

Restarting Orderly Process Critical to Managing Arrival of Asylum Seekers at Arizona Border

U.S. ports of entry have remained closed to requests for asylum throughout the pandemic, forcing some families and adults to cross the border between ports of entry to seek refuge in the United States. Unscrupulous politicians have seized upon recently increasing arrivals in Arizona to stoke [fear](#). On February 7, 2022, the Arizona Attorney General issued an [opinion](#) claiming that the state faces an “invasion” at the southern border which, under the U.S. Constitution, would authorize the governor to use [defensive force](#).

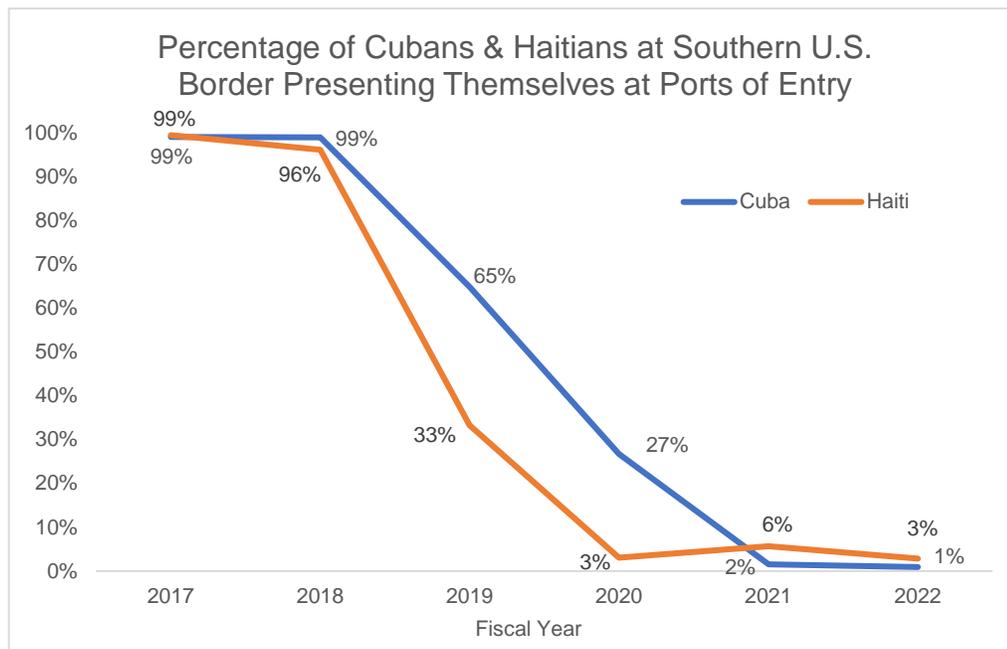
Far from a threat, the majority of the people arriving near Yuma are people seeking protection from [Cuba, Haiti, Nicaragua, and Venezuela](#) – countries from which many are fleeing repressive regimes and deepening political and humanitarian crises. Government data indicate that the [Title 42](#) policy, which has been used by the Department of Homeland Security (DHS) to block asylum at ports of entry, is driving the increase in border crossings. Prior to the restrictions at ports of entry, nearly all asylum seekers from Cuba and Haiti, for example, sought to enter the United States at ports of entry.

To address disorder at the southern border created by policies restricting access to asylum, the Biden administration must:

- restart receiving requests for asylum, including at ports of entry—as required by U.S. law—and
- stop expelling migrants and asylum seekers, which drive the rise in Border Patrol encounters with those who [repeatedly](#) attempt to cross the border in increasingly remote and [dangerous](#) routes.

More detailed recommendations to the administration are included at the end of this factsheet.

Blocking Asylum at Ports of Entry Pushes Border Crossings



Policies that block or reduce asylum processing at ports of entry drive crossings of the border away from ports of entry by asylum seekers who are unable to access protection at official border posts, as [reports](#) by the Department of Homeland Security Office of Inspector General have [confirmed](#).

