



Report on 20th anniversary of the Durban Declaration and Programme of Action: Response to call for input issued by the UN’s Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

August 16, 2021

I. Executive Summary

1. The Haitian Bridge Alliance submits this report with the support of the Institute for Justice & Democracy in Haiti and the Bertha Justice Fellowship Program. The report focuses on the series of human rights abuses experienced by Haitian migrants and other Black¹ migrants in the Americas, which illustrate these States’ failure to implement portions of the Durban Declaration and Programme of Action (DDPA) that pertain to the protection of migrants.²

2. Since the catastrophic earthquake in 2010, Haitian migrants have attempted to migrate through or find safety in the Americas, often on their way to the United States, in what has become a new migration path for Black migrants from Caribbean and African states fleeing violence and insecurity.³ The journey that migrants make from South America to the United States traverses thousands of miles across 7 to 11 countries. Migrants uniformly report violence, murder, sexual assault and theft against them perpetrated by gangs and state law enforcement, as well as loss of life due to drowning, injuries and other health problems during the journey. In addition to these threats to the right to life and security, Black migrants repeatedly face anti-Black racism and nationalist xenophobia at the hands of state law enforcement and immigration officials, as well as other ongoing human rights violations such as prolonged detention, lack access to legal processes, and intersecting violations against the rights of Black migrant women such as gender-based violence and lack of access to medical care.

3. This report focuses on the human rights abuses faced by Haitian and other Black migrants along the journey, including in Brazil, Chile, Panama, Mexico, and the United States. The abuses illustrated herein demonstrate the human consequences of states’ failure to adopt or fully implement the international human rights regime based in equitable treatment of migrants and refugees, as called for in the DDPA.⁴ States have not confronted the “root causes of displacement”⁵ to provide for the right of refugees to return “voluntarily to their homes and properties in dignity and safety.”⁶ Rather, States have accelerated racist and xenophobic policies towards migrants and refugees using illegal and discriminatory applications of a ‘right to exclude’ concept of State sovereignty,⁷ applications the DDPA expressly rejects.⁸

4. The authors propose recommendations to better implement the DDPA, including full adoption and implementation of the relevant human rights conventions and concerted State efforts to address root causes of displacement, to treat migrants with dignity and humanity, and to respect the principle of *non-refoulement*, which has acquired the status of *jus cogens*.⁹ The importance of full implementation of the DDPA in the Americas to protect Black migrants cannot be overstated. In the aftermath of the 7.2 earthquake that hit Haiti on August 14, 2021, on top of political instability and violence leading to and in the aftermath of Haitian President Jovenel Moïse’s



assassination, it is likely that thousands of Haitians will have no choice but to flee for safety and security, and embark on the dangerous journey through the Americas.

II. General Observations

5. In 2001, the DDPA warned that “racism is gaining ground” and that “contemporary forms and manifestations of racism and xenophobia are striving to regain political, moral, and even legal recognition, including through the platforms of some political parties and organizations and the dissemination through communication technologies of ideas based on the notion of racial superiority.”¹⁰ It named “xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers” as “one of the main sources of contemporary racism.”¹¹

6. The DDPA provides States with a clear plan for a global response based in human rights and the rule of law to ensure States were free of racism, racial discrimination, xenophobia and related intolerance against migrants and refugees.¹² The convention calls on States to adopt and fully implement the relevant international treaties and covenants, which include the following:

1. 1951 Convention relating to the Status of Refugees, and its 1967 Protocol (“Refugee Convention”);¹³
2. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 (“Migrant Worker Convention”);¹⁴
3. The International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”);¹⁵
4. International Covenant on Economic, Social, Cultural Rights (“CESCR”);¹⁶
5. International Covenant on Civil and Political Rights (“ICCPR”);¹⁷
6. Convention on the Elimination of All Forms of Discrimination against Women of 1979 and its Optional Protocol of 1999 (“CEDAW”);¹⁸

7. As explained in Section III below, most States in the Americas have not fully adopted the relevant human rights instruments, and the States that have ratified these instruments have remained noncompliant as reported by the treaties’ oversight committees. This dynamic of either non-adoption or non-compliance with the relevant treaties endangers Haitian and other Black migrants, refugees, and asylum-seekers no matter what State they find themselves in.

8. All States must be accountable for their non-compliance. However, the geo-political role of the United States, with its current and historical colonial and neocolonial imperialism, must also be understood in evaluating the non-compliance with treaties protecting migrants throughout the region. Indeed, the United States models, and even at times drives non-compliance in the Americas regarding these protections, as it has neither signed nor ratified the Convention on Refugees. It is one of only three States that has ratified the 1967 Optional Protocol only.¹⁹ It has not ratified the Migrant Worker Convention, CESCR, or CEDAW, and it only acceded to other conventions with



reservations that have kept it out of compliance.²⁰ The CERD and ICCPR committees repeatedly concluded U.S. treatment of migrants, including excessive use of force by law enforcement, racial profiling, prolonged detention of migrants, and the mandatory nature of deportations to be out of compliance.²¹

9. U.S. racist and xenophobic policies towards Haitians and other Black migrants have endorsed a conception of State sovereignty that rejects the human rights of Black migrants in search of protection, and promotes a politics of xenophobia and illegal State exercise of the ‘right to exclude.’²² The DDPA mandates that States’ use of the right to exclude does not negate its duties to migrants, refugees, and asylum seekers under international law nor does it negate the human rights of migrant peoples searching for refuge.²³ The DDPA also reaffirms “the responsibility of States to protect the human rights of migrants under their jurisdiction,” and “to safeguard and protect migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation by individuals or groups.”²⁴ However, because of States’ ongoing non-compliance with the treaties named in the DDPA, States have not followed the DDPA’s guidance and rather have accelerated their violations.

