

October 25, 2021

Secretary Alejandro Mayorkas  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
2801 Nebraska Ave., N.W.  
Washington, DC 20528

Attorney General Merrick Garland  
U.S. Department of Justice  
950 Pennsylvania Ave, N.W.  
Washington, DC 20530-0001

Secretary Xavier Becerra  
Secretary of Health and Human Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

**Re: Humanitarian Immigration Protection and Relief for Haitian Refugees**

Dear Secretary Mayorkas, Attorney General Garland, and Secretary Becerra:

Lawyers for Civil Rights (LCR) respectfully writes to raise concerns surrounding the plight of Haitian refugees who have fled Haiti and are seeking immigration protection in the United States. For these families, returning to Haiti is not an option. In the absence of much-needed relief under Temporary Protected Status (TPS), we urge you to exercise your broad discretion and authority to grant Haitian families and children immigration protection through humanitarian parole, parole-in-place or deferred action.

Haitian families uniformly express terror at the prospect of returning to Haiti, which has been plagued by natural disasters, mass kidnappings,<sup>1</sup> food insecurity,<sup>2</sup> and political unrest.<sup>3</sup> As the federal government has recognized: "Haiti is grappling with a deteriorating political crisis, violence, and a staggering increase in human rights abuses."<sup>4</sup>

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<sup>1</sup> *Missionaries With An American Christian Group Kidnapped in Haiti*, New York Times (Oct. 19, 2021), available at <https://www.nytimes.com/2021/10/16/world/americas/missionaries-kidnap-haiti.html>

<sup>2</sup> World Food Programme, Haiti, available at <https://www.wfp.org/countries/haiti>.

<sup>3</sup> *Haiti President's Assassination: What We Know So Far*, BBC World News (Sep. 14, 2021), available at <https://www.bbc.com/news/world-latin-america-57762246> (noting assassination of president Jovenel Moïse on July 7, 2021).

<sup>4</sup> Federal Designation of Haiti for Temporary Protected Status, 86 FR 41863 (Aug. 3, 2021), available at <https://www.federalregister.gov/documents/2021/08/03/2021-16481/designation-of-haiti-for-temporary-protected-status>.

Additionally, Haitian families have experienced discrimination and mistreatment at the hands of federal officials at the U.S. border. LCR recently filed a complaint with the U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties on behalf of 48 Haitian refugees outlining the alarming abuses.<sup>5</sup>

As one Haitian immigrant stated in LCR's recently-filed civil rights complaint: **"To return to Haiti is to walk into the arms of death."** In light of the life-threatening conditions in Haiti and at the U.S. border, we strongly urge you to exercise your broad discretion and authority to provide immediate immigration protection and relief granting humanitarian parole, parole-in-place and/or deferred action for all Haitians who are fleeing their home country.

### **Expedited Humanitarian Parole**

Humanitarian parole is appropriate when there is a compelling emergency and there is an urgent humanitarian reason or significant public benefit to allowing individuals to temporarily enter the United States.<sup>6</sup> The applicable statutory and regulatory provisions vest full discretion for humanitarian parole in the Attorney General and the DHS Secretary.<sup>7</sup>

The U.S. government has recognized in the past that conditions in a country may be so extreme and widespread that it is appropriate to grant humanitarian parole on a broad or collective scale. For example, following the recent withdrawal of U.S. forces from Afghanistan, U.S. Citizenship and Immigration Services (USCIS) has admitted more than 65,000 Afghan nationals to the United States on humanitarian parole.<sup>8</sup>

Similar relief is appropriate for Haitian nationals arriving at the U.S. border and should be granted on an expedited basis. Life-threatening conditions in Haiti are well-documented, well-known, and dire. **It is appropriate and necessary to grant expedited humanitarian parole for those Haitians arriving to the United States border.**<sup>9</sup>

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<sup>5</sup> See Lawyers for Civil Rights, Black Haitian Families File Complaint Against Border Officials (Oct. 18, 2021), available at

<http://lawyersforcivilrights.org/our-impact/immigrant-rights/black-haitian-families-file-complaint-against-border-officials/>.