Sources: Ports of entry [2017](#), [2018](#), [2019](#); U.S. Border Patrol [2017–2019](#); [2020–2022](#)

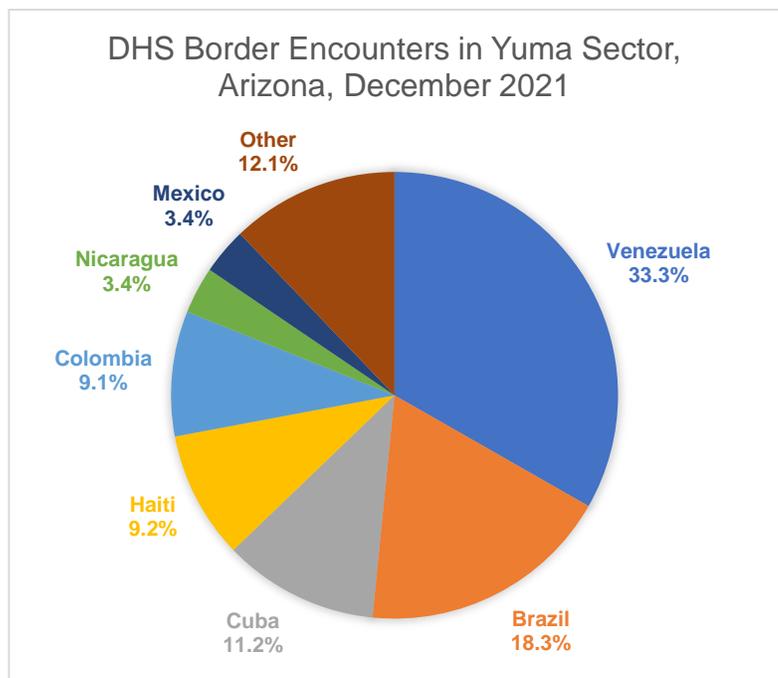
Indeed, government data shows that for years Cuban and Haitian asylum seekers approached and sought asylum overwhelmingly at U.S. ports of entry on the southern border. However, because the Trump and now Biden administrations have artificially reduced (through “metering” implemented border wide in 2018) and now effectively eliminated (through [Title 42](#), first implemented in March 2020) access to asylum at ports of entry, the percentage of asylum seekers from these countries crossing the border between ports of entry has dramatically shifted. In Fiscal Year (FY) 2017, for instance, 99 percent of the total number of Cubans and Haitians encountered at the southern border arrived through a port of entry. In [FY 2022](#) (through December 2021), with asylum access effectively shuttered at U.S. ports of entry due to Title 42, fewer than 1 percent of Cubans and 3 percent of Haitians arriving at the southern border entered through a port of entry.

More limited government [data](#) also shows that the percentage of Nicaraguan and Venezuelan asylum seekers presenting themselves at U.S. ports of entry has followed a similar downward trend, declining from 32 and 56 percent, respectively, in FY 2020 to just 0.5 and 0.8 percent in FY 2022. Government data on the number of Nicaraguans and Venezuelans arriving at ports of entry prior to FY 2020 is not available, but [reports](#) on metering wait lists at ports of entry suggest that high percentages of individuals from these countries sought protection at ports of entry prior to Title 42 restrictions.

Many People Crossing the Border in Arizona Are Seeking Asylum

But with the Biden administration still turning away people seeking asylum at ports of entry along the U.S.-Mexico border, the only way for most asylum seekers at the southern border to try to access the U.S. asylum process is to cross the border between ports of entry. Far from an “invasion,” many people who have arrived at Arizona’s southern border in recent months [immediately](#) seek out U.S. Border Patrol agents to [request](#) refugee protection, as humanitarian service providers in Arizona who have interviewed recently arrived asylum seekers confirmed to Human Rights First in February 2022. A Yuma County sheriff [reported](#) in January 2022 that many of those who enter in Yuma immediately call 911 and request to be transferred to Border Patrol custody or to a hospital for medical treatment.