10. The DDPA also calls on States to address the “root causes of displacement,” and it states that transitional justice processes for slavery and the slave trade and for colonialism and neocolonial imperialism are necessary to solve persistent violation of migrants rights and the rights of Black people.²⁵ Migration by Haitian people in the Americas is largely the result of underdevelopment of the Haitian State due to the ongoing effects of colonialism and neocolonial imperialism.²⁶ A powerful State actor with a former imperial or colonial relationship, such as the United States to Haiti (the U.S. militarily occupied Haiti from 1915-1934),²⁷ uses its “exceedingly more robust sovereignty” to enact “legal, political, and economic relations and institutions whose logic structurally perpetuates neocolonial advantage.”²⁸ As the only State in the Americas with a permanent seat on the UN Security Council, the United States has used its socioeconomic and political dominance to create an Americas where, for many States in the South such as Haiti, “formal political independence” is paired with “structural political and economic subordination.”²⁹ The United States further has a history of using its geopolitical power to frustrate the advancement of human rights for people of African descent.³⁰

11. This structural undermining of Haiti’s right to self-determination and its right to development is exemplary as one of the “root causes of displacement,”³¹ and the DDPA affirms States must address through reparatory and transitional justice processes.³² Recently, the UN’s High Commissioner for Human Rights pointed to the lack of transitional justice processes leading to the perpetuation of racism and has called on States to implement reparatory processes, writing:

In the Durban Declaration and Programme of Action, the link between the past, the present and the future was established and it was recognized that people of African descent continue to be victims of the consequences of slavery, the slave trade and colonialism. Nonetheless, States have not yet adopted comprehensive measures of redress or reconciliation, nor measures to sufficiently acknowledge, address and mitigate the contemporary legacies of the past and their ongoing manifestations.³³



Rather than repair, States in the Americas have kept the structural conditions for the displacement of Haitian and other Black migrants while continuing to practice migration policies outside the rule of law—with COVID-19 bringing new unlawful State justifications for expelling migrants while also disproportionately affecting and marginalizing Black people across the Americas.³⁴

12. In addition to modeling non-compliance and contributing to ‘root causes’ of migration, the United States promotes abdication of human rights obligations by enacting policies that pressure States in the Americas to stop migration to the North (towards the United States), including through increased militarization, criminalization and deportation – which violate migrants’ rights to be safeguarded from racial discrimination, illegal and violent acts, and *non-refoulement*. In May 2019, U.S. President Donald Trump threatened (by tweet) to impose tariffs on imported Mexican goods until undocumented migrants stopped entering the United States through Mexico.³⁵ A week later, the U.S. and Mexican governments issued a joint declaration on migration “to take unprecedented steps to curb irregular migration,” including sending the National Guard to Mexico’s borders.³⁶ The Mexican government’s determination of which migrants to detain, when to release them, or whether to deport them was arbitrary and based on politics, not human rights.

13. In April 2021, the Biden Administration reached agreements with the governments of Mexico, Guatemala and Honduras to expand immigration enforcement, under which Mexico will maintain a deployment of 10,000 troops, Guatemala will deploy 1,500 troops to its southern border and set up 12 checkpoints along the migratory route through the country, and Honduras deployed 7,000 police and military to its border “to disperse a large contingent of migrants.”³⁷ Rather than threatening trade tariffs, the Biden Administration is leveraging COVID-19 vaccinations in exchange for controlling migration.³⁸

14. As the DDPA warned was possible in 2001, racism and xenophobia have since regained ‘political, moral, and legal recognition’ while political parties have driven States to reject the lawful and equitable treatment of migrants and refugees. This rise in nationalist, xenophobic State conduct, based in an illegal ‘right to exclude’ conception of sovereignty, have taken strong hold since 2015 not only in the United States but across the Americas, with ongoing human rights violations being perpetuated on Haitian and other Black migrants searching for refuge.

III. Country-Specific Observations through the lens of Haitian and other Black Migrants

1. Brazil

15. Approximately 130,000 Haitian nationals migrated to Brazil between 2010 to 2018.³⁹ Brazil’s refugee agency denied refugee status to many Haitians arriving in 2010 and 2011 because it did not recognize natural disasters as a basis for granting asylum, an example of a pernicious use of the ‘right to exclude’.⁴⁰ Though Haitian migrants and other Black migrants were able to find some legal status in Brazil, the 2014-5 economic recession in Brazil led to a rise in racism and xenophobia towards Haitian and other Black migrants, and legal avenues to residency and the enjoyment of legal status in Brazil became limited.⁴¹ Violence against people of African descent and anti-immigrant sentiment by both State and non-state actors, coupled with the decreased legal



avenues and unemployment, forced many Haitian and African migrants to flee Brazil.⁴² Brazil has neither signed nor ratified the Migrant Worker Convention, and was recently deemed noncompliant with CERD,⁴³ ESCR,⁴⁴ CCPR,⁴⁵ and CEDAW.⁴⁶

2. Chile

16. Forced to flee Brazil, many Haitians migrated to Chile starting in 2014. By December 2019, the Chilean government estimated that over 185,000 Haitians were in Chile.⁴⁷ Haitian and African migrants reported experiencing intense anti-Black and anti-immigrant discrimination that prevented them from seeking emergency medical treatment in hospitals, reporting hate crimes to law enforcement, and seeking legal remedies for discrimination or wage theft in the workplace.⁴⁸ In one 2015 study, 48% of Haitians interviewed (33.8% of which were women) had experienced discrimination in Chile. Haitian migrants were again forced to flee. Chile has acceded to the relevant human rights instruments, but the committees recently deemed Chile out of compliance with the Migrant Worker Convention,⁴⁹ CERD,⁵⁰ CDESCR,⁵¹ ICCPR,⁵² and CEDAW,⁵³ one of which was “concerned about discrimination and violence directed at Haitian migrants, migrants from other continents and migrants of African descent on the basis of their skin colour.”

