection in the United States.

I. The proposed U.S. asylum ban would deny asylum to African refugees and refugees of African descent, return them to persecution, and leave many in limbo and separated from families

DHS and DOJ have proposed a new [rule](#) (the "asylum ban") at the southern border that would return to persecution refugees who qualify for asylum under U.S. law and leave others in limbo in the United States without permanent status, a pathway to citizenship, or the ability to reunite with their families. The ban would generally bar refugees from asylum protection if they 1) did not apply for and receive a formal denial of protection in a transit country and 2) entered between ports of entry at the southern border or entered at a port of entry without a previously scheduled appointment through the government's CBP One mobile application. The asylum ban will [inflict](#) disproportionate harm on Black, Brown, and Indigenous asylum seekers, including refugees from Africa, the Caribbean, and Latin America. If the agencies proceed with this ban, it will illegally punish and ban many Black refugees fleeing political, religious, race-based, gender-based, anti-LGBTQI+, and other persecution. Many will be deported to persecution and others who are denied asylum and granted withholding of removal (a lesser form of protection that does not provide for family reunification or a pathway to citizenship) will be left in limbo.

Under the Trump administration, U.S. agencies promulgated [similar asylum bans](#) that also barred people from asylum based on how they entered the United States and whether they applied for protection in a transit country. The harms of the Trump administration's transit ban, which would be perpetuated if the asylum ban rule goes into effect, are detailed below in the Human Rights First report, "Asylum Denied, Families Divided."

“Asylum Denied, Families Divided: Trump Administration’s Illegal Third-Country Transit Ban,” July 2020, <https://humanrightsfirst.org/wp-content/uploads/2022/10/AsylumDeniedFamiliesDivided.pdf>

- [T]his asylum ban has likely resulted in the denial of asylum to hundreds of refugees over the past year. Government data analyzed by Syracuse University’s Transaction Records Access Clearinghouse (TRAC) shows...**immigration court asylum grant rates declined by 45 percent for Cameroonian asylum applicants, 32 percent for Cubans, nearly 30 percent for Venezuelans, 17 percent for Eritreans, and 12 percent for Congolese (DRC)** since December 2019, compared to the year before the third-country transit asylum ban began to affect refugee claims.
- **In May 2020, asylum was denied to an Anglophone Cameroonian woman whose father, nephew, uncle, and son were killed in Cameroon**, where the government has jailed, tortured and murdered English-speaking Cameroonians in an attempt to suppress the Anglophone region’s independence movement. An immigration judge at the Varick immigration court found that the woman, whose eight-year-old son had been shot and killed in front of her and whose home was burned down by a unit of the Cameroonian military, did not qualify for asylum under the transit ban.
- **A Cameroonian man who was detained and tortured in Cameroon for over a year without being brought before a court or charged with a crime was denied asylum in February 2020 because of the transit ban.** The immigration judge presiding over the hearing for the man, who was detained in the LaSalle detention center, wrote on the withholding of removal order, included in part below, that she would have granted asylum “but for the 3rd country transit bar.”
- **An LGBTQ man from Ghana seeking protection from persecution on account of his sexual orientation was denied asylum due to the transit ban in January 2020 in the Tacoma immigration court.** The judge stated that asylum would have been granted but for the transit ban, according to the man’s attorney, AnnaRae Goethe, with the Northwest Immigrant Rights Project.
- **An Anglophone Cameroonian refugee who was brutally tortured by the Cameroonian military, which has engaged in the wide-spread arrest, detention and torture of Cameroonians advocating for independence of the English-speaking region of the country, was denied asylum solely because of the transit ban.** The man was granted withholding by the Adelanto immigration court in May 2020 but without asylum cannot reunify with his wife and child, who are in hiding in Cameroon because of the threats they face.
- **A Cameroonian refugee denied asylum at the Las Vegas immigration court in February 2020 due to the transit ban is permanently separated from his nine-year-old daughter** who is in danger in Cameroon where she lives with his sister, who was herself recently attacked. Because he received the limited protection of withholding of removal, the man cannot petition to bring his daughter to safety in the United States. He told Human Rights First: **“It is something really disturbing. Every day I have to think about it . . . I never wished for my daughter to live like that.”**
- Due to the transit ban, a Cameroonian refugee fleeing political persecution was denied asylum in January 2020 at the Tacoma immigration court, leaving him unable to reunite with his wife and seven children. Reflecting on the reality that he may never see his family again, he told Human Rights First: **“It’s making me sick. It’s traumatizing that I have to live my life without my family. They aren’t safe in Cameroon and there’s no way that I can help them. Life is coming to an end for me and my family as a family, so I feel very much disturbed. I continue to pray to God that he performs one of his miracles and I can see my family again and feel the love that we had.”** Recently, one of the man’s cousins was shot by the military in Cameroon, further terrifying him for the safety of his family.
- **ICE repeatedly denied parole to a Cameroonian woman subject to the transit ban who was beaten, arrested, and tortured by the authorities for participating in a peaceful protest in Cameroon.** After an immigration judge recognized her as a refugee and granted her withholding of removal, the woman was finally released after seven months of being needlessly jailed at the Adelanto detention center. ICE had previously refused to grant her parole, asserting that the woman was a flight risk under the transit ban. While the woman was also eventually given a bond hearing (pursuant to the Ninth Circuit’s decision in *Rodriquez*), the immigration judge imposed a \$12,000

bond, also labeling the woman a flight risk due to the transit ban; she could not pay this amount and thus remained detained throughout her asylum proceedings.

- **In November 2019, DHS decided that an asylum seeker from the Democratic Republic of Congo had failed to pass her screening interview and would not be allowed to even apply for asylum in the United States.** The Congolese woman reported that she had been beaten by police in her country when she sought information about her husband, who had been jailed and tortured due to his political activity. Citing the transit ban, the DHS officer determined she was ineligible for asylum and subjected her instead to the artificially elevated screening standard. The officer concluded the Congolese woman did not meet that higher screening standard and as a result, she was ordered deported to Congo without an asylum hearing. Seven months later (as of late June 2020), she remains detained by ICE pending deportation.
- A Cameroonian anti-government activist who was granted only withholding of removal in February 2020 because of the transit ban told Human Rights First, **“I’m really quite in limbo right now.”** Ineligible for most government support to individuals with asylum and unable to find a job to support himself until his work authorization request is approved, he reported to Human Rights First, **“Even though I was happy to leave the [detention] facility I really have a lot to think about. I’m thinking about my status of being here. The work permit—how long will I have it? The work permit procedure—how long?”**

II. Black asylum seekers and migrants are jailed in immigration detention and discriminatorily denied release, suffer racist violence and mistreatment in detention, and face barriers to the fair adjudication of their asylum applications

DHS and its component agency ICE continue to detain [tens of thousands](#) of immigrants in dangerous ICE jails, including many asylum seekers. An April 2022 Human Rights First [report](#) documented the widespread detention of asylum seekers for prolonged periods, refusal to release them to pursue their cases while living in U.S. communities, family separation, and horrendous conditions in ICE jails including medical neglect, physical, verbal, and sexual abuse, and deprivation of adequate food, water, and other basic necessities. CBP has separated many asylum-seeking families at the border and transferred asylum seekers to ICE jails, where they are separated from family for prolonged periods. 44 immigrants have [died](#) in dangerous ICE jails since Fiscal Year 2018. Yet DHS has recently [taken steps](#) to further increase ICE detention capacity.

Black asylum seekers and migrants are disproportionately targeted by ICE for detention and prolonged jailing. The Human Rights First [report](#) found that asylum seekers from Black-majority countries who came to the United States to seek protection since President Biden took office and for whom Human Rights First researchers were able to track detention periods were detained on average for nearly 4.3 months—27 percent longer than asylum seekers from non-Black majority countries tracked by Human Rights First. An October 2022 [report](#) by Freedom for Immigrants documented widespread anti-Black violence and abuse in ICE jails and found that Black immigrants were more likely to suffer abuse in detention compared to non-Black immigrants.

U.S. law provides DHS [legal authority](#) to release (“parole”) asylum seekers to pursue their cases in communities in the United States rather than continuing to jail them. Yet DHS and its component agencies continue to jail asylum seekers rather than exercise authority to release them, including asylum seekers who have been determined by asylum officers to have established a credible fear of persecution in a credible fear interview (CFI). Many Black asylum seekers have been detained for prolonged periods even after establishing a credible fear of persecution, as described below. There are currently nearly [4,000](#) asylum seekers in ICE jails who have had a positive fear determination.

“I’m a Prisoner Here’: Biden Administration Policies Lock Up Asylum Seekers, April 2022, <https://humanrightsfirst.org/wp-content/uploads/2022/09/ImaPrisonerHere.pdf>

- **For eight months, DHS detained an Angolan political activist even though his family, who managed to flee the country before him, were already pursuing asylum in the United States.** The man’s wife had earlier fled to the United States with their children after she was raped in Angola due to

her husband's protests against government human rights violations. At the time he came to the border to seek protection in spring 2021, the man's family was living in Maine and pursuing their asylum claims. He told Human Rights First that rather than permitting him to reunite with his family, ICE kept him incarcerated until December 2021 in a Louisiana detention center, where he suffered from high blood pressure and severe headaches.

- **DHS detained a Guinean political activist for four-and-a-half months, including three-and-a-half months after he received a positive credible fear determination.** The man fled Guinea after government forces detained and beat him for mobilizing people in his neighborhood and coordinating political meetings to oppose the president's bid for a third term in office. His father collapsed and later died shortly after witnessing his son's arrest. While the asylum seeker was coping with this trauma, ICE incarcerated him in Louisiana and Mississippi ICE detention facilities until August 2021.
- **An asylum seeker from Burkina Faso was detained for eight months after seeking protection in April 2021, even though the leader of an organization in New Jersey had offered to sponsor and support him.** The man told Human Rights First that he fled his country to escape attacks by Islamic militant groups and has been unable to communicate with his family to learn if they survived, which causes him constant fear and trauma. While detained, he suffered from ulcers, depression, and insomnia. Even though he had a sponsor and suffered from health conditions, ICE initially denied his parole request, claiming he was a flight risk, and did not release him until December 2021.
- **DHS detained a Senegalese asylum seeker for nine months and denied three parole requests that he filed.** His detention was needlessly prolonged by the flawed credible fear process. In June 2021, the asylum office erroneously decided that the man, who had been beaten and threatened with death for converting to Christianity, did not have a credible fear of persecution. He told Human Rights First while imprisoned: **"I left Senegal not because I wanted to. I was trying to save my life. I thought when I came here that my life would be safe . . . here, I cry at night. They call me to eat, and I cannot eat because of the stress and the pain I feel inside."**
- **A gay Senegalese asylum seeker was incarcerated for five months, including in Mississippi and Louisiana ICE detention centers.** He spent three months waiting for a CFI. Even after he established a credible fear of persecution in July 2021, ICE did not release him for another two months. He told Human Rights First: **"We were just there, sitting and waiting for months, as prisoners."**
- **ICE detained a Haitian asylum seeker for three months including in Mississippi and Louisiana after he sought protection at the southern border.** He had fled Haiti after receiving death threats for campaigning to elect an opposition candidate. He told Human Rights First: **"It was a very difficult situation in all the detention centers I went through. They treated us inhumanely. They told us that we were all criminals for coming here."** He reported that ICE denied him and others outdoor recreation for weeks. He was finally released in July 2021.
- **In April 2021, ICE illegally imprisoned for over three months a 13-year-old Guinean asylum seeker after he sought protection at the border and presented his birth certificate to CBP to confirm his age.** ICE officers forced the boy to undergo invasive dental examinations and bone age testing to confirm his age and persisted in claiming that he was an adult even after receiving a copy of the boy's passport and a declaration from a U.S. citizen relative corroborating his age. ICE locked the child in a small isolation cell in the medical unit for at least a week, according to his attorneys at the Southeast Immigrant Freedom Initiative. During an illegal CFI in June 2021, an asylum officer found the child's statements about his age credible but nonetheless proceeded with the interview and issued a negative determination.
- **In spring 2021, ICE detained a Ghanaian bisexual asylum seeker, who had survived heinous anti-LGBTQ violence in Ghana, for over two months, including for two weeks after passing a CFI.** The man fled Ghana after he was brutally assaulted and survived an assassination attempt where he was hung from a tree for his sexuality. He was detained in La Palma Correctional Center waiting for a CFI. ICE did not release him after he received a positive credible fear determination. He remained incarcerated until an immigration judge granted bond, according to the Transgender Law Center.
- **In fall 2021, ICE detained multiple Jamaican transgender women for months** in La Palma Correctional Center and Eloy Detention Center after they sought protection in the United States. The Transgender Law Center reported that the women were subjected to months of traumatic and unnecessary detention before they received CFIs, which confirmed their fear of persecution.

