



May 16, 2024

Blas Nuñez-Neto
Assistant Secretary for Border and Immigration Policy
U.S. Department of Homeland Security
St. Elizabeth's Campus
Washington, D.C. 20032

Dear Assistant Secretary Nuñez-Neto:

On behalf of the National Immigration Forum (the Forum), I write to urge the Biden administration to act swiftly and compassionately in response to the humanitarian crisis unfolding in Haiti, by retooling the United States' existing lawful migration pathways to better accommodate the realities on the ground there. Through modest tweaks to migration-related operations and processing, the Department of Homeland Security (DHS) has the opportunity to meaningfully support the people of Haiti, providing safety and community during what has devolved into an extraordinary, temporary chapter in the country's history. Moreover, these proposed changes directly align with the administration's public commitment to open safe, orderly routes to the U.S. as a proactive alternative to irregular migration across the Western Hemisphere.

Even before recent escalations led to mass prison breaks and cut off access to Haiti's main port and airport, gangs controlled roughly 80% of the country's capital, Port-au-Prince.¹ Now, amid what the United Nations Human Rights Office is calling a "cataclysmic" situation, Haitian civilians are enduring a reign of terror marked by widespread violence, food insecurity, and political instability.² Around 2,500 people have died already from gang-related activity in the first quarter of this year.³ Women and girls are being removed from vehicles at gunpoint and sexually assaulted.⁴ Half of Haitians are "acutely food insecure," according to a top official from the United Nations World Food Programme, and more than a million are facing an emergency hunger level often defined by "very high acute malnutrition and excess mortality."⁵

¹ Henri Astier and Gianluca Avagnina, "Haiti Violence: Haiti Gangs Demand PM Resign after Mass Jailbreak," BBC News, March 4, 2024, <https://www.bbc.com/news/world-latin-america-68462851>; Dánica Coto, "Ariel Henry Resigns as Prime Minister of Haiti, Paving the Way for a New Government to Take Power," AP News, April 25, 2024, <https://apnews.com/article/haiti-ariel-lhenry-resigns-violence-gangs-government-22868c51b5f4c9ca5a8d69fcb5df376b>.

² "Haiti: 'Cataclysmic' Situation Demands Immediate and Bold Action – UN Report," United Nations Human Rights Office of the High Commissioner, March 28, 2024, <https://www.ohchr.org/en/press-releases/2024/03/haiti-cataclysmic-situation-demands-immediate-and-bold-action-un-report>.

³ "Senior UN Aid Official Urges Comprehensive Response to Haiti Crisis," United Nations, April 25, 2024, <https://news.un.org/en/story/2024/04/1149031>;

⁴ "To Displace & Destroy: Sexual Violence in Haiti & the Darién Gap," April 26, 2024, <https://sway.cloud.microsoft/LDIyiUGRTrVzYjE?ref=Link>.

⁵ United Nations, "Senior UN Aid Official."

All of this is taking place within a power vacuum after the 2021 assassination of then-President Jovenel Moïse and the more recent resignation of former Prime Minister Ariel Henry. Although Haiti has finally installed a new transitional council in hopes of restoring a functional government, they took office only within the last month and they have not yet been able to reestablish order — even their swearing-in was interrupted by nearby gunfire.⁶

At the same time, Haiti’s emergency has had deep implications for the U.S. public, causing widespread concern, frustration, and grief among over a million Haitians and Haitian Americans who live in the U.S. — who worry constantly about their family members and friends still in danger.⁷ Some of these U.S.-based members of the Haitian diaspora are already in line to sponsor loved ones through the administration’s Haitian parole processes, or have plans to do so.⁸

Yet, Haitians still in Haiti — who face imminent risks every day they remain there — do not have months or years to patiently “wait their turn” in lotteries and long backlogs as part of our antiquated immigration system.⁹ They and their American supporters urgently require more immediate solutions, which the Biden administration is uniquely positioned to provide.

Below, we suggest courses of action to provide security and stability to Haitians seeking protection — both for those already here and those still in Haiti:

1. Extend and Redesignate TPS for Haiti

First, the Forum urges DHS to extend and redesignate Temporary Protected Status (TPS) for Haiti. In December 2022, the last time TPS eligibility for Haitians was expanded, DHS cited “a prolonged political crisis; grave insecurity and gang crime that worsened a dire economic situation; a lack of access to food, water, fuel and health care during a resurgence of cholera; and the recent catastrophic earthquakes” as reasons for providing humanitarian relief to Haitians already in the U.S.¹⁰

⁶ Coto, “Ariel Henry Resigns;” Dánica Coto and Evens Sanon, “The Widow and Aides of Assassinated Haitian President Jovenel Moïse Are Indicted in His Killing,” AP News, February 20, 2024, <https://apnews.com/article/haiti-martine-moise-indicted-claude-joseph-leon-charles-9b70e2dd91e7bbb48737df89f76a689d>.