3. Panama

17. Both Panama and Columbia are currently reporting ‘COVID bottlenecks’ of migrants.⁵⁴ Migrants heading from South America towards the United States and Canada Columbia pass the Darien Gap, a treacherous journey that consists of one hundred miles of tropical rainforest between Columbia and Panama that migrants traverse on foot, often with traffickers. Migrants’ rights to life and security are regularly violated on the journey, including assault and death.⁵⁵ Haitian migrants who successfully make it into Panama report “makeshift camps of concrete block shelters and wooden shacks” with extremely hostile border security agents. The main camp in 2019, designed to hold between 100-200 migrants, held 1,500 migrants.⁵⁶ Panama has neither signed nor ratified the Migrant Worker Convention, and was judged noncompliant with CERD,⁵⁷ CCPR,⁵⁸ CEDAW.⁵⁹

4. Mexico

18. Haitian migrants in Mexico complain of anti-Black discrimination finding work, at immigration offices, and on the streets. Black migrants, who are easily targeted as foreigners because of their skin color, regularly experience violent crimes such as sexual assault, armed robberies, and burglaries, particularly at the hands of cartels (gangs) near the U.S.-Mexico border.⁶⁰

19. Mexico’s immigration system had never received and was not prepared to process tens of thousands of non-Spanish-speaking migrants from countries in the Caribbean and the African continent.⁶¹ Due to the lack of Haitian Kreyol interpretation available, migrants in Mexico have difficulty understanding the immigration system and how to access the networks of legal and humanitarian services available to them.⁶² This contributes to delays and procedural violations with asylum claims that result in Haitians from 2013-2020 receiving asylum approval only 20%



of the time while other nationals from Venezuela, Honduras, and El Salvador, had 98% approval, 67% approval, and 71% approval, respectively.⁶³ Mexico's long history of xenophobia against Afro-descendant and migrant populations in Mexico also contributes to Haitians' exceptionally low asylum rate compared to other non-Black applicants.⁶⁴

20. Mexico has acceded to the relevant human rights instruments, but several anti-migrant violations have been found by the Committees on the Migrant Workers,⁶⁵ CERD,⁶⁶ CESCR,⁶⁷ CCPR,⁶⁸ and CEDAW.⁶⁹

21. United States

22. Haitian migrants have experienced decades of racist and xenophobic migration policies based in the right to exclude that includes a series of illegal and discriminatory policies designed to keep Haitian and other Black migrants out of the United States.⁷⁰ More recently, a series of draconian policies (Metering,⁷¹ Migrant Protection Protocol,⁷² and Title 42⁷³) have resulted in a failure of protection, prolonged family separation, and myriad human rights violations of migrants. Together, these policies, as intended, have prevented most migrants from seeking asylum and resulted in their immediate deportation, in direct violation of *non-refoulement* principles.

23. These policies have had a particularly devastating impact on Haitian and other Black migrants.⁷⁴ After their long and traumatic journeys of several months or even years through South and Central America, they arrive at the U.S.-Mexico border to find it closed. Unable to return to their home countries and unable to firmly settle elsewhere in the Americas, Black migrants are often stuck for years in Mexico in dangerous and hostile environments in cartel-controlled territories (see the section on Mexico above).

24. Anti-Black discrimination in the U.S. immigration system results in low numbers of successful asylum screenings and approval rates, longer periods in immigration detention, higher bonds for release from detention, higher rates of deportations, medical neglect against Black pregnant women in detention,⁷⁵ and racial profiling in enforcement in the interior.⁷⁶ Black migrants in the United States face both anti-Black and anti-immigrant discrimination and abuse by law enforcement and other state agencies.⁷⁷

IV. Recommendations

1. Repeal all applications of the right to expel with all groups named in the DDPA including people of African descent in the Americas, including, for example, the uses of expedited removals; the metering policy,⁷⁸ Title 42 national legislation,⁷⁹ and the firm resettlement doctrine in the United States;⁸⁰
2. Provide access to legal remedies (art 2.3 of ICCPR) to migrants for hate crimes and other civil rights violations against them in host countries, including investigation and prosecution;



3. Provide access to health care, education and housing to migrants, including in immigration detention, particularly for vulnerable migrants such as pregnant women, disabled individuals, and children;
4. Provide access to Haitian Kreyol interpretation in all interviews and proceedings with migrants and refugees of Haitian descent;
5. Take adequate measures to end anti-Black bias and discrimination in the immigration system, including through trainings of asylum officers, judges, and enforcement agents, to prevent disproportionately lower asylum approval rates, longer periods in immigration detention, higher bonds for release from detention, higher rates of deportations, and racial profiling in enforcement;
6. Expand visa access to people of African descent and others listed in DDPa;
7. Fully adopt and implement all Conventions identified in paragraph six of this report;
8. Engage national public education systems to create and provide access to curriculum regarding history, culture, language (Kreyol) and development of people of African descent in the Americas while considering centering Haiti as an epicenter for movements for recognition of people of African descent by the sovereign states in the Americas and Europe;
9. Reengage the national systems executive, legislative, judicial processes to provide transitional justice regarding slavery, colonialism and neocolonial imperialism to address root causes of displacement, as called for by the DDPa and recently affirmed by the High Commissioner for Human rights,⁸¹ and
10. Use power in multilateral financial institutions to accelerate the menu of options listed at page 50, paragraph 159 of the DDPa, to satisfy the right to development and address root causes of displacement.⁸²

(This report was written by Erik Crew and Nicole Phillips)

¹ This report adopts the definitions for “migrant,” “refugee,” “Black,” and “sexual and gender-based violence” used in S. Priya Morley et al., *A Journey of Hope: Haitian Women’s Migration to Tapachula, Mexico* (2021), <https://imumi.org/attachments/2020/A-Journey-of-Hope-Haitian-Womens-Migration-to%20-Tapachula.pdf> [S. Priya Morley et al.] at 11.