- **Around summer 2021, DHS separated a Cameroonian man from his pregnant wife when they sought protection at the border.** ICE detained the husband at the Aurora Detention Facility in Colorado while detaining the pregnant woman in multiple ICE facilities in Louisiana and Georgia. He was released in July after he established a credible fear of persecution, according to a legal services organization.
- **In fall 2021, DHS detained for nearly two months a Jamaican asylum seeker living with HIV in La Palma Correctional Center in Arizona even though his partner, a U.S. citizen, was ready to sponsor him.** DHS officials confiscated his HIV medication, and detention center medical staff failed to provide him HIV medication for over a month despite him repeatedly alerting medical staff that he needed treatment and had blood in his urine. He told Human Rights First: **“The doctors kept saying they would check. They finally took a blood sample for HIV. They didn’t seem to believe me. No result came back, so I kept sending requests through the tablet asking for the status of my blood test, but nobody came to tell me.”** When the facility finally provided medication, it caused serious side effects—including nose bleeds, blood in his urine and stool, dizziness, and lumps in his ear and groin—whereas the medication they had confiscated had not had these effects.
- **In July 2021, the Los Angeles ICE field office initially refused parole to a prominent African human rights activist detained at the Adelanto ICE Processing Center,** who was covered by the parole directive, claiming without basis that she might work in the United States without authorization or fail to attend her immigration court hearing. ICE only released the woman after learning that she was pregnant. **But after enduring the trauma of detention, the woman miscarried after release.** She had previously miscarried in 2019 while detained by her country’s government because of her political activism. She told Human Rights First, which currently represents her in her asylum case: **“I told ICE that I’m a leader in my country, that I’ve been in this country many times sponsored by the U.S. government, and they said they don’t have a reason to parole me out.”**
- **ICE detained for over one-and-a-half years a stateless man of Congolese parentage who was born in a refugee camp in Rwanda even though there was no reasonable prospect he could be removed.** He spent a year in ICE detention following a September 2020 removal order despite repeated communications from the Rwandan and Congolese embassies that he was not a citizen of either country and could not be deported to either. The man’s repeated letters to ICE headquarters in 2021 went unanswered, and he eventually filed a pro se petition for habeas corpus. In September 2021, a federal court ordered his release after ICE acknowledged that he could not be deported. He told Human Rights First: **“ICE wants to keep people detained. If I did not do a habeas corpus petition, I would still be in detention. But other people who are detained can’t file a habeas corpus because they don’t speak English. It’s unbelievable. It’s against the Constitution.”**
- Human Rights First received reports of discriminatory statements and disparate treatment by ICE of parole requests for Black asylum seekers:
 - While the Biden administration was detaining large numbers of Haitians at the Torrance County Detention Facility in fall 2021, an ICE deportation officer at the facility told Casey Mangan with Innovation Law Lab that **ICE officers at Torrance had been instructed to release all Cubans, Nicaraguans, and Venezuelans who did not have a criminal history to create additional bed space—a move designed to enable the detention of Black asylum seekers and migrants from Haiti.**
 - **African asylum seekers detained at the Winn Correctional Center told Human Rights First in December 2021 that ICE appeared to disproportionately deny parole to African asylum seekers.** A Congolese asylum seeker, who had been detained for months, reported that an ICE deportation officer claimed that African asylum seekers were less likely to be released because they are “inferior.” He told Human Rights First that being held in Winn was “hellish.” A Senegalese asylum seeker imprisoned for five months at Winn said: “I see Africans detained eight, nine, ten months. I’ve never seen other nationalities detained that long.”
 - **An African asylum seeker detained at the Adelanto ICE Processing Center in summer 2021 witnessed ICE officers imposing discriminatory requirements for release on Black asylum seekers.** She reported to Human Rights First that she observed ICE officers appear to ask non-Black asylum seekers for the phone number of a relative in the United States and release them after calling the relative, but demand that she and other Black

asylum seekers produce extensive sponsorship documentation including utility bills and proof of citizenship of their sponsor to be considered for release.

- ICE under the Biden administration has denied parole, or inexplicably delayed release for months, to many asylum seekers from African countries who established a credible fear of persecution, including:
 - **ICE detained a Sudanese asylum seeker for four months, including for two months after she established a credible fear of persecution in October 2021.** The woman had fled Sudan after the government imprisoned and tortured her family members, including her father and siblings. She told Human Rights First that when she sought protection at the border with her husband, ICE separated them and jailed them in different facilities.
 - **ICE denied the parole request of an LGBTQ Ghanaian asylum seeker living with HIV who had established a credible fear of persecution in July 2021 and had a community sponsor ready to support him.** ICE denied his parole request without explanation, according to his attorney. The man reported that he was not receiving needed HIV medication in detention. As of late September 2021, he remained detained.
 - **A Congolese political activist was detained for three months after he received a positive credible fear determination.** The man had been arrested, tortured, and forbidden from working by the Congolese government for participating in political protests. He told Human Rights First that an ICE deportation officer claimed that he would be released within a few days of the positive fear determination, but instead ICE transferred him from the Adams County Detention Center to the Winn Correctional Center, where he languished for another three months until August 2021 without explanation.
 - **ICE detained a Guinean political activist for nearly three-and-a-half months after he established a credible fear of persecution in April 2021.** He told Human Rights First that after the fear screening, ICE transferred him from the Adams County Detention Center to the Winn Correctional Center and jailed him for months despite having a sponsor who is a U.S. legal permanent resident ready to receive and support him during his asylum case.
 - **In summer 2021, ICE refused to consider for parole a Cameroonian torture survivor who received a positive credible fear determination.** The woman had fled Cameroon after being tortured and raped by the military, according to Americans for Immigrant Justice. Although she had a U.S. citizen sponsor to support her on release, ICE initially refused to consider her request for parole because she did not have an identity document—even though it is not uncommon for asylum seekers to lack identity documents after being forced to flee their countries. After two months detained, ICE released her in August 2021.
 - **ICE denied release to a Sudanese asylum seeker for over four months after he established a credible fear of persecution in September 2021.** The man fled Sudan after seven family members were murdered in the Darfur genocide and later sought asylum at the U.S. border. ICE continued to jail him at the Winn Correctional Center despite his requests to be released and documentation submitted by a U.S. citizen relative ready to support him. The man told Human Rights First in December 2021 that he had been scheduled for a final hearing to decide his asylum application before an immigration judge but worried that he could not adequately prepare his case while detained. He said: **“I asked my deportation officer if I could be released and follow up on my asylum case from outside. I said, ‘I’m not ready. I have no lawyer’ . . . the officer told me, ‘don’t ask more questions’ . . . I have no other options. They release other people who pass their CFIs.”** ICE continued to deny his requests for release and the man was only able to leave detention after an immigration judge set bond at \$20,000, which was paid by a community organization.
 - **ICE detained for six months an unrepresented Congolese man who had received a positive fear determination and who was ultimately granted protection under the Convention against Torture while jailed.** He had fled Congo after armed rebel groups murdered his wife and three children. He told Human Rights First: **“I lost all my family. I don’t have a wife. I don’t have kids. I came here for protection and peace. It was a lot of stress to be in detention. It was very hard.”** ICE refused to release him after the positive fear determination and further prolonged his detention while it decided whether to appeal the judge’s decision to grant him protection, which it ultimately did not. As a result, he was needlessly jailed from April to October 2021.

- **Haitian asylum seekers were 27 percent more likely than other nationalities to be denied bond (50.6 percent versus 39.8 percent), nearly twice as likely to have their bond increased beyond the amount ICE set (15.3 percent versus 7.8 percent), and 34.2 percent less likely to have bond set (where previously denied by ICE) or reduced (21.2 percent versus 32.2 percent).** In 78.8 percent of bond decisions for Haitian asylum seekers, immigration judges denied bond, increased bond, or refused to reduce the bond amount set by ICE.
- In addition, **the average bond set for Haitian asylum seekers by an immigration judge in FY 2021 was \$17,793—nearly double the average bond for other asylum seekers.** Haitian asylum seekers also made up a disparate proportion of asylum seekers with bonds set at \$20,000 or more. While Haitian asylum seekers comprised 3 percent of total bond decisions for people with pending asylum applications, 14.4 percent of bonds set at or over \$20,000 were imposed on Haitian asylum seekers.
- **Immigration court judges imposed excessively high bond amounts on many African asylum seekers as well.** For example, asylum seekers from Eritrea, Mauritania, Nigeria, Senegal, Somalia, South Africa, and Togo received bond amounts that were \$20,000 or greater.
- The disparate treatment of Black asylum seekers parallels analysis that shows that detained Black immigrants generally are more likely to be denied bond and to receive astronomically high bonds. According to government [data](#) analyzed by Syracuse University’s Transactional Records Access Clearinghouse (TRAC), **in FY 2021, detained Haitians and Jamaicans were twice as likely to be denied bond compared to other nationalities.** Only 14.8 percent of Haitians and 15 percent of Jamaicans were granted bond by an immigration judge compared to 31.4 percent of all other nationalities. Between June 2018 and June 2020, RAICES [reported](#) that immigration bonds for Haitian immigrants were 54 percent higher than those for other immigrants. In FY 2021, immigration court judges set [bond amounts](#) in excess of \$25,000 for 16 percent of Haitian nationals – eight times the rate of other nationalities who received bonds in that range in 2 percent of cases.
- **"Detention beats you psychologically. The way you're chained. You're tied up—your arms, legs, and waist. You cannot walk. I was thinking, what did I do wrong? They cut off my hair because I had braids. They told me it was procedure. . . . it eats you up. It beats your mind. And then imagine, with everything you've been through, to have your credible fear interview within 48 hours. . . . You are totally unprepared. You're in a new place. Your mind is not settled. I think it was only three out of 30 of us that passed our CFIs."** - Human rights activist from an African country jailed at the Adelanto ICE Processing Center in 2021
- **"I was very ill. . . . I had memory loss and felt disoriented and retraumatized by detention, at 54 years of age I had never been detained. I was in shock from the conditions, from being shackled, I remember being in a very cold place and given plastic sheets for covers. . . . I was shell-shocked, we were being mistreated in the country of human rights, it was hard for me to accept."** - Angolan asylum seeker fleeing political persecution, who received a negative determination after being forced to undergo a CFI at the Adams County Detention Center in 2021 while sick with COVID-19 and experiencing mental health problems
- **In July 2021, an immigration court ordered the deportation of a detained, unrepresented Senegalese asylum seeker who does not speak English because he was unable to complete the asylum application within two weeks.** The man, who speaks Wolof and fled Senegal due to religious persecution, was not able to understand or complete the application while detained in New Mexico. The immigration court stated in its decision, which was reviewed by Human Rights First, that not understanding English is “not good cause” for failure to submit the application by the deadline and that the Internet could be used to complete the form. This assertion is rendered even more absurd by the fact that Wolof is not available on Google Translate.
- **In October 2021, a detained and unrepresented Haitian political activist was ordered removed after an immigration court found him not credible in part due to minor inconsistencies in his asylum application, which the court had given him two weeks to complete in English—a language he does not speak.** DHS had detained the man and separated him from his wife when they sought safety in Del Rio, Texas. Unable to access legal services, he completed the application with the assistance of another detained individual with purported English fluency. The man’s attorney at the Las Americas Immigrant Advocacy Center, who is representing him in his appeal, told Human Rights First that the asylum application contained glaring translation errors. However, the immigration judge

stated that the asylum seeker's explanation that he did not understand the application and was forced to rely on an unprofessional translator was a "weak explanation."