⁷ Beatrice Dain and Jeanne Batalova, “Haitian Immigrants in the United States,” migrationpolicy.org, November 8, 2023, <https://www.migrationpolicy.org/article/haitian-immigrants-united-states-2022>.

⁸ Samantha Chery and Emmanuel Felton, Haitian Americans worry about Haiti but are wary of foreign intervention, April 18, 2024, <https://www.washingtonpost.com/nation/2024/04/18/haiti-violence-gangs-migration/>.

⁹ Camilo Montoya-Galvez, “1.5 Million Apply for U.S. Migrant Sponsorship Program with 30,000 Monthly Cap,” CBS News, May 22, 2023, <https://www.cbsnews.com/news/us-migrant-sponsorship-program-cuba-haiti-nicaragua-venezuela-applications/>.

¹⁰ “Secretary Mayorkas Extends and Redesignates Temporary Protected Status for Haiti for 18 Months: Homeland Security,” U.S. Department of Homeland Security, December 5, 2022, <https://www.dhs.gov/news/2022/12/05/secretary-mayorkas-extends-and-redesignates-temporary-protected-status-haiti-18>.

If anything, many of these circumstances have only worsened in the intervening year-and-a-half, making continued deportation protections and work authorization for Haitians who have already reached safety stateside an imperative. Indeed, the situation in Haiti embodies the types of harms that TPS was created to address.

At the same time, not continuing TPS for Haiti after it is set to expire on August 3 would set a dangerous precedent, unnecessarily stripping needed protections from many thousands of people living and working legally in the U.S. while further stressing Haitian American communities. Allowing TPS to lapse would also have negative economic impacts, making it difficult for Haitians in the U.S. to continue to support themselves and their families while removing legal employees from the workforce at a time when employers are already dealing with labor shortages.

Alongside current TPS holders, a subset of Haitians has entered the U.S. since the last cutoff date to qualify for protection, often through administration-recommended channels such as with a CBP One appointment or through parole programs that offer only short-term permission to stay in the U.S. TPS is one viable option to ensure those who trusted federal officials and waited for an opportunity to arrive in a more orderly manner are not abruptly returned to danger. Thus, the Forum urges the administration to both extend TPS for current Haitian beneficiaries and redesignate protection for people who are already here and contributing.

2. Temporary Halt to Haitian Repatriation

Second, the administration should temporarily halt the repatriation of Haitians apprehended at the U.S.-Mexico border or interdicted at sea. The State Department has elevated Haiti to a “do not travel” status, warning of “kidnapping, crime, civil unrest, and poor health care infrastructure.” Almost a year ago, non-emergency U.S. government personnel were ordered to leave Port-au-Prince for safety reasons, and Americans have generally been directed to depart the country.¹¹ Yet, even as the federal government broadly recognizes that Haiti is not safe for its own citizens, U.S. Immigration and Customs Enforcement (ICE) has continued removal flights to Haiti as recently as April 18.¹² At the same time, the Coast Guard is still repatriating Haitians trying to reach safety by boat, with little consideration for whether those individuals have viable protection claims.¹³

The Forum agrees with the administration that irregular migration poses extraordinary dangers for migrants and asylum seekers, fuels an underground smuggling economy, and does not represent an optimal path to the U.S. This is partly why both the Forum and the administration

¹¹ “Haiti Travel Advisory,” U.S. Department of State, July 27, 2023, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html>.

¹² Hamed Aleaziz, “U.S. Restarts Deportation Flights to Haiti,” The New York Times, April 18, 2024, <https://www.nytimes.com/2024/04/18/us/politics/us-restarts-deportation-flights-to-haiti.html>.