² United Nations, Durban Declaration and Plan of Action, Adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Violence (Sept. 8, 2001), <https://www.un.org/WCAR/durban.pdf> [DDPa] at 11-12, ¶ 46-55; 26-27, ¶ 26-36; 32, ¶ 67; 48, ¶ 148; 49, ¶ 158; 50, ¶ 159; 55, ¶ 185;

³ S. Priya Morley et al., *supra* note 1, at 16; *see also* Naomi Paik, *Between Rights and Rightlessness: Haitian Migrants and the Elusive Promises of Humanitarianism*, emisferica (2018), <https://hemisphericinstitute.org/en/emisferica-14-1-expulsion/14-1-essays/between-rights-and-rightlessness-haitian-migrants-and-the-elusive-promises-of-humanitarianism.html> [Paik]. For reporting by the Institute for Justice & Democracy in Haiti (IJDH) on violence and insecurity in Haiti, *see also* IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments November 2020 to May 2021 (June 2021), <http://www.ijdh.org/wp-content/uploads/2021/06/June-2021-Human-Rights-Update-IJDH.pdf>; IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments March to October 2020 (Nov. 2020), <http://www.ijdh.org/wp-content/uploads/2020/11/Update-on-Human-Rights-and-Rule-of-Law-Situation-Mar-Oct-2020-FINAL.pdf>; IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments, (Feb. 2020) <http://www.ijdh.org/wp-content/uploads/2020/02/Update-on-Human-Rights-and-Rule-of-Law-Situation-Feb-19-2020.pdf>; IJDH, Haiti at a Crossroads: An Analysis of the Drivers Behind Haiti’s Political Crisis (2019), <http://www.ijdh.org/wp-content/uploads/2019/05/IJDH-Report-Haiti-at-a-Crossroads-May-2019.pdf>.

⁴ DDPa *supra* note 2, at 11, ¶ 47 (reaffirming “the sovereign right of each State to formulate and apply its own legal framework and policies for migration, and further affirm[ing] that these policies should be consistent with applicable human rights instruments, norms and standards, and designed to ensure that they are free of racism, racial discrimination, xenophobia and related intolerance”); 11, ¶ 48 (noting “with concern and strongly condemn[ing] the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them; reaffirm[ing] the responsibility of States to protect the human rights of migrants under their jurisdiction and reaffirm the responsibility of States to safeguard and protect migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation by individuals or groups and stress[ing] the need for their fair, just and equitable treatment in society and in the workplace”); 26, ¶ 26 (requesting States “to promote and protect fully and effectively the human rights and fundamental freedoms of all migrants, in conformity with the Universal Declaration of Human Rights and their obligations under international human rights instruments, regardless of the migrants’ immigration status”); 26 ¶ 30(b) (urging States “to review and revise, where necessary, their immigration laws, policies and practices so that they are free of racial discrimination and compatible with States’ obligations under international human rights instruments.”).

⁵ DDPa *supra* note 2, at 12, ¶ 54 (underlining the “urgency of addressing the root causes of displacement and of finding durable solutions for refugees and displaced persons, in particular voluntary return in safety and dignity to countries of origin, as well as resettlement in third countries and local integration, when and where appropriate and feasible”); 49-50, ¶ 158 (recognizing that “historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity that affect many people in different parts of the world, in particular in developing countries”); 55, ¶ 185 (expressing deep concern “over the severity of the humanitarian suffering of affected civilian populations and the burden carried by many receiving countries, particularly developing countries and countries in transition, and request[ing] the relevant international institutions to ensure that urgent adequate financial and humanitarian assistance is maintained for the host countries to enable them to help the victims and to address, on an equitable basis, difficulties of populations expelled from their homes, and call[ing] for sufficient safeguards to enable refugees to exercise freely their *right of return to their countries of origin voluntarily, in safety and dignity.*”) [emphasis added]; 52, ¶ 165 (urging States “to reinforce protection against racism, racial discrimination, xenophobia and related intolerance by ensuring that all persons have access to effective and adequate remedies and enjoy the right to seek from competent national tribunals and other national institutions just and adequate reparation and satisfaction for any damage as a result of such discrimination. It further underlines the importance of access to the law and to the courts for complainants of racism and racial discrimination and draws attention to the need for judicial and other remedies to be made widely known, easily accessible, expeditious and not unduly complicated.”).

⁶ DDPa *supra* note 2, at 13 ¶ 65; 26 ¶ 30(b); 27 ¶ 30(g); 27 ¶ 32; 27 ¶ 34.



⁷ See *infra* note 22 and associated text. See also, e.g., Press Release, UNCHR, UNHCR warns against “exporting” asylum, calls for responsibility sharing for refugees, not burden shifting (May 19, 2021), <https://www.unhcr.org/neu/55821-unhcr-warns-against-exporting-asylum-calls-for-responsibility-sharing-for-refugees-not-burden-shifting.html>.

⁸ *Id.*; See also *supra* note 4 and associated text.