- **DHS appears to have intentionally pushed Haitian asylum seekers and migrants through removal proceedings on an even more expedited and unfair timeline while other asylum seekers languished in the same detention center.** In late fall 2021, following DHS's atrocious treatment of Haitian families and adults who had crossed into the United States near Del Rio, Texas, Haitian asylum seekers at the Torrance County Detention Facility were rushed through immigration court hearings with some [ordered](#) removed within one month. By comparison, Nicaraguan and other asylum seekers at the same facility languished for months before receiving an initial hearing, according to Innovation Law Lab, and slowed even further as the government rushed to deport Haitians detained at Torrance. According to a November 2021 [complaint](#) to the DHS OIG and Office of Civil Rights and Civil Liberties (CRCL), some Haitians [ordered removed](#) reported that they had not understood their right to seek "asylum" because the government failed to provide legal information prior to their hearings in Haitian Kreyol and blocked them from consulting with legal service providers.
- **An officer made racist and offensive comments to a Black immigrant detained under ICE custody** at the Baker County Sheriff's Office in Florida, equating his work in the facility laundry to slavery. The man told an advocate familiar with the case that in April 2021 an officer approached him while he was folding laundry and said that the way he was shaking out the laundry was like how "you and your family got whipped back in the day."
- **An attorney reported in May 2021 that she heard a guard at the Winn Correctional Center state "Fuck Black people" and violently shove a Cameroonian man to the ground** after he and another Cameroonian man asked facility guards to wear masks. As a result of his injuries, the man needed to use a wheelchair for mobility, according to a [complaint](#) filed with DHS CRCL. The complaint also states that the attorney witnessed an ICE supervisory officer at Winn comment to the effect of "now we can't lynch them" while watching detained men cut down trees.
- **An asylum seeker from an African country suffered abuse in solitary confinement in the medical unit at the Winn Correctional Center, including being held naked in a cold cell without a bed for five days.** He told Human Rights First that during a medical evaluation in May 2021 a facility doctor asked whether he wanted to harm himself. He answered that he did not but was transferred to solitary confinement in the medical unit, which is used for people at imminent risk of self-harm. He said that the doctor claimed that people who have high blood pressure, as he did, were more susceptible to depression and suicide. He was forced to go naked in solitary confinement and only received a medical gown to wear during limited outdoor recreation periods. He had to sleep on the floor of the solitary confinement cell for five days and only received a sheet to place on the ground on the second day.
- **ICE has forcibly cut off the hair of detained Black people in its custody claiming that it is standard "procedure" for hair worn in braids or locks.** An asylum seeker from an African country represented by Human Rights First reported that staff at the Adelanto ICE Processing Center chopped off her long, braided hair in July 2021 and cut off the braided hair of multiple Haitian women with whom she was detained. This unnecessary practice is an affront to the dignity and physical integrity of the individuals subjected to it and its clearly racially disparate impact on detained Black people raises significant questions about its legality under federal antidiscrimination law.
- **A Black immigrant who suffers from asthma was repeatedly denied an inhaler from January 2021 to May 2021 while detained under ICE custody in the Baker County Sheriff's Office in Florida, leading to frequent shortness of breath and chest pain.** Prior to being detained, he routinely used an inhaler and had been hospitalized several times for asthma. He reported to an advocate familiar with the case that medical staff at the facility stated that his request was denied because his symptoms arose from mental health issues, not a physical condition.

III. The U.S. government has used the Title 42 policy to block and expel to danger African asylum seekers and asylum seekers of African descent, who face disproportionate harm

For over three years, the U.S. government – in particular DHS and CBP – has misused public health authority referred to as "Title 42" to block and expel migrants and asylum seekers to Mexico and to their countries of

feared persecution without providing them access to the U.S. asylum system or fear screenings. The consequences of this policy have been devastating. Human Rights First has tracked over [13,480](#) kidnappings, rapes, and other violent attacks on people blocked or expelled to Mexico due to Title 42 since January 2021. The Title 42 policy was initiated by the Trump administration and continued by the Biden administration, which attempted to end the policy in 2022 but in the wake of litigation blocking its termination, subsequently expanded it to expel additional nationalities.

Asylum seekers blocked from accessing U.S. protection by Title 42 or expelled after reaching the United States to seek safety are predominantly people of color. Among these populations, Black and Indigenous asylum seekers suffer [disproportionate harm](#) due to racial prejudice in Mexico and, in many cases, a lack of Spanish proficiency, both of which make them particularly vulnerable to assault and exploitation, and impair their ability to meet their basic needs. Black asylum seekers and migrants blocked in and expelled to Mexico face [pervasive](#) anti-Black violence, harassment, and discrimination, including widespread abuse by Mexican authorities. A survey conducted by Al Otro Lado from mid-February through early April 2021 in Baja California, for example, found that [61 percent](#) of Haitian asylum seekers blocked from seeking U.S. protection by Title 42 were victims of brutal harm while stranded in Mexico, including kidnapping, rape, and robbery. Analysis of Al Otro Lado survey data from mid-June to mid-August 2021 shows that nearly [20 percent](#) of Haitian asylum seekers in the northern Mexican border region were victims of abuse by the police, including beatings, extortion, and threats.

The U.S. government has used Title 42 to expel [tens of thousands](#) of Haitians, including many directly to violence and danger in Haiti. In September 2021, the U.S. government [subjected](#) migrants in Del Rio, Texas, who were overwhelmingly Black Haitian people, to horrific physical violence, verbal threats, and other acts of intimidation. Images and accounts from Del Rio reveal U.S. immigration officers, including mounted CBP agents [armed](#) with [cords used like whips](#), violently pushing Haitian adults and children back across the river into Mexico. DHS expelled many by plane to Haiti, some in [shackles](#) and many without being [told](#) where they were being taken.

Though the Centers for Disease Control and Prevention [directed](#) the termination of the Title 42 policy in April 2022 and a federal court [vacated](#) it in November 2022 because it is inconsistent with U.S. law, the policy has remained in place [due to litigation](#) by states aligned with the Trump administration. Even after it sought to end Title 42, the Biden administration has drastically [expanded](#) the policy to expel other nationalities to Mexico, including Haitians. While DHS provides limited exceptions for individuals otherwise subject to Title 42, the primary way to access exceptions and seek asylum at a port of entry is through the CBP One app, a mobile government app that is [inaccessible](#) to many vulnerable asylum seekers who cannot afford or navigate smart phones and leaves people stranded indefinitely in danger because of [limited](#) appointment slots, [glitches](#), and other barriers. Many Black asylum seekers cannot access the app because it is only available in English, Spanish, and Haitian Creole, as well as due to [racial bias](#) in its facial recognition software. Requiring asylum seekers to use CBP One is discriminatory and does not comply with U.S. asylum law.

“Human Rights Stain, Public Health Farce: Evasion of Asylum Law and Title 42 Abuse Must End—and Never Be Revived,” December 2022, <https://humanrightsfirst.org/wp-content/uploads/2022/12/HumanRightsStainPublicHealthFarce-1.pdf>.

- **[Ibrahima Gueye](#), a 39-year-old Senegalese man, was shot and killed in a Tijuana park in broad daylight on October 18, 2022.** Police believe Gueye, who was carrying a backpack with clothing and personal belongings, was attacked by members of the violent “de la Castillo” group, which is engaged in criminal migrant smuggling in the area. With asylum seekers unable to approach ports of entry to request asylum, some have attempted to cross into the United States, unaware of danger from violent groups that control access to the border.
- **A Haitian asylum seeker, whom DHS had previously expelled to Haiti under Title 42, was robbed at gunpoint in Tijuana in summer 2022 while unable to seek U.S. asylum at a port of entry due to the continuation of Title 42.** The armed assailants pulled the man’s pants down and groped him looking for money, according to his cousin, another asylum seeker who spoke with Human Rights First.

“The Nightmare Continues: Title 42 Court Order Prolongs Human Rights Abuses, Extends Disorder at U.S. Borders,” June 2022, https://humanrightsfirst.org/wp-content/uploads/2023/02/NightmareContinues_final.pdf

- **Joy**, a nurse from Cameroon who fled political persecution in Cameroon, is stuck in Tijuana unable to seek asylum in the United States due to Title 42. She told [AnimalPolitico](#) that she has faced discrimination and racist abuse in Mexico, including by police, who called her a “pig” and demanded to know why she had come to the country.
- **Jocelyn Anselme**, a 34-year-old Haitian asylum seeker, was **murdered** during an attempted assault and robbery in Tijuana in May 2022 while blocked from seeking asylum due to Title 42, according to Haitian Bridge Alliance, which organized a funeral for the man.
- **In May 2022, Calory Archange**, a 30-year-old Haitian man, died of a heart attack in Tijuana after having received inadequate medical care while stranded due to Title 42. His funeral in Tijuana was organized by Haitian Bridge Alliance—one of 12 funerals the organization has held since December 2021 for Haitian migrants who have died or been killed in Mexico while stranded there due to Title 42.

“Extending Title 42 Would Escalate Dangers, Exacerbate Disorder, and Magnify Discrimination,” April 2022, <https://humanrightsfirst.org/wp-content/uploads/2022/09/ExtendingTitle42.pdf>

- **Since taking office, the Biden administration has returned nearly 22,000 Haitian families and adults, including many asylum seekers expelled under Title 42, to escalating violence and political turmoil** in Haiti, despite designating Haitians in the United States for [Temporary Protected Status](#) due to the “deteriorating political crisis, violence, and a staggering increase in human rights abuses.”
- **Because Title 42 is blocking access to asylum at ports of entry, a Haitian asylum seeker is stranded in danger with his wife and two-year-old child in Tijuana, where he was robbed at gunpoint in February 2022.** He told Human Rights First that he is afraid to ask for asylum while Title 42 is still in place because he is terrified to be returned to Haiti, where he was shot at by an organized criminal group that was hired to kill him.
- **An asylum-seeking family from the Afro-descendent Garifuna community of Honduras, who are stranded in Piedras Negras due to Title 42, reported that their cousin was abducted.** The rest of the family escaped the kidnappers by hiding in a store. They reported to Al Otro Lado that as of late March 2022 his abductors were demanding \$18,000 for his release.
- **A Haitian man who fled death threats in Haiti remains in danger in Tijuana, where he was attacked with a bat in February 2022 outside the Tijuana shelter where he is staying with his teenage daughter.** The man told Human Rights First that people in the streets in Tijuana have made racist remarks to him and his daughter, including calling them “monkeys” and telling them to go back to their country. The family was previously expelled to Haiti under Title 42 in December 2021 and fears seeking U.S. asylum while Title 42 remains in place.
- **In March 2022, CBP turned away a Nigerian asylum seeker with urgent medical needs.** The man had been shot multiple times in Mexico, required a colostomy bag to eat, and urgently needed medical treatment unavailable in Tijuana, according to Nicole Ramos, an attorney with Al Otro Lado.
- In April 2022, CBP denied humanitarian exemption requests for a Nigerian man with glaucoma and hand tremors who was beaten by police in Mexico; a gay Venezuelan man living with HIV who is partially deaf; a Mexican torture survivor with diabetes; a Haitian woman with a high-risk pregnancy who is experiencing food insecurity; and a disabled Honduran man whose injuries from a car accident have become infected and who needs specialized medical treatment. These requests had been submitted by Ginger Cline, an attorney with Al Otro Lado.
- **An asylum-seeking Haitian family expelled under Title 42 to Haiti and forced to flee again reported in March 2022 that during the expulsion CBP officers separated the parents from their 16-year-old daughter and subjected the girl to racist abuse.** The family was detained for days in freezing cold CBP holding cells, with the teenager held separately with other children. She told Human Rights First that during the painful days she was detained away from her parents U.S. officers called her racist names including the N-word.