As of December 2021 (the latest month with available data) more than half of the people who [crossed](#) the border in Arizona’s Yuma sector were families with minor children and 57 percent were from four countries: Venezuela (33.3 percent), Cuba (11.2 percent), Haiti (9.2 percent), and Nicaragua (3.4 percent). Many people from these countries are fleeing repressive regimes, political instability, and worsening human rights abuses. Some recent arrivals from [Brazil](#) and [Colombia](#), which made up 18 and 9 percent of arrivals that month, respectively, are also likely to be asylum seekers fleeing persecution because of ongoing human rights issues in both countries including violence against women, violence targeting indigenous peoples and racial minorities, and violence against lesbian, gay, bisexual, transgender, or intersex persons.



Source: [U.S. Border Patrol](#)

U.S. government human rights reports and international human rights groups' investigations confirm that:

- **Venezuela's severe political and economic crisis has forced many to seek protection from state persecution.** In a March 2021 [resolution](#) denouncing the regime of Nicolás Maduro as illegitimate, the U.S. Senate noted, "Maduro and senior members of his regime ordered and carried out a campaign of extrajudicial executions, forced disappearances, torture, and arbitrary detentions that amounted to systemic crimes against humanity." In [designating](#) Venezuela for Temporary Protected Status (TPS) in March 2021, DHS acknowledged deteriorating human rights conditions including "arbitrary arrests, impunity for egregious abuses, and denial of justice to victims." At least [80 percent](#) of the more than 5.9 million people who have fled Venezuela due to the country's severe humanitarian crisis sought protection in other countries in Latin America and the Caribbean, with fewer than [eight percent](#) seeking refuge in the United States.
- **Rampant human rights abuses by Cuba's repressive government continue to force many political dissidents to flee.** The State Department [reported](#) human rights issues in Cuba in 2020 including "extrajudicial killings, by the government; forced disappearance by the government; torture and cruel, inhuman, and degrading treatment of political dissidents, detainees, and prisoners by security forces; harsh and life-threatening prison conditions; arbitrary arrests and detentions; political prisoners; significant problems with the independence of the judiciary; and arbitrary or unlawful interference with privacy."
- **Escalating violence and political instability in Haiti drive many Haitians to seek U.S. asylum protection.** DHS [acknowledged](#) in designating Haitians in the United States for TPS that "Haiti is grappling with a deteriorating political crisis, violence, and a staggering increase in human rights abuses." With its political institutions in disarray since the assassination of President Jovenel Moïse in July 2021, Haiti now has the [highest](#) per-capita kidnapping rate on earth. In its 2020 annual [report](#) on human rights in Haiti, the State Department identified significant human rights issues including "reports of unlawful and arbitrary killings by gangs allegedly supported and protected by unnamed officials; excessive use of force by police; . . . physical attacks on journalists; [and] . . . lack of investigation of and accountability for violence against women." Daniel Foote, former U.S. Special Envoy for Haiti, resigned from his post in September 2021, [writing](#) that "the people of Haiti [are] mired in poverty, hostage to terror, kidnappings, robberies, and massacres of armed gangs and suffering under a corrupt government with gang alliances . . . The collapsed state is unable to provide security or basic services."
- **Many Nicaraguans are fleeing political persecution related to their opposition to the country's authoritarian government.** The U.S. State Department report [identified](#) serious human rights abuses in Nicaragua including "unlawful or arbitrary killings, including extrajudicial killings, committed by the government or its agents; forced disappearances by police forces; torture and cases of cruel, inhuman, or degrading treatment or punishment by prison guards and parapolice; harsh and life-threatening prison conditions; arbitrary detentions by police and parapolice; political prisoners and detainees; politically motivated reprisal against individuals located outside the country." In recognition of the dangerous conditions in country, DHS extended Nicaragua's TPS [designation](#) in September 2021.