⁹ Jean Allain, *The jus cogens Nature of non-refoulement*, 13 Int. J. of Refugee L. 533 (Oct. 2001).

¹⁰ DDPA *supra* note 2, at 8, ¶ 27.

¹¹ DDPA *supra* note 2, at 7, ¶ 16.

¹² DDPA *supra* note 2, at 6, ¶ 12 (recognizing “that interregional and intraregional migration has increased as a result of globalization, in particular from the South to the North, and stress[ing] that policies towards migration should not be based on racism, racial discrimination, xenophobia and related intolerance;”); 7, ¶ 16 (recognizing “that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices”); 11, ¶ 50-51 (being “mindful of the situation of vulnerability in which migrants frequently find themselves, owing, inter alia, to their departure from their countries of origin and to the difficulties they encounter because of differences in language, customs and culture, as well as economic and social difficulties and obstacles to the return of migrants who are undocumented or in an irregular situation” and reaffirming “the necessity of eliminating racial discrimination against migrants, including migrant workers, in relation to issues such as employment, social services, including education and health, as well as access to justice, and that their treatment must be in accordance with international human rights instruments, free from racism, racial discrimination, xenophobia and related intolerance”).

¹³ DDPA *supra* note 2, at 12, ¶ 55 (affirming the “commitment to respect and implement humanitarian obligations relating to the protection of refugees, asylum-seekers, returnees and internally displaced persons, and not[ing] in this regard the importance of international solidarity, burden-sharing and international cooperation to share responsibility for the protection of refugees, reaffirming that the 1951 Convention relating to the Status of Refugees and its 1967 Protocol remain the foundation of the international refugee regime and recognizing the importance of their full application by States parties”). For the Refugee Convention and Protocol, see Convention Relating to the Status of Refugees Refugee Convention art. 1, July 21, 1951, 189 U.N.T.S. 2545, <https://www.unhcr.org/en-us/3b66c2aa10> [hereinafter Refugee Convention]; Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 879, <https://www.ohchr.org/Documents/ProfessionalInterest/protocolrefugees.pdf> [hereinafter Refugee Protocol].

¹⁴ DDPA *supra* note 2, at 34-35, ¶ 75-78.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ The United Nations High Commissioner for Refugees [UNHCR], *States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol*, <https://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>.

²⁰ See *Ratification Status for United States of America*, OHCHR.org, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=187&Lang=EN.

²¹ See CERD et al., *Concluding observations on the combined seventh to ninth periodic reports of the United States of America*, UN Doc. CERD/C/USA/C/7-9 (Sept. 25, 2014), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fUSA%2fCO%2f7-9&Lang=en, at ¶ 18 (expressing concern about the “increasingly militarized approach to immigration law enforcement, leading to the excessive and lethal use of force by CBP personnel; increased use of racial profiling by local law enforcement agencies to determine immigration status and to enforce immigration laws; increased criminal

prosecution for breaches of immigration law; mandatory detention of immigrants for prolonged periods of time; and deportation of undocumented immigrants without adequate access to justice.”); ¶ 17 (reiterating its concern about the “brutality and excessive use of force by law enforcement officials against members of racial and ethnic minorities, including against unarmed individuals, which has a disparate impact on African Americans and undocumented migrants crossing the United States–Mexico border (para. 25)”); ¶ 19 (expressing concern about “the disproportionate number of women from racial and ethnic minorities, particularly African American women, immigrant women and American Indian and Alaska Native women, who continue to be subjected to violence, including rape and sexual violence”); *see also* Human Rights Committee et al., *Concluding observations on the fourth periodic report of the United States of America*, UN Doc. CCPR/C/USA/CO/4 (Apr. 23, 2014), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/USA/CO/4&Lang=En, at ¶ 15 (expressing concerns about “circumstances mandatory detention of immigrants for prolonged periods of time without regard to the individual case may raise issues under article 9 of the Covenant” and “the mandatory nature of the deportation of foreigners, without regard to elements such as the seriousness of crimes and misdemeanors committed, the length of lawful stay in the United States, health status, family ties and the fate of spouses and children staying behind, or the humanitarian situation in the country of destination.”).

²² *See* E. Tendayi Achiume, *Migration as Decolonization*, 71 STAN.L.REV.1509 (2019) <https://escholarship.org/uc/item/8m83b98j> [E. Tendayi Achiume] at 1515, 1523-1528 (describing how “prevailing international legal doctrine and dominant political theory” links “the territorial sovereign nation-state” with “a right to exclude foreigners or nonnationals” and where “nonnationals are definitionally ‘political strangers’ with no cognizable claims to shaping the trajectory of the respective nation-state, and certainly no say as to the terms of their admission and inclusion within that body.”). Though the article recognizes this ‘right to exclude’ as non-absolute and does not focus on compliance by States in the Americas with the limits imposed by international law and the human rights treaty regime, this report adopts the article’s definition of the ‘right to exclude’ in order to illustrate how States have continually used it to justify non-compliance with provisions of the DDPA that pertain to the protection of migrants.

²³ *See supra* note 4 and associated text.

²⁴ *Id.*

²⁵ DDPA *supra* note 2, at 6, ¶ 13 (acknowledging that “slavery and the slave trade, including the transatlantic slave trade, were appalling tragedies in the history of humanity not only because of their abhorrent barbarism but also in terms of their magnitude, organized nature and especially their negation of the essence of the victims, and further acknowledge that slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade and are among the major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, Asians and people of Asian descent and indigenous peoples were victims of these acts and continue to be victims of their consequences); 7, ¶ 14 (recognizing “that colonialism has led to racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, and people of Asian descent and indigenous peoples were victims of colonialism and continue to be victims of its consequences,” acknowledging “the suffering caused by colonialism and affirm that, wherever and whenever it occurred, it must be condemned and its reoccurrence prevented,” and regretting “that the effects and persistence of these structures and practices have been among the factors contributing to lasting social and economic inequalities in many parts of the world today”); *see also supra* note 5 and associated text.