- **A young Haitian couple fleeing political persecution was mistreated in DHS custody before being expelled in shackles to Haiti under Title 42 in December 2021.** During the three days the couple was detained, they were not allowed to shower or provided with toothbrushes and were given only cold burritos to eat. They were not permitted to seek asylum, as required by U.S. law and treaty obligations and were not told they were being expelled to Haiti until after the plane took off.
- **A young Haitian man and his wife fleeing political persecution in Haiti are trapped in Tijuana due to Title 42 and are afraid to seek asylum at the U.S. port of entry for fear they will be expelled again to Haiti.** DHS expelled the couple to Haiti when they attempted to seek asylum in the United States following death threats by an opposition political leader for the man's support of his brother's political campaign. After they were expelled to Haiti the threats continued, forcing them to flee again. The couple are now sleeping in a tent at a makeshift shelter with more than 150 other asylum seekers. They are terrified to try to seek U.S. protection with Title 42 in place: "I'm really, really scared because if I get sent to Haiti again, I'll be dead," the man told Human Rights First.
- **Tamara, a Haitian woman stranded in Tijuana due to Title 42, fled Haiti due religious persecution.** Her ex-partner's family threatened her with a machete for refusing to convert to the Vodou faith and performed rituals that resulted in the deaths of her two young children. They continue to threaten her, if she returns to Haiti.
- **Esther, a Haitian asylum seeker, remains stranded in Tijuana, where she is experiencing "extreme mental illness and psychosis" a result of extreme gender-based violence she fled in Haiti.** Esther's ex-husband beat her so severely that he "damaged her stomach and reproductive organs," nearly killing her.
- **A teenage Haitian girl died in Tijuana in March 2022 after a Tijuana public hospital initially turned her away, refusing to treat her severe stomach pain.** The hospital admitted the girl the following day when she returned with a legal advocate, but by that time, her condition had severely worsened. The hospital prohibited the girl's father from entering the facility to visit her. A few days after admitting the girl, hospital staff informed the girl's father that she had died, providing only a death certificate with no record of treatment provided. The father told Human Rights First, "every time a Haitian goes to that hospital, they don't come back."
- **In March 2022, three Tijuana hospitals refused to treat a Haitian asylum seeker who was crying in anguish from severe stomach and back pain, according to a Ghanaian man who assisted him.** One hospital told the Ghanaian man that they would not treat the Haitian man because he was not employed in Mexico—likely a violation of Mexican law.

"A Shameful Record: Biden Administration's Use of Trump Policies Endangers People Seeking Asylum," January 2022, <https://humanrightsfirst.org/wp-content/uploads/2022/09/ShamefulRecord.pdf>

- **On January 1, 2022, Casseus Franck, a 37-year-old Haitian man, was shot to death in downtown Tijuana near the San Ysidro port of entry, which remains closed to asylum seekers due to Title 42.** According to Haitian Bridge Alliance, which has been working to assist in the repatriation of his remains, Franck had recently arrived at the U.S.-Mexico border intending to seek protection in the United States. Since 2016, 15 Haitian people have [reportedly](#) been murdered in Tijuana.
- **A Haitian man reported in late November 2021 that he and his family were kidnapped, beaten, and robbed in Mexico, and his wife raped in front of their child.** The man provided his account in a survey conducted by Al Otro Lado of migrants and asylum seekers stranded in Mexico due to current policies restricting access to asylum in the United States.
- **In November 2021, four Mexican police officers were detained in the southern Mexican state of Chiapas in connection with the October 2021 murder of a Haitian woman, who was reportedly last seen being detained by police and whose body was later found dumped along a highway.**

'Illegal and Inhumane': Biden Administration Continues Embrace of Trump Title 42 Policy as Attacks on People Seeking Refuge Mount," October 2021, <https://humanrightsfirst.org/wp-content/uploads/2021/10/IllegalandInhumane.pdf>

- **In the last month alone, the Biden administration used this policy to illegally expel nearly 8,000 Haitians to life-threatening insecurity in Haiti.**

- **In September 2021, DHS expelled an asylum-seeking Haitian family to Haiti after holding them for days in a freezing cell without sufficient food.** DHS separated the family from an adult brother who had crossed into Del Rio, Texas with them where they had attempted to seek asylum together based on political persecution. The family remains in hiding in Haiti, terrified their persecutors will find them, according to Blaine Bookey from the UC Hastings Center for Gender & Refugee Studies.
- [Belone Mpembele](#), an asylum seeker from Angola, was expelled to Haiti by the United States due to its failure to provide access to the U.S asylum system or even screen individuals at the border in its rush to expel Haitians in September 2021.
- **A Haitian mother expelled in late September 2021 begged U.S. officers to remove her handcuffs to enable her to comfort her crying young daughter on the plane ride**, according to Blaine Bookey from UC Hastings Center for Gender & Refugee Studies.
- **In September 2021, DHS expelled [Reynold Joseph](#) to Port-au-Prince in shackles where he along with his wife and three-year-old son**, who had never been to Haiti, are desperate to escape again, shocked at the extent to which the security situation has deteriorated and fearful of the gunshots they hear at night.
- **Police in Tijuana have repeatedly harassed a [Ghanaian](#) asylum seeker who remains stranded in Tijuana after DHS expelled him to Mexico and twice robbed him of his wallet and money.** The man had also been kidnapped for 3 days immediately after DHS expelled him to Nuevo Laredo. He told Hollie Webb, an attorney with Al Otro Lado, "I am afraid to leave the place where I live."
- **In September 2021, at least 12 Haitian asylum seekers who expressed fear of return to Haiti were expelled under Title 42 by U.S. officials without access to the U.S. asylum system or any fear screening**, according to their lawyer Mirlande Joachim. DHS withheld information about the whereabouts of Joachim's clients and told her on multiple occasions that she could not speak with them, at one point instructing her to contact the Haitian consulate to speak her clients, some of whom had fled persecution by Haitian government actors. One Haitian asylum seeker told Joachim that she had informed multiple U.S. government officers in the facility where she was being detained that she was seeking asylum and feared return to Haiti but was completely ignored.
- **In September 2021, CBP initially denied parole to a Haitian asylum-seeking woman who nearly died from a severe diabetic episode and other serious health issues.** Though CBP officers at the Brownsville port of entry eventually agreed to process the woman at a port of entry, after which she was immediately rushed to an emergency room, CBP refused to admit her nephew, who is her caretaker. He remains alone in Matamoros, Mexico.
- **A Ghanaian asylum seeker has suffered anti-Black racism and struggled to find work in Mexico after DHS expelled him.** He told Hollie Webb, an attorney with Al Otro Lado, "If you go out to look for work, they might not give you a job because of your race. If you get a job, they will insult you, embarrass you, and make racist comments. They don't want to work with you."
- **A Black [Somalia-born](#) asylum seeker of Yemeni nationality who fled Yemen to avoid being forced to fight has been subjected to racial slurs and struggles to find work and housing in Tijuana, where he remains stranded, unable to request U.S. asylum.** He had to leave the house he was staying in when others in the house became abusive and treated him like a servant. "People see me differently in terms of skin color, they see themselves as better than me . . . in restaurants here, they would have me work away from the other employees," he told Hollie Webb, an attorney with Al Otro Lado.
- **A [Nigerian](#) asylum seeker has been unable to find work due to anti-Black racism in Tijuana. "No one wants to hire a Black man who does not speak Spanish,"** he told Ginger Cline, an attorney with Al Otro Lado. The Christian couple, who had fled persecution in their Muslim majority home state in northern Nigeria, remains in danger in Tijuana, blocked from accessing U.S. asylum because of the Title 42 policy.
- **A Jamaican lesbian [couple](#) who fled attacks and threats for their sexual orientation is terrified to leave the shelter where they remain stranded in Tijuana, unable to access the U.S. asylum process.** "When we absolutely have to leave to get supplies like food and medicine, we have been yelled at and harassed in the street because we are Black and gay migrants," one of the couple told Human Rights First. "With our resources nearly gone, we now are desperate."

- **A Nigerian asylum seeker reported that his pregnant wife received substandard medical care at a Tijuana hospital due to anti-Black racism and that their newborn baby died as a result.** The hospital would not permit the man to join his wife as she gave birth or to even speak with her on the phone, according to Ginger Cline, an attorney with Al Otro Lado.

“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,” September 2021,

<https://humanrightsfirst.org/wp-content/uploads/2022/09/BidenAdministrationDangerousHaitianExpulsionStrategy.pdf>

- On September 18, 2021, the Department of Homeland Security (DHS) announced a “[comprehensive strategy](#)” to expel thousands of Haitian and [other](#) asylum-seeking families and adults who had crossed into the United States near a bridge in Del Rio, Texas – blocking many from access to the U.S. asylum system and fear screenings despite the requirements of U.S. law. **Highly disturbing images and accounts from Del Rio reveal U.S. immigration officers, including mounted U.S. Border Patrol agents [armed with cords used like whips](#), violently pushing Haitian adults and children back across the river into Mexico** - many of whom were simply trying to return with food and water for their families. Already DHS has expelled hundreds of individuals by plane to Haiti, some in [shackles](#) and many without being [told](#) where they are being taken, while the country is amid twin humanitarian and political crises following a major earthquake in August 2021 and the assassination of the president in July 2021. The head of Haiti’s national migration office has [asked](#) the Biden administration for a “humanitarian moratorium” on the forced returns, citing “ongoing security issues” and warning that “the Haitian state is not really able to receive these deportees.”
- A Haitian radio journalist who was [trapped](#) in Tijuana told Human Rights First in spring 2021 he was terrified to ask for U.S. asylum for fear that the U.S. government would expel him back to Haiti, where he had survived an assassination attempt prompted by his criticism of the Haitian government after his mother was murdered.
- A Haitian man who was expelled to Haiti by the Biden administration last week told [the Associated Press](#) he was afraid to travel to his relatives because he and his family would need to pass through a gang-controlled region where killings are frequent. He said, “I’m scared . . . I don’t have a plan.”

“Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc,” August 2021,

https://humanrightsfirst.org/wp-content/uploads/2021/10/HumanRightsTravesty_FINAL-1.pdf

- **A Cameroonian asylum seeker, who was kidnapped in Cancun, beaten, and nearly raped by her abductors, is currently stranded in Reynosa.** Because of the Biden administration’s expulsion policy, she is blocked from seeking asylum at the Hidalgo port of entry.
- **A gay Haitian asylum seeker was assaulted and extorted in Tijuana while waiting for the opportunity to request U.S. asylum.** The man became severely depressed and attempted suicide in July 2021. As of mid-August 2021, he remains in danger in Tijuana.
- **A young Afro-Honduran couple from the Garifuna community and their two-year-old daughter have received terrifying threats as they wait to seek asylum at the Laredo port of entry.** The messages use racial slurs and threaten to cut the family into pieces if their family members in the United States do not pay the cartel, which dominates the city of Nuevo Laredo where they are stranded. The family is terrified because the cartel has photos of the family and claims to know the shelter in which the family is hiding.
- **Mexican police officers attacked a group of five Jamaican LGBTQ asylum seekers in downtown Tijuana in June 2021.** They threw three of the asylum seekers to the ground and tased 16 one of them. The asylum seekers reported that the police targeted them because of their race, sexual orientation, and gender identity, according to Emem Maurus, a lawyer with the Transgender Law Center.
- **In Ciudad Acuña, Coahuila state police beat an Afro-Honduran asylum seeker, who had been expelled to Mexico by DHS, so severely that he is now blind in one eye.** He said that the officers

hit him in the head with a branch and stole all of his belongings. He did not attempt to report the incident to authorities for fear of further retaliation.