¹³ “Coast Guard Repatriates 65 Migrants to Haiti,” United States Coast Guard News, March 12, 2024, <https://www.news.uscg.mil/Press-Releases/Article/3704408/coast-guard-repatriates-65-migrants-to-haiti/#:~:text=MIAMI%20%E2%80%93%20The%20crew%20of%20Coast.in%20distress%2C%20on%20March%207.>

recognize a need for more orderly migration pathways. However, most Haitians at the U.S.-Mexico border are not entering without authorization; instead, they are patiently awaiting appointments through the CBP One app, despite increasing delays. For the small number who do cross between ports of entry — a mere 28 in February and 49 in March at the southwest land border — they still have the right to ask for asylum under both domestic and international law, plus a right to non-refoulement if their lives are at risk.¹⁴

Similarly, despite concerns that the situation in Haiti might inspire more people to take to the sea, particularly amid warmer weather, DHS has constantly reiterated in recent weeks that irregular migration in the Caribbean remains low.¹⁵ For those who do try to flee by boat, the Forum encourages the administration to approach them with empathy for their shared human dignity, which would inevitably mean not sending them back to a situation that could end their lives.

Specifically, the Forum asks the administration to suspend Haitian removals until the U.S. and Haitian governments can collectively ensure those who are repatriated will be safe. Potential metrics for this standard could be normalized operations at the U.S. embassy in Haiti, the lowering of Haiti's State Department travel advisory level to “exercise increased caution,” and/or restored government control over the vast majority of the country, including Port-au-Prince.

3. Fully Utilize and Potentially Increase Parole Cap

Third, the Forum asks U.S. Citizenship and Immigration Services (USCIS) and the State Department to take full advantage of their existing parole processes for Haitians. For one, the National Visa Center should actively prioritize identifying eligible petitioners who qualify to participate in the Haitian family reunification parole process and send out more invitations, while USCIS should ensure it is adjudicating applications as expeditiously as possible.¹⁶ This step alone could make a huge difference for Haitians and Haitian Americans worried about loved ones who are already in line for green cards.

DHS should also consider raising its current 30,000-person monthly cap for advance travel authorizations related to the parole processes for Cuba, Haiti, Nicaragua, and Venezuela (CHNV), which are significantly backlogged as demand far outpaces supply. There is no statutory requirement for a cap on the CHNV programs, and in fact, Uniting for Ukraine — on which the CHNV processes were modeled — is uncapped. There is also no question but that many of the potential beneficiaries in Haiti have an urgent humanitarian reason to flee, and that their reunification with family members and friends in the U.S. who are eager to financially

¹⁴ “8 U.S. Code § 1158 - Asylum,” Legal Information Institute, accessed April 29, 2024, <https://www.law.cornell.edu/uscode/text/8/1158>; “Nationwide Encounters,” U.S. Customs and Border Protection, April 12, 2024, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

¹⁵ Julia Ainsley, “The U.S. Is Still Sending Haitians Intercepted at Sea Back to Haiti despite the Violence,” NBCNews.com, March 15, 2024, <https://www.nbcnews.com/politics/immigration/us-sending-haitians-intercepted-sea-back-haiti-violence-rcna143425>.

¹⁶ “Family Reunification Parole Processes,” USCIS, January 2, 2024, <https://www.uscis.gov/FRP>.

sponsor them would represent a significant public benefit.¹⁷ Moreover, the administration should feel bolstered by a recent court decision from the Southern District of Texas, which found the CHNV parole processes were in fact decreasing net migration from the four countries by slashing irregular migration.¹⁸

In this context, the Forum urges DHS to ensure — as a baseline — that it is consistently reaching the 30,000-person cap on travel authorizations per month. Further, we ask that officials consider raising the cap to a level that reflects the current severity of the situation in Haiti, or even temporarily lifting it. Alternatively, the administration could separate Haiti’s program from the other three countries and provide 30,000 or more advance travel authorizations exclusively for Haitians each month on a temporary basis. Such adjustments could allow DHS to better prioritize Haitians who have been waiting the longest for relief, who remain in urgent need of protection.

4. Streamline Visa Vetting Processes

Fourth, the Forum urges the administration to streamline visa vetting processes to allow Haitian workers with employer sponsors to go through virtual vetting, instead of the standard consular-based process. Such a virtual process could be patterned off the one used by those in the parole programs.

The Forum has heard from partners in the business community who are interested in bringing Haitians to the U.S. for temporary work through the additional country-specific allocation of H-2B visas.¹⁹ Such an arrangement would represent a win-win situation, as employers in urgent need of workers would have reliable talent for seasonal work while Haitians with specific job training would be able to reach temporary safety and earn a living, buying them time to await improved conditions at home.