²⁶ *See* IJDH reporting, *supra* note 2. *See also* E. Tendayi Achiume, at 1529 (describing how “First World states can and often do enforce their borders to exclude economic and other migrants, especially from the Third World, often through immigration restriction agreements with Third World states (and former Second World states)”).



²⁷ See *Brief of Haitian Bridge Alliance, Institute for Justice & Democracy in Haiti, Ira Kurzban, and Irwin Stotzky as Amici Curiae in Support Of Plaintiffs' Motion For Summary Judgment, Al Otro Lado, Inc. v. Wolf*, Case No. 3:17 cv-02366, at 4 [Brief Amici Curiae] [Attached as Annex].

²⁸ E. Tendayi Achiume, at 1540-1542; see also, e.g., Paik *supra* note 2; Edwin O. Abuya et. al., *The neglected colonial legacy of the 1951 refugee convention* (July 20, 2021), <https://onlinelibrary.wiley.com/doi/10.1111/imig.12898>.

²⁹ E. Tendayi Achiume, at 1544.

³⁰ See Ursula Tracy Doyle, *Strange Fruit at the United Nations*, 61 *How. L.J.* 187 (2018).

³¹ See *supra* note 5 and associated text.

³² *Id.*

³³ Human Right Council, Report of the United Nations High Commissioner for Human Rights: Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, UN Doc. A/HRC/47/53, (June 1, 2021), <https://undocs.org/A/HRC/47/53>, at ¶ 56.

³⁴ See Nicole Philips, Tom Ricker, et al., *The Invisible Wall: Title 42 and its Impact on Haitian Migrants* (2021), <https://www.quixote.org/wp-content/uploads/2021/03/The-Invisible-Wall.pdf> [Nicole Philips, Tom Ricker, et al.]; see also, e.g., ECLAC, *People of African descent and COVID-19: unveiling structural inequalities in Latin America* (Jan. 2021), <https://www.cepal.org/en/publications/46621-people-african-descent-and-covid-19-unveiling-structural-inequalities-latin>; see also, See Human Rights Council, *Report of the Working Group of Experts on People of African Descent: COVID-19, systemic racism and global protests*, UN Doc. A/HRC/45/44 (Aug. 20, 2020), <https://www.undocs.org/A/HRC/45/44>.

³⁵ S. Priya Morley et al., *supra* note 1, at 32.

³⁶ *Id.*

³⁷ Alexandra Jaffe, *Mexico, Honduras, Guatemala deploy troops to lower migration*, Associated Press (Apr. 12, 2021), <https://apnews.com/article/guatemala-honduras-mexico-immigration-border-patrols-917c0fea87c0a807b371da207d34c8cc>.

³⁸ Tom Ricker, *Meet the new boss, same as the old boss?*, Quixote Center (Mar. 24, 2021) <https://www.quixote.org/meet-the-new-boss-same-as-the-old-boss/>.

³⁹ S. Priya Morley et al., *supra* note 1, at 44.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ CERD et al., Concluding observations of the Committee on the Elimination of Racial Discrimination, *BRAZIL*, U.N. Doc. CERD/C/64/CO/2 (Apr. 28, 2004), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2f64%2fCO%2f2&Lang=en, at ¶ 12 (expressing concern over the “persistence of deep structural inequalities affecting black and mestizo communities and indigenous peoples.”).

⁴⁴ CESCR et al., *Concluding observations of the Committee on Economic, Social and Cultural Rights, Brazil*, UN Doc. E/C.12/BRA/CO/2, (June 12, 2009), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/BRA/CO/2&Lang=En.

⁴⁵ CCPR et al., *Concluding observations of the Human Rights Committee, BRAZIL*, UN Doc. CCPR/C/BRA/CO/2 (Dec. 1, 2005), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/BRA/CO/2&Lang=En.

⁴⁶ CEDAW et al., *Concluding observations of the Committee on the Elimination of Discrimination against Women, Brazil*, UN Doc. CEDAW/C/BRA/CO/7 (Mar. 23, 2012), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBRA%2fCO%2f7&Lang=en.

⁴⁷ S. Priya Morley et al., *supra* note 1, at 49.

⁴⁸ *Id.*

⁴⁹ CMW et al., *Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the second periodic report of Chile*, UN Doc. CMW/C/CHL/CO/2 (May 11, 2021), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/CHL/CO/2&Lang=En, at ¶ 10 (expressing concern “that there is insufficient focus on the rights of migrants and members of their families, the protection of the rights of migrants in an irregular situation, regularization mechanisms, the right to due process and procedural guarantees, the recognition of refugee status and other forms of international protection, and access to social services.”); ¶ 27 (expressing particular concern “about discrimination and violence directed at Haitian migrants, migrants from other continents and migrants of African descent on the basis of their skin colour.”); ¶ 29 (expressing concern “about the potential discriminatory effects of the humanitarian orderly return plan introduced in 2018, which has made the return of Haitians a priority and which allows for the voluntary return of persons to their countries of origin but prohibits return to Chile for nine years.”); ¶ 47 (expressing that it is very concerned about Chile’s expulsion policies that violate migrants’ right to due process).

⁵⁰ CERD et al., *Concluding observations of the Committee on the Elimination of Racial Discrimination, BRAZIL*, U.N. Doc. CERD/C/64/CO/2 (Apr. 28, 2004), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2f64%2fCO%2f2&Lang=en, at ¶ 12 (expressing concern over the “persistence of deep structural inequalities affecting black and mestizo communities and indigenous peoples.”).