- **Reynosa police refused to help a Black Honduran mother and her seven-year-old son after the family was kidnapped and the mother severely beaten and raped in spring 2021 in Reynosa.** Instead, police taunted the mother, asking how much she would charge them for sex, according to Taylor Levy, an attorney assisting the family.
- **A pregnant Afro-Honduran woman decided to send her six-year-old son across the border alone after DHS expelled the family in April 2021.** The mother then spent months in Monterrey waiting for the opportunity to request U.S. asylum and reunite with her son. Mexican police violently raided and robbed the apartment she shared with other migrants on multiple occasions. She suffered a miscarriage due to the stress of her living conditions and her son was deeply traumatized by the separation, according to Taylor Levy, an attorney assisting the family.
- **On July 29, 2021, a 29-year-old Haitian asylum seeker died of respiratory failure after he was unable to access adequate medical care for his condition in Tijuana while waiting to request an exemption to Title 42,** according to Ginger Cline, an attorney with the migrant legal services organization Al Otro Lado.
- **An Afro-Honduran Garifuna family that had narrowly escaped a kidnapping attempt sought medical attention for their eight-year-old daughter, who has an enlarged heart, on several occasions in spring 2021 when the girl turned purple and struggled to breathe.** Multiple public hospitals turned the family away, saying that “Mexicans were more deserving of their help,” according to Taylor Levy, an attorney assisting the family.

“Update: Grave Dangers Continue for Asylum Seekers Blocked In, Expelled to Mexico by Biden Administration, June 2021,” <https://humanrightsfirst.org/wp-content/uploads/2022/10/FailuretoProtectUpdate.06.21.pdf>

- **In mid-May 2021, a Haitian man in the Tijuana encampment near the San Ysidro port of entry where many asylum seekers are awaiting the restoration of access to the U.S. asylum process was brutally attacked.** One of the attackers attempted to hit the man in the head with a large rock, according to a Honduran asylum seeker who witnessed the attack and reported it to Human Rights First.

“Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger,” April 2021, <https://humanrightsfirst.org/wp-content/uploads/2022/10/FailuretoProtect.4.20.21.pdf>

- **In February 2021, a 37-year-old asylum seeker who fled Haiti after being kidnapped, beaten, and raped because of her involvement with a political opposition group was expelled to Haiti with her husband and baby, where they are now in hiding.** As documented in a recent Haitian Bridge Alliance / UndocuBlack Network / Quixote Center report, the family was not allowed to apply for U.S. asylum or screened for refugee protection and spent nearly two weeks in U.S. immigration detention before being expelled. She told researchers that if the political group that attacked her in Haiti finds them, “they would just kill us this time around.”
- **An asylum-seeking Haitian family, including a four-year-old girl, who was expelled by DHS to Haiti in September 2020 and forced to flee again, have been trapped in Tijuana for months as the Biden administration continues to block asylum requests at ports of entry through the use of Title 42.** The mother, a teacher, had received death threats for her political views and the family fled Haiti after the disappearance of her father. When she learned she and her family would be expelled to Haiti, she recounted: “I was sick with fear ... I wanted to call my family and explain what was happening, but [CBP] didn’t let me call anyone. I was too sick to eat or comfort my child.” After the family was expelled, neighbors in Haiti warned the woman that she was being searched for and remained in danger.
- **A 33-year-old asylum seeker, who was expelled by DHS to Haiti with his wife and child in July 2020, is trapped in Baja California, Mexico, after they were forced to flee Haiti a second time.** They are now stranded in Mexico and unable to request asylum in the United States under the expulsion policy. As documented in a recent Haitian Bridge Alliance / UndocuBlack Network /

Quixote Center [report](#), the family had first fled Haiti after a violent gang fired shots at their home and were forced to flee again after expulsion, fearing for their lives.

- **A Cameroonian refugee who has been waiting in Tijuana for nearly a year for an opportunity to seek U.S. protection after being detained by Mexican immigration officials, robbed and threatened**, according to attorneys with Al Otro Lado. At times, he has gone hungry, unable to find work in Mexico where Black asylum seekers often face extreme discrimination. The man fled Cameroon after authorities detained and assaulted him, killed his baby son, and shot his wife.
- **At least 20 LGBTQ Jamaican asylum seekers are stranded in Mexico facing violence and discrimination, but they are too terrified to approach the U.S.-Mexico border to request protection for fear they will be immediately expelled to Jamaica where they would face continued persecution**, according to Emem Maurus, an attorney with the Transgender Law Center. In March 2021, a group of Jamaican LGBT asylum seekers in Tijuana were attacked while being thrown out of a restaurant; one man had his face cut with a broken bottle. In addition, an LGBT Jamaican man was assaulted in Cancun in front of his 8-year-old son. Both attacks were motivated by anti-LGBTQ and anti-Black prejudice.
- **Three African asylum seekers from Burkina Faso, Ghana, and Somalia were expelled together to Tijuana in February 2021 after spending three days in freezing CBP holding cells with little food.** The Ghanaian asylum seeker, who had fled persecution due to his sexual orientation, told a Haitian Bridge Alliance coordinator: “during those three days I thought I was going to die from hunger and cold.” The Somali asylum seeker, who had been tortured by terrorist groups in Somalia, reported that a Border Patrol agent insulted him in Arabic, calling him a terrorist and accusing him of belonging to Al-Shabab.
- **A Nigerian asylum seeker expelled by CBP to Tijuana in February 2021 without a protection screening was held for days in a cold cell that he described as “hell,”** according to a Haitian Bridge Alliance outreach coordinator who spoke with him. The man reported that the lights were kept on constantly and that he did not know whether it was day or night. He explained that other migrants detained with him, including eight asylum seekers from Haiti, had been held for more than a week.
- **In February 2021, Border Patrol agents confiscated a Haitian asylum seeker’s belongings, including clean clothes for her four-month-old [baby](#), while she was detained pending expulsion.** The officers refused to let the woman get clean clothes for her baby even when she told officers that the baby’s clothing was soiled. The woman developed an infection after Border Patrol agents did not allow her to shower for 11 days. She also reported that when her baby was sick in custody, officers told her that they “didn’t have any doctors.”
- **Many [Haitian families and adults](#) expelled to Ciudad Juárez by CBP in February 2021 reported that U.S. immigration officers subjected them to racist abuse** and failed to return documents and other belongings when they were expelled, according to Victor Andres Flores, an advocate with CLINIC. Among those [expelled](#) by CBP without their belongings was a Haitian man who fled Haiti after a political group threatened him, burned down his family home, and assassinated his sister.
- In February 2021, guards at the Karnes family detention center harassed a [Haitian](#) man detained under Title 42 because he had obtained the phone number for RAICES, a legal services non-profit providing legal representation at the facilities. Guards repeatedly interrogated him about how he received the number, since the guards had refused to provide it. On another occasion, he witnessed a guard tear up a piece of paper with RAICES’ phone number written on it that a detained woman had attempted to provide to a detained family, demanding to know whether she had shared the number.
- In February 2021, Border Patrol agents attempted to [expel](#) a Haitian asylum-seeking family represented by RAICES and denied their requests to speak with their attorney. They were forced to sign documents in English that they could not read or understand. Upon realizing they would be expelled, the father, who had been persecuted in Haiti for his religious beliefs, told researchers: “I began thinking many bad thoughts because we were about to be returned to a country that we hoped to never return to again.”
- **A Haitian woman stranded in Tijuana because of the expulsion policy was turned away from hospitals while pregnant, leading to her suffering a miscarriage in November 2020**, after which she has been unable to obtain medical care despite ongoing illness and pain. She told Human Rights

First that she spent the little money she had to bury her child. Border Patrol expelled the woman, despite her urgent need for medical care, in February 2021, when she tried to enter the United States.

- **Four Mexican police officers threatened to deport an Afro-Cuban asylum-seeking couple in Nuevo Laredo in February 2021, extorting them for 2,000 pesos (\$100 U.S. dollars).** After reporting the incident to the authorities, the couple began receiving death threats and were forced to go into hiding.
- In January 2021, a Haitian asylum seeker in Tijuana who confronted a hotel owner about money stolen from his room was threatened at gunpoint by the owner's son, a Mexican police officer.
- In late December 2020, Mexican police officers extorted a Haitian asylum seeker who had been assaulted by a mob in Tijuana. **"Instead of coming to save him, they took everything he had in his pocket,"** another asylum seeker who spoke with the victim told Human Rights First.

Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger, December 2020, <https://humanrightsfirst.org/wp-content/uploads/2022/09/HumanitarianDisgrace.pdf>

- **An Ethiopian man fleeing political persecution reported that DHS expelled him and other African asylum seekers to Mexico under the CDC order.** In September 2020, CBP officers drove the Ethiopian man and a Cameroonian asylum seeker more than 100 miles to expel them through the San Ysidro port of entry after they crossed the border near the Calexico port of entry to seek refugee protection. Two French-speaking Black asylum seekers with them were immediately expelled at the Calexico port of entry. The man reported that other African asylum seekers have also been expelled to Mexico after crossing the border near Calexico, including a pregnant Cameroonian asylum seeker, a Ghanaian asylum seeker, and a Ugandan asylum seeker twice expelled under the CDC order.
- Asylum seekers from Cameroon, Uganda, and Ethiopia – unable to seek protection in the United States due to the CDC order – who were sharing a room in a Tijuana hotel suffered terrible conditions and threats and extortion by Mexican authorities. According to an Ethiopian asylum seeker living there, **"the conditions are very horrible. We have to buy everything like bed sheets and everything that we need. They give us these rotten mattresses. There are a lot bugs and animals. But we stay here because this is one of the few places that we can rent in Tijuana."** When the African residents complained about conditions, the manager summoned INM officers, who handcuffed them, chained some together, and stole their money. In November 2020, a new owner evicted the group because he "does not like Africans." The Ethiopian asylum seeker told Human Rights First, "Now we are looking for a new place to stay, but honestly, I do not have the energy to stay here, and economically, it is not possible."
- An Afro-Cuban asylum seeker who applied for a job as a cleaner in a distribution warehouse in spring 2020 was told that Black immigrants could only work in nude bars or as sex workers.

IV. The continued use of expedited removal denies many Black refugees an opportunity to apply for asylum and puts them at risk of return to persecution

DHS and CBP continue to wield the [fundamentally flawed](#) expedited removal process against asylum seekers, including many Black asylum seekers, to deport them without access to an asylum hearing. Under the expedited removal process, border officers may order the deportation of certain individuals charged with inadmissibility without an immigration court hearing. However, asylum seekers who express an intent to seek asylum or fear of return to their country of nationality must be referred for a preliminary fear screening (credible fear interview, or CFI) by a USCIS asylum officer. USCIS is another component of DHS.