Forced Border Crossings Endanger People, Fuel Cartels

With access to asylum at ports of entry blocked, many asylum seekers are pushed into the hands of deadly cartels that reap huge profits from kidnapping, torturing, and extorting migrants. Violent cartels and other criminal organizations who exercise control of many areas along the border threaten, [extort](#), and [abuse](#) people forced to seek U.S. protection between ports of entry. The Kino Border Initiative, a nonprofit organization assisting migrants at the Arizona border, [reported](#) that in Nogales, Sonora "organized crime has become so

protective of the business they have made from the border closure that they have begun watching the ports of entry . . . and harassing migrants who attempt to be processed there.” Migrants and asylum seekers stranded in Mexico due to U.S. policies are frequently targeted for [kidnappings](#), [Homicides](#) and [kidnappings](#) have surged over the past year in San Luis Río Colorado, the city bordering the city of Yuma, Arizona, as [cartels](#) compete for control of the region.

Politicians Stoking Anti-Immigrant Fears

Some Arizona lawmakers and political candidates have seized upon rising instances of people forced to seek lifesaving asylum protection by crossing the border to stoke xenophobic [fear](#) and spread [misinformation](#) about asylum seekers. A candidate for Arizona governor has referred to asylum seekers as “[narco-terrorists](#)” and a state representative has “[misrepresented](#) crime data to claim rising immigration has contributed to a spike in crime.” Despite the fact that asylum seekers continue to be blocked and expelled at ports of entry and along the southern border under the Title 42 policy, Arizona politicians have falsely [claimed](#) that the Biden administration has embraced “open borders” and carried out a “willful attack on our border security.” In response to these false claims, some Arizona politicians have suggested deploying local law enforcement agencies at the border to arrest and detain migrants and asylum seekers—an [illegal](#) practice that has led to massive rights [violations](#) in [Texas](#). A group of Arizona legislators has made the absurd and dangerous [claim](#) that the arrival of people seeking protection at the Arizona border constitutes an “invasion” warranting the governor’s use of war powers. Such language reflects alarming echoes of the 2019 mass murder of 22 people in El Paso, Texas by a shooter who invoked claims of an “[invasion](#)” by Latino immigrants in a manifesto justifying the attack.

Recommendations

The Biden administration can quickly and easily alleviate crowding in the Yuma sector and other congested border areas by lifting Title 42 restrictions and restarting asylum processing along the border, including at ports of entry, to enable people fleeing persecution to safely seek U.S. protection. Arizona border communities receiving asylum seekers and migrants need [resources](#) to receive, process, and provide humanitarian assistance to the [families](#) and individuals seeking refuge at the U.S.-Mexico border.

Human Rights First has [repeatedly provided](#) the administration [recommendations](#) to facilitate the humane and safe reception of people seeking refuge in the United States in compliance with U.S. law and treaty obligations.

Among the key recommendations that the Biden administration should urgently implement are:

- ☑ End the use of the illegal Title 42 policy to block and expel migrants and asylum seekers to countries of feared persecution or places where they are at risk of life-threatening harm or *refoulement*.
- ☑ End similar policies that block refugees from asylum and have encouraged crossings between ports of entry, including by taking all necessary and lawful steps to permanently terminate “Remain in Mexico.”
- ☑ Restart asylum processing, including at U.S. ports of entry, while employing humane policies and public health safeguards that uphold U.S. laws and treaties to provide access to asylum for people seeking protection.
- ☑ Increase and ensure sufficient U.S. government capacity and infrastructure, including at ports of entry, to process individuals seeking protection at the border.
- ☑ Coordinate with and provide logistical and financial support to critical community-based, non-profit service providers offering shelter, legal services, and humanitarian aid to ensure that asylum seekers are treated humanely and able to quickly and safely transit to destination locations, avoiding the use of costly and unnecessary detention.