⁵¹ CESCR et al., *Concluding observations of the Committee on Economic, Social and Cultural Rights, Brazil*, UN Doc. E/C.12/BRA/CO/2, (June 12, 2009), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/BRA/CO/2&Lang=En.

⁵² CCPR et al., *Concluding observations of the Human Rights Committee, BRAZIL*, UN Doc. CCPR/C/BRA/CO/2 (Dec. 1, 2005), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/BRA/CO/2&Lang=En.

⁵³ CEDAW et al., *Concluding observations on the seventh periodic report of Chile*, UN Doc. CEDAW/C/CHL/CO/7 (Mar. 18, 2018), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/CHL/CO/7&Lang=En, at ¶ 36 (expressing concern at “limited access for migrant and indigenous women and women with disabilities to the formal labour market.”); ¶ 38 (expressing concern about “[t]he difficulty facing migrant women, indigenous women and women with disabilities in gaining access to non-emergency health care, including gynaecological services”); ¶ 44 (noting with concern that “migrant women continue to face intersecting forms of discrimination in terms of access to political life, education, employment and health care.”).

⁵⁴ *See, e.g., À la Une: de nombreux Haïtiens bloqués à Necoclí, en Colombie*, RFI (July 29, 2021), <https://www.rfi.fr/fr/am%C3%A9riques/20210729-%C3%A0-la-une-des-nombreux-ha%C3%Aftiens-bloqu%C3%A9s-%C3%A0-necocl%C3%AD-en-colombie>.

⁵⁵ S. Priya Morley et al., *supra* note 1, at 54.

⁵⁶ *Id.*

⁵⁷ CERD et al., Consideration of reports submitted by States parties under article 9 of the Convention: Concluding observations of the Committee on the Elimination of Racial Discrimination, UN Doc. CERD/C/PAN/CO/15-20 (May 19, 2010),

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/PAN/CO/15-20&Lang=En, at ¶ 17 (expressing serious concern at the “refugee recognition process under way in the State party”); ¶ 9 (noting with concern “the persistence of racial discrimination and its historical roots, which have led to the marginalization, impoverishment and vulnerability of Afro-Panamanians and indigenous peoples.”).

⁵⁸ Human Rights Committee et al., *Concluding observations of the Human Rights Committee, PANAMA*, UN Doc. CCPR/C/PAN/CO/3 (Apr. 17, 2008),

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/PAN/CO/3&Lang=En, at ¶ 14 (noting with concern that “many refugees, particularly those who do not have a formal status, live in a precarious economic and legal situation and that, in general, legislation does not guarantee to all foreigners in Panamanian territory who require international protection, including refugees, stateless persons and persons falling into other categories, the rights to which they are entitled under international law, including refugee law, in particular the State’s obligation not to expose such persons to treatment contrary to articles 6 and 7 of the Covenant (articles 2, 6, 7 and 9 of the Covenant).”).

⁵⁹ CEDAW et al., *Concluding observations of the Committee on the Elimination of Discrimination against Women: Panama*, UN Doc. CEDAW/C/PAN/CO/7 (Feb. 5, 2010),

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fPAN%2fCO%2f3&Lang=en, at ¶ 48 (regretting “the lack of detailed information in relation to vulnerable groups of women, such as refugee women, rural women, older women, women with disabilities and other women facing multiple forms of discrimination.”).

⁶⁰ For interviews conducted by Haitian Bridge Alliance with Haitian and other migrants in 2020 and 2021, see also Human Rights First, Haitian Bridge Alliance, Al Otro Lado, *Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger*, (Apr. 20, 2021), <https://www.humanrightsfirst.org/sites/default/files/FailuretoProtect.4.20.21.pdf>, at 8; *There is a Target on US: The Impact of Anti-Black Racism on African Migrants at Mexico’s Southern Border* (2021), <http://baji.org/wp-content/uploads/2021/01/The-Impact-of-Anti-Black-Racism-on-African-Migrants-at-Mexico.pdf>.

⁶¹ S. Priya Morley et al., *supra* note 1, at 61 (describing how “[f]ew to none of the immigration officials or non-governmental service providers in Tapachula speak Creyol, and as a result, Haitian migrants have difficulty understanding the immigration system and how to access the networks of legal and humanitarian services available to them. The needs of Haitians migrants are significant, and legal and humanitarian organizations, as well as government agencies, lack the resources to effectively assist them.”)

⁶² *Id.* at 65 (explaining that “Mexico’s immigration system had never received and was not prepared to process tens of thousands of non-Spanish-speaking migrants from countries in the Caribbean and the African continent. Legal service providers have identified several factors that contributed to the arbitrarily low rates of asylum grants for Haitians, including procedural violations, COMAR’s lack of knowledge of country conditions in Haiti, and Haitians’ marginalization and language barriers.”).

⁶³ *Id.* at 66.

⁶⁴ *Id.* at 70 (reporting that “Haitian migrants face racial and xenophobic discrimination in Mexico on the basis of their skin color and migrant identity, which is rooted in Mexico’s long history of anti-Blackness and xenophobia against Afro-descendant and migrant populations in Mexico.”).