If the asylum officer conducting the interview determines that the asylum seeker has a credible fear of persecution (i.e. a "significant possibility" the individual would be eligible for asylum after a full hearing), the asylum seeker must be referred for a full adjudication of their claim. If an asylum officer determines that an asylum seeker does not have a significant possibility of establishing asylum eligibility and that determination is not reversed by an immigration judge or reconsidered by USCIS, the asylum seeker may be deported. DHS is not required to use expedited removal and has authority to refer asylum seekers for full asylum hearings rather than first requiring them to pass credible fear screenings.

Black asylum seekers have received erroneous negative credible fear determinations and been ordered deported without an opportunity to apply for asylum due to the inherent flaws in the expedited removal

process, including the failure of asylum officers to apply the correct legal [standard](#); confusing, cursory, or hostile fear interviews; barriers to access to legal representation; DHS's failure to provide correct interpretation, which disproportionately impacts asylum seekers from Africa; and dangerous conditions in detention impeding the ability of asylum seekers to participate in their interviews.

The government has recently taken steps to eliminate crucial safeguards in the expedited removal process, further exacerbating the fatal flaws of expedited removal. An [Interim Final Rule](#) that went into effect on May 31, 2022 places severe limitations on the Asylum Office's longstanding authority to reconsider erroneous negative credible fear determinations, including a seven-day deadline for submission of such requests and a restriction on submitting more than one request – rendering this safeguard virtually meaningless. Prior to these restrictions, this safeguard had [saved from deportation](#) many Black asylum seekers who were not able to request reconsideration within seven days or had to submit more than one request to obtain a correct decision. These draconian restrictions have already [barred asylum seekers](#) issued erroneous negative credible fear determinations from obtaining reconsideration. DHS and DOJ have now proposed an [asylum ban](#), which in addition to rigging the expedited removal process as described in Section I, would also entirely eliminate requests for reconsideration for asylum seekers who receive negative credible fear determinations due to the asylum ban.

“Pretense of Protection: Biden Administration and Congress Should Avoid Exacerbating Expedited Removal Deficiencies,” August 2022, <https://humanrightsfirst.org/wp-content/uploads/2023/01/PretenseofProtection-21.pdf>.

- **USCIS's failure to provide correct interpretation during CFIs has disproportionately impacted detained asylum seekers from Africa, who have frequently reported being forced to proceed in their second or third language.** For instance, a detention visitation program volunteer reported to Human Rights First that since summer 2021 she has spoken with dozens of African asylum seekers detained in Louisiana who were forced to undergo CFIs in a language (typically French) that is not their native or best language and received negative determinations as a result. **Some reported that when they stated that they were not comfortable speaking in French, they were required to proceed with the French interpreter and told, “This is what we have.”** In spring and summer 2021, asylum seekers from African countries detained at the Otay Mesa Detention Center proceeded with CFIs in English after being told that they would remain incarcerated for a long time if they did not, according to a legal service organization in California. In addition, asylum seekers have [reported](#) difficulty understanding interpreters who spoke in unfamiliar dialects, such as Brazilian Portuguese interpreters for Angolan asylum seekers and Senegalese or Mauritanian Pulaar interpreters for Guinean asylum seekers.
- Limited or nonexistent access to interpretation and translated documents in detention also prevents asylum seekers from receiving basic information in advance of CFIs about their legal rights and what the interview will entail. **A human rights activist from an African country who was detained in the Adelanto Detention Center in summer 2021 reported that legal information on CFIs was only provided in English and Spanish—even though many of the detained asylum seekers spoke only French or Haitian Kreyol.** African asylum seekers who underwent the credible fear process at the Adams County Detention Center in Mississippi reported that information about CFIs was only provided in English and Spanish—whereas many only spoke other languages such as Bissa, French, Portuguese, Lingala, Mandinka, Mahouka, and Wolof—or was not provided at all.
- **In June 2021, DHS deported a Burkinabe asylum seeker to Burkina Faso, where terrorist groups had attacked him and murdered his family members, after he was forced to undergo a CFI in French despite explaining that his best language is Bissa.** He was unrepresented at the CFI and could not fully understand the interpreter. The asylum officer determined that he did not have a credible fear of persecution or torture. The man told Human Rights First that he was in the process of consulting an attorney to challenge the decision when ICE deported him.
- **A gay Ghanaian asylum seeker who was attacked and threatened due to his sexual orientation and whose partner was murdered was deported in summer 2022 after the Arlington Asylum Office conducted the CFI with interpretation in Twi even though the asylum seeker's native language is Dangme and he does not fluently speak Twi, resulting in a negative credible fear determination.** When the asylum seeker informed the officer that Dangme is the language in which

he communicates best, the officer informed him that it would take a long time to find a Dangme interpreter. Afraid his detention would be prolonged if he rescheduled the CFI, he agreed to proceed. The asylum officer did not include information about the asylum seeker's sexual orientation or persecution on account of his sexual orientation in the interview notes even though the asylum seeker shared this information with the interpreter, indicating the extent of the communication problems during the CFI. The CFI decision and notes also reflected other factual errors, according to a request for reconsideration filed by Immigration Equality and shared with Human Rights First, which was rejected by the Asylum Office.

- **An unrepresented Guinean torture survivor received a negative fear determination in June 2021 after he was interviewed in Portuguese despite requesting an interpreter for Mandinka, his native language. He had been tortured in Guinea, resulting in the loss of two teeth and a head injury that continues to cause severe head pain.** He told Human Rights First that he had significant trouble understanding the questions the asylum officer asked. A Portuguese interpreter who assisted Human Rights First noted that it was very difficult to understand him and that his attempt to speak Portuguese is “is a mix of Spanish and Portuguese and his native language.” ICE detained him a total of nine months, including at the Winn Correctional Center, before releasing him in December.
- **An Angolan political activist and human rights defender who received a negative credible fear determination in May 2021 was forced to undergo a CFI in French, even though his best and native language is Lingala and Portuguese is the official language of Angola.** He told Human Rights First of his and other African asylum seekers' attempts to convey their story in French after being denied an interpreter in their best language: **“We didn't know how to say torture, persecution.”** Due to his opposition to the ruling party and criticism of its human rights violations, the man was threatened by Angolan security forces and his wife was raped. The man's wife and daughters fled to the United States before him to also apply for asylum. In addition to the Asylum Office's failure to provide appropriate interpretation, the asylum officer preventing him from sharing important details of his asylum claim by cutting off the man's attempt to explain that the rape of his wife was in retaliation for his political activities. He was detained for eight months, including at the Winn Correctional Center, and finally released in December.
- **A 19-year-old Ivorian asylum seeker, who received a negative fear determination after being forced to complete a CFI in French—even though his native language is Mahouka—was also denied appropriate interpretation during a farcical immigration judge review that affirmed the decision.** The young man had fled the Ivory Coast after being kidnapped and tortured by armed men sent by the government in retaliation for his family's political activism. Over the course of four months, he informed the immigration court reviewing the negative determination on 17 separate occasions that he could not proceed without a Mahouka interpreter. He reported to Human Rights First that eventually, the judge told him he would “never leave” detention, if he didn't proceed with a French interpreter and then affirmed the negative determination. ICE detained the asylum seeker at the Winn Correctional Center for nearly nine months before releasing him in December.
- **In May 2021, the Asylum Office found that a 19-year-old asylum seeker who fled honor killing in Burkina Faso did not have a credible fear of persecution after interviewing him in French rather than his native language of Bissa.** The man was threatened with death for continuing a relationship with a woman who was forced into an arranged marriage with another man. The man's fear was particularly well-founded because one of his uncles had been stoned to death in similar circumstances. At the time of the CFI, which occurred in ICE custody, the man did not have legal representation and was not interviewed in Bissa, his native and best language. His attorney at the Refugee and Immigrant Center for Education and Legal Services (RAICES) informed Human Rights First that in the course of representing the asylum seeker, he was told by multiple interpreters that the man did not communicate well in French. Nonetheless, multiple requests for reconsideration filed by RAICES were denied by USCIS.
- **Around May 2022, an Angolan asylum seeker who underwent a CFI with a Portuguese interpreter who did not speak the same dialect, received a negative credible fear decision in which the asylum officer's notes do not reflect the fact that he had been tortured by Angolan government agents.** Though the man had significant difficulty understanding the interpreter, he did not inform the asylum officer of the interpretation issues because he had already requested

Portuguese translation and feared it would negatively impact his case or credibility, according to a legal service provider who spoke with him. His attorney told Human Rights First that when she communicated with the asylum seeker through a Portuguese interpreter, the interpreter reported that the asylum seeker had difficulty communicating and, for example, did not understand the meaning of the word “harm.”

- **The Asylum Office issued a negative credible fear determination for a bisexual Jamaican asylum seeker who had been beaten, stabbed, threatened with death, and had shots fired at his restaurant in Jamaica because of his sexual orientation.** The Asylum Office found that the asylum seeker had not established that the Jamaican government would be unable or unwilling to protect him, an absurd claim given that the U.S. State Department’s 2020 human rights report on Jamaica [noted](#) that “the law criminalizes consensual same-sex sexual conduct between men, with penalties of up to 10 years in prison with hard labor” and that according to the Inter-American Commission on Human Rights Jamaica’s “law legitimizes violence towards LGBTI persons.” The asylum officer erroneously applied a heightened standard, stating that the asylum seeker “failed to provide sufficient evidence that the authorities were unable or unwilling to protect him or that they would be unable or unwilling to protect him in the future”—indicating that the officer had wrongly required him to establish full eligibility for asylum in the preliminary screening. In January 2022, an immigration judge reversed the initial negative fear determination at an immigration court review where he was represented by Human Rights First.
- **In September 2021, ICE deported a Somali asylum seeker who had been tortured by a terrorist group due to his work as a government contractor and received a negative credible fear determination because the Somali interpreter was not competent to translate between English and Somali.** The man, who speaks English but requested a Somali interpreter because English is not his native language, reported to Human Rights First that the interpreter did not correctly translate his statements. For instance, when he stated that he was “tortured,” the interpreter translated it as “they caused me problems.” During a review of the negative fear determination, he tried to explain to the immigration judge why the determination was erroneous, but the judge accused him of contradicting himself and cut him off, stating that he only had 15 minutes for each review.
- **A Haitian asylum seeker received a negative credible fear determination in July 2021 after undergoing a CFI where he was instructed to respond only to the questions asked, preventing the man from sharing that he had been persecuted because of his sexual orientation.** The man was threatened at gunpoint for being gay and suspects that gang members murdered his friend because they misidentified him as his boyfriend. But during the telephonic interview with the San Francisco Asylum Office, the asylum officer failed to ask any questions about the man’s sexual orientation and because of restrictions on providing additional information he was afraid to affirmatively bring up the persecution he had suffered on account of his sexuality. The immigration judge reviewing the case refused to consider the asylum seeker’s testimony at the review about his sexual orientation, deciding that it was not credible because he had not mentioned it during the CFI, according to the Northwest Immigrant Rights Project.
- **In May 2021, an unrepresented Haitian asylum seeker fleeing political persecution was wrongly found not to have a credible fear of persecution after a flawed interview in which his repeated attempts to explain that he could not hear or understand the telephonic interpreter were ignored.** The man had fled death threats he received for his work campaigning to elect an opposition political candidate. He told Human Rights First that during the telephonic fear screening interview at the Adams County Detention Center, he tried to explain that he could not properly hear or understand the interpreter, but the interpreter ignored and frequently interrupted him, preventing him from responding fully to the questions. The immigration judge reviewing the negative fear determination failed to ask any questions before affirming the decision and did not allow the asylum seeker to speak at the review.
- **A gay Afro-Brazilian asylum seeker who was repeatedly raped and brutally beaten for his sexual orientation—and whose partner went missing—received a negative credible fear determination in June 2021 after the asylum officer repeatedly interrupted him when he was attempting to share the severe persecution he had experienced.** The asylum seeker reported to the Southeast Immigrant Freedom Initiative that the officer cut him off when he was describing his

persecution and told him those details were not relevant. The asylum officer issued a negative credible fear determination after wrongly concluding that the asylum seeker “was never physically harmed,” according to the CFI decision and notes reviewed by Human Rights First. The immigration court overturned the negative fear determination in September 2021.