But as of now, with the U.S. embassy in Haiti largely unreachable and minimally functional, the Forum understands that Haitians are having to travel across international borders to go through the required steps and secure visas.²⁰ That is untenable for many Haitians in areas subjected to gang control. They would be far better served by a more accessible process that grants advance travel authorization and then H-2B status upon arrival in the U.S.

¹⁷ Kelsey Y. Santamaria, Humanitarian Parole Authority: A Legal Overview and Recent Developments, January 11, 2024, <https://crsreports.congress.gov/>.

¹⁸ Drew Tipton, “Texas v. DHS (TX CHNV Parole) - District Court: Memorandum & Opinion (PDF),” Justice Action Center, pp. 18-19, March 8, 2024, <https://litigationtracker.justiceactioncenter.org/cases/texas-v-dhs-tx-chnv-parole-district-court/memorandum-opinion-pdf>.

¹⁹ “Temporary Increase in H-2B Nonimmigrant Visas for FY 2024,” USCIS, April 18, 2024, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-non-agricultural-workers/temporary-increase-in-h-2b-nonimmigrant-visas-for-fy-2024>.

²⁰ Evens Sanon, “US Forces Fly in to Beef up Security at the Embassy in Haiti and Evacuate Nonessential Personnel,” AP News, March 10, 2024, <https://apnews.com/article/haiti-us-embassy-security-gang-violence-1b720280fa85c87ccf0768d3156dbd23>.

5. Protect Haitian Children

Fifth, and last, the U.S. must do more to protect Haitian children. Neither the Forum nor the administration wants children undergoing harrowing journeys alone to the U.S.-Mexico border or the Florida coast, during which they risk violence, exploitation, and other harms. But many minors still trapped in Haiti are likewise facing life-changing — and at times life-threatening — dangers, amid widespread school closures, severe child wasting and malnutrition, sexual violence, and gun injuries and deaths.²¹

DHS does not permit unaccompanied children to benefit from the CHNV parole processes.²² However, through the Central American Minors (CAM) program, the administration already has a child-centered humanitarian process for refugees and parolees that could be efficiently expanded to include Haitian children. For the greatest impact, the administration could allow not only parents and legal guardians to apply to bring their children, but also consider applications from relatives who would otherwise qualify under category 2 (brothers, sisters, grandparents, aunts, uncles, or first cousins) if an unaccompanied minor was already in the U.S.²³ In this way, DHS could preempt the possibility of unsafe, irregular journeys by unaccompanied Haitian children, thoroughly vet potential sponsors before a child enters their care, and provide an orderly pathway.

The Forum recognizes that these five requests, while relatively modest, would still represent a great deal of effort on the administration's part to implement, at a time when USCIS and other agencies that would shoulder the bulk of this work are chronically underfunded. For this reason, we have tried to target real solutions based on existing processes, where frameworks, legal authorities, and operational logistics are already in place. By implementing these five policy changes, the Biden administration would stand by its commitment to a more humane, orderly immigration system while fortifying its strategy to create more lawful, safe pathways. You would also inevitably save lives.

²¹ Erika Angulo, "Parents across Haiti Scramble to Keep Their Children Safe and in School despite the Violence," NBCNews.com, March 25, 2024, <https://www.nbcnews.com/news/world/parents-haiti-children-school-portauprince-rcna144990>; "Armed Violence Deepening Malnutrition Crisis for Children in Haiti," UNICEF, March 26, 2024, <https://www.unicef.org/press-releases/armed-violence-deepening-malnutrition-crisis-children-haiti>; "Children Killed While Fleeing Violence in Areas Controlled by Armed Groups in Port-Au-Prince, Haiti.," UNICEF, February 13, 2024, <https://www.unicef.org/haiti/en/press-releases/children-killed-while-fleeing-violence-areas-controlled-armed-groups-port-au-prince>.

²² "The Biden Administration's Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview," American Immigration Council, October 31, 2023, <https://www.americanimmigrationcouncil.org/research/biden-administration%E2%80%99s-humanitarian-parole-program-cubans-haitians-nicaraguans-and-venezuelans>.

²³ "ORR Unaccompanied Children Program Policy Guide: Section 2," The Administration for Children and Families, April 1, 2024, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>.

Thank you for your consideration. The Forum would welcome any opportunities to discuss or help the administration implement these policies.

Sincerely,

/s/Laurence Benenson

Laurence Benenson
Vice President of Policy & Advocacy
National Immigration Forum

cc: Royce Bernstein Murray
Brian Nichols