⁶⁵ CMW et al., *Concluding observations on the third periodic report of Mexico*, UN Doc. CMW/C/MEX/CO/3 (Sept. 27, 2017),

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/MEX/CO/3&Lang=En

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

⁶⁶ CERD et al., *Concluding observations on the combined eighteenth to twenty-first periodic reports of Mexico*, UN Doc. CERD/C/MEX/CO/18-21 (Sept. 19, 2019), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/MEX/CO/18-21&Lang=En, at ¶ 30 (expressing grave concern that “human rights defenders, including leaders and defenders of the rights of indigenous peoples, Mexican persons of African descent and migrants, continue to be subjected to violence, threats and attempts on their lives.”); ¶ 34 (recognizing Mexico as a “migration corridor” and expressing concern that “the implementation of the migration policies that have been adopted does not properly ensure that the rights of migrants and asylum seekers, children in particular, are given effective protection” and notes arbitrary detention, systematic refoulement without adequate legal advice, discrimination and excessive use of force against migrants, and an increase in “discriminatory views, racial hatred and xenophobia targeting migrants (arts. 2 and 5)”).

⁶⁷ CESCR et al., *Concluding observations on the combined fifth and sixth periodic reports of Mexico*, UN Doc. E/C.12/MEX/CO/5-6 (Apr. 17, 2018), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/MEX/CO/5-6&Lang=En, at ¶ 24 (expressing concern that “unemployment and underemployment continue to disproportionately affect young persons, persons with disabilities, members of indigenous peoples, migrants, asylum seekers and refugees.”); ¶ 65 (expressing concern about “difficulties faced by child migrants, child asylum seekers and refugee children in accessing education.”).

⁶⁸ Human Rights Committee et al., *Concluding observations on the sixth periodic report of Mexico*, UN Doc. CCPR/C/MEX/CO/6 (Dec. 4, 2019), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MEX/CO/6&Lang=En, at ¶ 32 (expressing concern about “recurrent allegations that migrants, particularly those in an irregular situation, are subjected to violations including torture and cruel, inhuman and degrading treatment, enforced disappearance, extortion, trafficking, homicide and other crimes” and the widespread use of detention, including with children, and use of force by State agents. It further expressed concern about the “remain in Mexico” policy negotiated with the US as having “exposed a number of persons to violations including kidnapping and extortion.”).



⁶⁹ CEDAW et al., *Concluding Observations on the Ninth Periodic Report of Mexico*, UN Doc, CEDAW/C/MEX/CO/9 (July 25, 2018), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MEX/CO/9&Lang=En, at ¶ 11 (expressing concern about “[t]he lack of effective mechanisms and the insufficient state-level budgetary allocations to implement and monitor the laws relating to gender equality and women’s right to a life free of violence have failed to eliminate discrimination, notably intersecting forms of discrimination, in particular against indigenous women, Mexican women of African descent, migrant women, women with disabilities, lesbian, bisexual and transgender women and intersex persons”); ¶ 19 (expressing concern about “[s]tereotyped media portrayals and negative images of indigenous women, Mexican women of African descent, migrant women and refugee and asylum-seeking women.”); ¶ 29 (expressing concern about “[t]he insufficient assistance, rehabilitation and reintegration measures for victims, including the inadequate number of shelters and the limited access to counselling, medical treatment, psychological support and redress, such as compensation for victims of trafficking, in particular migrant women”); ¶ 47 (expressing concern that “migrant women continue to face automatic detention,” that “many asylum-seeking women and girls do not have effective access to asylum procedures,” and about “the impact of enforced disappearances on migrants and the high levels of gender-based violence”).

⁷⁰ See Brief Amici Curiae, *supra* note 27, at 3.

⁷¹ *Id.* at 2.

⁷² See Nicole Philips, Tom Ricker, et al., *supra* note 34, at 21.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ See RAICES, Haitian Bridge Alliance, Cameroonian American Council, and the UndocuBlack Network complaint filed with the Office for Civil Rights and Civil Liberties, U.S. Department of Homeland Security (Mar. 12, 2021), https://docs.google.com/document/d/1WUGwe9tMMeb9brDT1XHUaBueGmt_Tg_7D46_tysqBgA/edit?usp=sharing.

⁷⁶ See *Life on Hold: Black Immigrations & the Promise of Liberation Refugee Immigration Fairness* (June 2021), <https://trayinc.cld.bz/Georgetown-Law-UBN-Life-on-Hold>.

⁷⁷ BAJI, *The State of Black Immigrants* (2020), <http://baji.org/wp-content/uploads/2020/03/sobi-fullreport-jan22.pdf>.

⁷⁸ See Brief Amici Curiae, *supra* note 27.

⁷⁹ See Nicole Philips, Tom Ricker, et al., *supra* note 34.

⁸⁰ See Ira Kurzban, Kevin Gregg, Geofrey Pipoly, *Memorandum in Support of Instituting a Presumption Against Firm Resettlement for Haitian TPS Applicants* (July 2, 2021) [Attached as Annex].

⁸¹ See *supra* note 33 and associated text.

⁸² DDPA *supra* note 2, at 50, ¶ 159 (suggesting “Debt relief; Poverty eradication; Building or strengthening democratic institutions; Promotion of foreign direct investment; Market access; Intensifying efforts to meet the internationally agreed targets for official development assistance transfers to developing countries; New information and communication technologies bridging the digital divide; Agriculture and food security; Transfer of technology; Transparent and accountable governance; Investment in health infrastructure tackling HIV/AIDS, tuberculosis and malaria, including through the Global AIDS and Health Fund; Infrastructure development; Human resource development, including capacity-building; Education, training and cultural development; Mutual legal assistance in the repatriation of illegally obtained and illegally transferred (stashed) funds, in accordance with national and international instruments; Illicit traffic in small arms and light weapons; Restitution of art objects, historical artefacts and documents to their countries of origin, in accordance with bilateral agreements or international instruments; Trafficking in persons, particularly women and children; Facilitation of welcomed return and resettlement of the descendants of enslaved Africans”).