- **A Haitian asylum seeker was too afraid and ashamed to reveal during a telephonic CFI in September 2021 that she had been raped by police officers in Haiti, resulting in a negative determination.** While detained at the T. Don Hutto Residential Center she managed to secure legal assistance from the University of Texas School of Law Immigration Clinic. At a credible fear review hearing she was able to explain why she had fled Haiti, and the immigration judge vacated the negative credible fear determination in October 2021.
- **A Senegalese asylum seeker who fled Senegal after being attacked for his sexuality and was afraid to tell the asylum officer conducting the CFI that he is gay received a negative credible fear determination in August 2021.** He told Human Rights First that he was also intimidated when the interpreter told him to respond only with a “yes” or “no” when asked questions and instructed him to not offer any information that was not asked of him. The immigration judge who affirmed the negative determination prohibited him from speaking during the review. After he finally secured counsel, the Asylum Office denied his multiple requests to reconsider the erroneous negative fear determination.
- **In May 2021, DHS forced an unrepresented Angolan asylum seeker to proceed with a CFI at the Adams County Detention Center even though he had a severe headache and difficulty breathing due to COVID-19.** The man had fled Angola after he was beaten unconscious for refusing to join a political party. After interviewing him despite his illness and with a French interpreter, rather than his native language Kikongo, the asylum officer determined he did not have a credible fear of persecution. When Human Rights First interviewed him at Winn in December 2021, after seven additional months of detention, he said: **“I don’t know why I am in this situation . . . this is supposed to be a country of laws . . . they should abide by these laws.”**
- **In spring 2021, the Houston Asylum Office went forward with a CFI for a gay Angolan activist even though he expressed that he was suffering symptoms of COVID-19, pain from a recent physical assault, and psychological distress from conditions of detention, resulting in a negative credible fear finding.** The man told the asylum officer that he was experiencing anxiety and felt claustrophobic in the “tight space” where the telephonic interview was being conducted. The asylum officer proceeded with the CFI during which the man did not disclose that he is gay because he was afraid that the officer would inform others at the detention center of his sexuality. He feared that such disclosure would further endanger his life since in detention he had been threatened and harassed by people who called him homophobic slurs, according to his attorney at the Southeast Immigrant Freedom Initiative.
- **In the summer and fall of 2021, the Asylum Office wrongly denied multiple requests for reconsideration for a Burkinabe torture survivor after failing to provide interpretation in his best and native language of Bissa during the CFI, but eventually recognized its error and reversed the negative credible fear determination.** The asylum seeker, who had been brutally tortured by Islamist terrorists for his opposition to their takeover of the region and forced closure of the schools, was forced to proceed with the CFI in French despite expressly stating that he required a Bissa interpreter, resulting in errors in the credible fear determination that were identified in the request for reconsideration filed by his attorney at the Southeast Immigrant Freedom Initiative. After the Houston Asylum Office issued multiple denials, the asylum seeker was released from detention and the Chicago Asylum Office, which had jurisdiction over the case after he relocated, reversed the error and permitted the asylum seeker to apply for asylum.
- Government [data](#) obtained by Human Rights First confirms that following the Trump administration’s weaponization of expedited removal through a series of illegal [policies](#), [regulations](#), and [rulings](#), positive credible fear determination rates plummeted for asylum seekers from countries from which many refugees are fleeing. **These include asylum seekers from Haiti and Central America who have continued to receive positive credible fear determinations at extremely low rates under the Biden administration despite high levels of persecution and violence in these countries.** In addition, following these Trump administration policies, asylum officers also

increasingly found that asylum seekers were not “credible” (i.e. they found that asylum seekers’ claims were not believable). These policies disparately impacted many of the Black, Brown and Indigenous asylum seekers from countries targeted by the Trump administration.

- **Positive credible fear rates fell by 37.3 percent for asylum seekers fleeing the Democratic Republic of the Congo between FY 2016 and FY 2020.** The U.S. State Department’s 2021 human rights [report](#) on the Democratic Republic of the Congo noted that government security forces and illegal armed groups continued to commit “unlawful or arbitrary killings, including extrajudicial killings; forced disappearances; torture and cases of cruel, inhuman, or degrading treatment or punishment,” and that armed groups “recruited, abducted, and retained child soldiers and subjected children and adults to forced labor.” Indigenous people faced extreme [violence](#), including being kidnapped, raped, and forced into slavery.
- **The percentage of positive credible fear determinations for Haitian asylum seekers subjected to expedited removal dropped dramatically, despite escalating human rights abuses in Haiti. The drop in positive credible fear rates occurred in the wake of Trump administration policies to block and deport Haitian asylum seekers and immigrants and racist rhetoric targeting people from Haiti, including attempting to [terminate](#) TPS for Haiti and barring Haitians from obtaining certain work visas after referring to Haiti as a “[shithole](#)” country, asking “[why do we need more Haitians?](#)” and citing without a basis “[high levels of fraud and abuse](#)” by Haitian migrants.** Between mid-January and May 2021, during the first months of the Biden administration, **positive credible fear determination rates for Haitian asylum seekers had fallen to 36.5 percent, nearly half the average 70 percent positive rate for all other asylum seekers in that same period**, according to the USCIS [data](#) received by Human Rights First. As the chart below shows, positive credible fear determination rates for Haitian asylum seekers were significantly below the average for all asylum seekers in every fiscal year since FY 2016.
- Following attempts by the Trump administration to alter the credible fear standard including by [heightening](#) credibility requirements through changes to the USCIS credible fear lesson plan in 2017 and 2019, DHS officers increasingly issued negative credible fear determinations based on a supposed lack of credibility (i.e. finding asylum seekers’ claims were not believable). When conducting credible fear interviews, asylum officers determine whether the asylum seeker’s account could be found “credible,” a subjective assessment vulnerable to racial and other biases. The rise in negative credibility findings also occurred after years of rhetoric from President Trump and other administration officials, including those leading USCIS, falsely painting the asylum system as “[subject to rampant abuse and fraud](#),” calling credible fear claims “[frivolous](#),” implying that asylum seekers are coached to pass asylum screening interviews with a “[legal phrase they are told to say as their password](#)” and by “[read\[ing\] a little page given by lawyers that are all over the place — you know lawyers, they tell them what to say](#),” in addition to [racist and dehumanizing](#) comments about immigrants from Africa, the Caribbean, and Central America.
 - The USCIS [data](#) obtained by Human Rights First shows that between FY 2016 and FY 2020, negative credibility findings in credible fear determinations rose by a staggering 1,450 percent (from 0.4 to 6.2 percent). **As discussed below, this increase in negative credibility findings in CFIs during the Trump administration fell disproportionately on non-European asylum seekers.** These findings add to significant concerns raised by the Black Alliance for Just Immigration and other groups about the impact of [racial and other bias](#) on credibility determinations by asylum adjudicators and to a host of studies [documenting](#) the [significant impact](#) of implicit racial, language, and gender-stereotype biases on immigration court credibility assessments.
 - Compared to FY 2016, **negative credibility findings in FY 2020 rose most steeply in percentage terms for asylum seekers from the Caribbean (from 0.4 to 4.6 percent), Central and South America (from 0.2 to 3.2 percent), the Middle East / North Africa (from 0 to 4 percent), and Sub-Saharan Africa (from 0.8 to 8.5 percent).**

V. The Migrant Protection Protocols / “Remain in Mexico” policy forced many asylum seekers of African descent to wait in danger in Mexico, subjecting them to anti-Black violence

In August 2022, the Biden administration [announced](#) that it would end Remain in Mexico (RMX) following the [lifting](#) of a court injunction that had blocked the policy’s termination. Under the policy, DHS and CBP had forced asylum seekers, including asylum seekers of African descent, to wait for U.S. immigration court hearings in Mexico in the dangerous border region. As a result, returned asylum seekers were kidnapped, raped, and attacked, with over [1,300](#) reported attacks against people enrolled in RMX under the Trump administration.

The Biden administration attempted to [terminate](#) Remain in Mexico in 2021 but was ordered to reimplement the policy pending litigation challenging the termination. In the wake of the litigation, DHS issued another [memorandum](#) in October 2021 re-terminating RMX. After the Supreme Court [lifted](#) the injunction that had blocked the policy’s termination, DHS [stopped](#) placing new individuals in RMX and transited some people into the United States to pursue their cases in safety. However, state politicians aligned with the former Trump administration continue attempting to prevent the end of RMX, resulting in a federal court [decision](#) in December 2022 that paused the October 2021 termination memo.

Implementation of RMX subjected Black asylum seekers to horrific harms, forcing them to remain in Mexico where they faced widespread anti-Black violence and discrimination.

“Fatally Flawed: ‘Remain in Mexico’ Policy Should Never Be Revived,” September 2022,
<https://humanrightsfirst.org/wp-content/uploads/2022/10/FatallyFlawed.pdf>

- **Armed municipal police officers demanded weekly protection money from an Afro-Cuban woman who was returned to Mexico under RMX 2.0.** In an April 2022 interview reviewed by Human Rights First the woman said that the officers threatened that she would not be safe if she did not pay the officers 500 pesos (\$25 USD) a week for their “protection.” The interviewer noted that as a Black woman with a distinct Cuban accent, the woman “sticks out and is easily targeted as a vulnerable migrant” in Mexico.
- **Black and Indigenous asylum seekers reported to pro bono legal staff interviewing individuals initially enrolled in RMX 2.0 that they had been targeted for brutal attacks in Mexico, including by Mexican police and other authorities, because of their race and/or Indigenous identity.** They include:
 - **In May 2022, two armed men robbed and stabbed an Afro-Colombian man at a hostel in Ciudad Juárez.** The man’s brother, who witnessed the attack, managed to flee the hostel. At the time of his interview with pro bono legal staff days later, he was unaware of his brother’s whereabouts or condition.
 - **An Afro-Indigenous woman from Nicaragua was kidnapped in Monterrey and repeatedly robbed by Mexican officials.** She reported in an April 2022 interview with pro bono legal staff that she had been targeted in Mexico because of her physical appearance.
 - **Mexican authorities repeatedly hit an Afro-Cuban man after pulling him off a bus just outside of Ciudad Juárez,** injuring his hands, as he tried to protect himself. The man told pro bono legal staff in January 2022 that the officials repeatedly referenced his race while questioning him.
 - **Mexican police forced an Afro-Nicaraguan woman and her younger sister from a bus, robbed them, took them to an abandoned warehouse, forced them to undress, took pictures of them while naked, and molested them, while using anti-Black racial slurs.** The woman reported the attack in an interview with pro bono legal staff in July 2022.
 - **An Afro-Cuban woman was sexually assaulted and robbed by Mexican police officers.** She reported to pro bono legal staff in June 2022 that she was targeted because of her race and nationality.
 - **An Afro-Venezuelan man was repeatedly assaulted and robbed by Mexican officials because of his race and nationality.** Migration officials, who detained him for five days, kicked and assaulted him, dislocating his arm. He reported to pro bono legal staff in July

2022 that the officers who attacked him **referred to him as “Black” and a “damn Venezuelan.”** Mexican police also assaulted and robbed the man.