<sup>6</sup> See 8 U.S.C. § 1182(d)(5)(A); see also USCIS, Humanitarian Parole, available at

<https://www.uscis.gov/forms/explore-my-options/humanitarian-parole>

<sup>7</sup> *Garcia-Jimenez v. ICE*, No. 15-CV-820 (W.D. Wash. Aug. 27, 2015), report and recommendation adopted, No. 15-CV-820 (W.D. Wash. Sept. 28, 2015); see also 8 U.S.C. § 1182(d)(5)(A); 8 U.S.C. § 1231(b)(3)(A).

<sup>8</sup> *After A Traumatic Journey, Afghan Immigrants on Humanitarian Parole Cope with Uncertainty*, Boston Globe (Oct. 24, 2021), available at <https://www.bostonglobe.com/2021/10/24/nation/after-traumatic-journey-afghan-immigrants-humanitarian-parole-cope-with-uncertainty/>; see also USCIS, Information for Afghan Nationals on Requests to USCIS for Humanitarian Parole, available at

<https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-humanitarian-parole>.

<sup>9</sup> USCIS, How to Make an Expedite Request, available at <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>

Timely release from DHS detention – within 72 hours<sup>10</sup> – is particularly critical given the abominable conditions under which many Black Haitian families who arrived at the border have been held.<sup>11</sup> **Families report being detained in overcrowded facilities without access to food or medical treatment. These conditions led to at least one miscarriage and countless illnesses while families and children were in DHS custody.**<sup>12</sup> In light of these conditions, immediate release from DHS custody with humanitarian parole is necessary.

### **Parole-in-Place for Haitians**

Many Haitians who have arrived at the border in the past months have been released on bond or on their personal recognizance. They have been ordered to check-in with ICE officials regularly and to appear in immigration court for removal proceedings. Although they are now living in the United States, many of these families may not be considered “admitted” under immigration law,<sup>13</sup> but they may be eligible for parole-in-place.<sup>14</sup> **Like those still held in detention or who are arriving at the U.S. border, Haitian families should be granted parole-in-place for humanitarian reasons.**

### **Deferred Action for Haitians Families**

It is well within the discretion and authority of the federal government to defer removal proceedings.<sup>15</sup> Such deferral in the case of Haitian nationals currently residing in the United States is justified for humanitarian reasons – and for the federal government’s administrative convenience in light of the overwhelming crisis.<sup>16</sup> At present and for the foreseeable future, Haitian families and children cannot safely be removed to Haiti. Families with notices to appear – or with removal orders – should be granted deferred action until the federal government has had an opportunity to fully assess conditions on the ground, including the Haitian government’s capacity to receive and protect its people. The U.S. government has provided broad scale or collective protection through deferred action in the past.<sup>17</sup> Similar protection is appropriate here. We urge you to allow Haitian families to remain in the United States until the conditions in Haiti have stabilized.<sup>18</sup>

Thank you for considering this urgent request. We can be reached at [asharma@lawyersforcivilrights.org](mailto:asharma@lawyersforcivilrights.org). We look forward to hearing from you.

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<sup>10</sup> This is sufficient time for federal authorities to ascertain public safety or national security threats.

<sup>11</sup> See LCR Civil Rights Complaint, *supra* note 6.

<sup>12</sup> *Id.*

<sup>13</sup> *Delgado-Sobalvarro v. Att’y Gen.*, 625 F.3d 782 (3d Cir. 2010).

<sup>14</sup> 8 U.S.C. § 1182(d)(5)(A); *see also* Authority to Parole Applicants for Admission Who Are Not Also Arriving Aliens, Legal Op. 98-10 (Aug. 21, 1998), 1998 WL 1806685 (Aug. 21, 1998).

<sup>15</sup> *See, e.g., Arizona v. United States*, 567 U.S. 387, 396 (2012).

<sup>16</sup> *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999).

<sup>17</sup> *See, e.g., Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Minors*, (June 15, 2012) (establishing DACA program), available at <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

<sup>18</sup> 8 U.S.C. §1231(b)(3) (restriction on removal to a country where life or freedom would be threatened).

Respectfully submitted,

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