- **An Afro-Nicaraguan man reported that Mexican police targeted and extorted him and other Black migrants.** He told pro bono legal staff in March 2022 that during these incidents police officers had ordered **“all black guys”** to exit the buses he had been riding.
- **An LGBTQ Afro-Cuban man was kidnapped with three other Black migrants, while other non-Black migrants were not abducted.** The man told pro bono legal staff in April 2022 that individuals who were dressed like Mexican police officers also assaulted and robbed him.
- **An Afro-Cuban man was assaulted, kidnapped, and extorted by armed cartel members who targeted him because of his race and nationality.** According to notes from a June 2022 interview, the assailants called him a **“damn immigrant”** and referred to him as **“you black people.”**

“Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger,” December 2020, <https://humanrightsfirst.org/wp-content/uploads/2022/09/HumanitarianDisgrace.pdf>

- In June 2020, a removal order issued against an Afro-Honduran family in MPP who were kidnapped on the way to their MPP hearing, and held hostage for months, was rescinded by the Laredo MPP court. **The family – a teenage boy and his mother who belong to the Garifuna minority community – were abducted at the Nuevo Laredo bus station in December 2019 on the way to attend their MPP hearing at the Laredo tent facility.** A non-profit attorney, who assisted the family to reopen their case, reported that the child is severely traumatized from their ordeal in Mexico, where the family has also faced chronic homelessness and repeated instances of labor exploitation, as they attempt to survive while waiting for their U.S. immigration court hearings.
- **In May 2020, an Afro-Cuban asylum-seeking couple were kidnapped immediately after CBP returned them to Nuevo Laredo under MPP and held by armed men in a room covered in blood where migrants with missing body parts moaned on the floor.** After four terrifying days the couple managed to escape but are terrified that they will be required to return to Nuevo Laredo to attend their U.S. immigration court MPP hearings.
- **An Afro-Cuban asylum seeker and her teenage son did not pass a fear screening interview and were returned to Mexico under MPP despite having been [kidnapped](#) and held hostage in Reynosa.** In July 2020, one of the kidnappers discovered the woman, assaulted and robbed her. She told Human Rights First, **“we have to hide all the time. We are terrified they will find us. We cannot live in peace. We are in constant fear.”**
- **An Afro-Honduran woman from the Garifuna ethnic group and her daughter have been left traumatized and suffering from depression after enduring discrimination and violence in Tijuana while indefinitely stranded in Mexico under MPP.** People in the street have shouted at them “to go back to where they came from” and a resident at the shelter where they were staying tried to attack her daughter. A June 2020 gun fight in front of the shelter left two people dead, further traumatizing the family who have had difficulty sleeping since the incident, according to attorneys at IDLC.
- **An Afro-Cuban teacher and her 16-year-old son, who were returned to Mexico by CBP under MPP in September 2019 are traumatized and terrified to leave the abandoned house where they have been living in Reynosa.** The family was kidnapped and attacked in Mexico. The woman told Human Rights First, **“we have no hope, and we are living with so much fear. We cannot see any light. Being in MPP is slowly killing us. We are hungry and cold, and we have suffered so much harassment because we are Black. Only my faith and my child give me the strength to wake up each day and continue.”**

“Delivered to Danger: Illegal Remain in Mexico Policy Imperils Asylum Seekers’ Lives and Denies Due Process,” August 2019, <https://humanrightsfirst.org/wp-content/uploads/2022/10/Delivered-to-Danger-August-2019-.pdf>

- **A Honduran woman who DHS returned to Ciudad Juárez was [reportedly](#) kidnapped in June by a group of men in federal police uniforms and repeatedly sexually assaulted.** According to her attorney, Linda Rivas of Las Americas Immigrant Advocacy Center in El Paso, the woman is part of the Afro-Caribbean Garifuna minority and was vulnerable to targeting in Mexico because of her race, gender and nationality... According to her attorney, the woman informed CBP officers when they placed her in MPP that, as a black woman from the Afro-Caribbean Garifuna minority, she was afraid to be sent to Mexico. She explained to the officers that she “had a target on her back” because of her race, but they ignored her fears and failed to refer her case for screening.

VI. The use of “metering” to reduce the processing of asylum seekers at U.S. ports of entry forced Black asylum seekers to wait in border regions of Mexico at risk of violence and *refoulement*

“Metering” — the U.S. government’s policy of intentionally reducing the number of asylum seekers processed at ports of entry — has left asylum seekers stranded in Mexico, often forcing them to wait for months in danger to request asylum. In 2018, the Trump administration [expanded](#) “metering” along the entire southern U.S. border resulting in tens of thousands of asylum seekers, including Black refugees, left stranded in danger and at risk of *refoulement* to persecution. In 2021, a federal judge found “metering” to be [illegal](#), and the Biden administration later [rescinded](#) the Trump-era “metering” directives.

The administration is currently relying on the CBP One app as the primary method to seek exemptions from Title 42 and through its proposed asylum ban intends to codify the use of CBP One as the primary method to seek asylum, raising concerns that the system will continue to be used for illegal metering. Requiring asylum seekers to use CBP One has essentially turned asylum access into a lottery — [forcing](#) asylum seekers to wait indefinitely in danger while their access to asylum processing depends on luck, technology skills, or resources to secure an appointment.

“Refugee Blockade: The Trump Administration’s Obstruction of Asylum Claims at the Border,” December 2018, https://humanrightsfirst.org/wp-content/uploads/2022/10/December_Border_Report.pdf

- Orchestrated processing restrictions at U.S. ports of entry are stranding growing numbers of asylum seekers in danger in Mexico for months. In November and December 2018, Human Rights First interviewed asylum seekers marooned in Mexico who faced dangers of kidnapping, trafficking, and violence. They included Honduran asylum seekers attacked by men who threw stones at them, **a Cameroonian asylum seeker stabbed and robbed**, a transgender Mexican woman robbed and threatened with sexual assault, and a family pursued by a gang from their home country, Honduras.

“Crossing the Line: U.S. Border Agents Illegally Reject Asylum Seekers,” May 2017, <https://humanrightsfirst.org/wp-content/uploads/2022/10/hrf-crossing-the-line-report.pdf>

- **The Tijuana appointment system was initially developed by U.S. and Mexican officials as an ad hoc response to the arrival of large numbers of Haitians at three ports of entry in the San Diego border sector during the summer of 2016.** The plan tasked Grupos Beta, the humanitarian branch of the Mexican immigration enforcement agency (INM), with providing these “appointments” for migrants and asylum seekers who did not have entry documents, to present themselves to CBP at a later day and time.

VII. The one-year asylum filing deadline impacts many Black asylum seekers who are unaware of or unable to meet the deadline

U.S. law bans asylum for any individual who did not apply for protection within one year of arriving in the United States, with very limited exceptions. The ban is implemented by DHS, its component agency USCIS, and DOJ.

The ban returns refugees to persecution and torture in violation of U.S. law and treaty obligations, leaves refugees in permanent limbo with inadequate forms of humanitarian protection, indefinitely separates families, and undermines integration. The United Nations High Commissioner for Refugees (UNHCR) has [confirmed](#) that denial of legitimate asylum claims based solely on failure to file before a deadline violates international law. Black asylum seekers who fail to meet the deadline — thus rendering them potentially ineligible for asylum — include those who struggle with severe trauma from the persecution they faced in their home country, lack community support in the United States, applied for asylum within one year but were erroneously denied under the ban, or did not know about the U.S. asylum process.

“Draconian Deadline: Asylum Filing Ban Denies Protection, Separates Families,” September 2021, <https://humanrightsfirst.org/wp-content/uploads/2022/09/DraconianDeadlineFINAL.pdf>.

- **An immigration judge denied protection due to the filing ban to a [Senegalese woman](#) who had fled her country after refusing to undergo female genital cutting (FGC) and a forced marriage.** She applied for asylum after learning that her sister was forced to undergo FGC. The immigration judge erroneously concluded that this event did not qualify as a “changed circumstance” exception to the filing deadline and denied all protection despite finding that she faced a “reasonable possibility” of persecution if returned to Senegal.
- **A [Tanzanian woman](#) who was detained by the Tanzanian government and raped, burned, beaten, and starved for refusing to marry a local policeman and undergo female genital cutting was permanently separated from her children in Tanzania due to the filing deadline ban.** She was denied asylum because she filed for asylum 18 months after her arrival in the United States. She was granted protection under CAT, but without asylum status she is unable to petition for her family.
- **An immigration judge denied asylum on the basis of the filing deadline ban to a [Kenyan refugee](#) from the Kikuyu tribe who had been raped, imprisoned, and tortured.** The woman, who was granted the deficient protection of withholding of removal, had been raped for refusing to undergo female genital cutting and tortured for helping another woman escape a forced marriage.
- **An immigration judge denied asylum to a [Congolese human rights advocate and nurse](#) who was tortured and raped by the Congolese government because of her human rights advocacy and Catholic faith.** Even though she applied within a year of arriving in the United States, the immigration judge found that she was ineligible under the filing ban because she could not prove the exact date that she entered the country.
- **An [Eritrean refugee](#) who fled after being tortured for her Christian beliefs and forcibly conscripted into military service was denied asylum due to the filing deadline ban despite applying for asylum four months after entering the United States.** The immigration judge determined that she was nonetheless barred by the filing deadline ban because she did not have a passport with a date of entry.
- **An immigration judge denied asylum to an [Ethiopian refugee](#) who fled female genital cutting and other persecution and applied for asylum within six months of entry,** finding that the woman did not establish by clear and convincing evidence that she had applied within a year.
- **An immigration judge denied asylum to a [Guinean man](#) because of the filing deadline even though the man applied shortly after he learned that the Guinean military searched his former home, his children went missing, and two of his friends were imprisoned.** He had fled Guinea after being imprisoned and tortured by military police officers and blacklisted for being a

suspected dissident. The judge determined that his missing children and the military's continued pursuit of him were not a change of circumstances under the exceptions to the filing ban.

- **A [woman from Mali](#) who was subjected to female genital cutting at the age of 12 and forced to marry an abusive man was denied asylum due to the filing deadline ban despite having applied shortly after her abusive ex-partner threatened to return her baby to Mali to undergo female genital cutting.** Unaware of the protections for people fleeing their home countries, the woman had not applied for asylum within one year of arriving in the United States. The immigration judge held that she did not qualify for the "change circumstances" exception.
- **A U.S. Court of Appeals upheld an asylum denial to a 63-year-old [Ethiopian woman](#) under the filing deadline ban even though she had filed for asylum after her husband's terrifying disappearance in Ethiopia, which should have qualified as a change in circumstances.** She had fled Ethiopia after being detained and persecuted by the government because of her involvement in a local women's group and her husband's work as a political dissident. The immigration judge found that she was ineligible for asylum because her husband's disappearance was not a change in circumstances. In upholding the denial, the Eighth Circuit dismissed her husband's disappearance as "just another incident in a pattern of events that had already caused her to fear persecution."
- **A [Kenyan woman](#) was barred from asylum under the filing deadline ban even though she presented evidence that she had been unable to timely file because of Post-Traumatic Stress Disorder she suffers as a result of severe persecution.** The woman had been forced to marry against her will, raped for failing to conceive, attempted suicide after her husband and tribal elders tried to subject her to female genital cutting, and beaten and raped again after she recovered. The immigration judge unfairly determined that the woman did not qualify for the extraordinary circumstances exception to the filing deadline ban, despite her diagnosis of Post-Traumatic Stress Disorder (PTSD), because she had managed to find work to survive while homeless and isolated in the United States – describing her as having "entrepreneurial skills."
- **During his first year in the United States, an unrepresented man from the Central African Republic who fled religious persecution was unable to timely file an asylum application because he was suffering further trauma while living in a homeless shelter and coping with isolation from his family.** The man suffered daily flashbacks and nightmares about the severe beating and hand grenade attack he had survived in his country of origin and worried constantly about his wife and children, whom he had been forced to leave in danger. He struggled to sleep in the shelter because his roommates often fought violently, one of whom overdosed on drugs and died in their room. The man is currently represented by Human Rights First.