

Migration as a Tool for Disaster Recovery: U.S. Policy Options in the Case of Haiti

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CGD Brief

The United States should take modest steps to create a legal channel for limited numbers of people fleeing natural disasters overseas to enter the United States. This would address two related problems: the lack of any systematic U.S. policy to help the growing numbers of people displaced across borders by natural disasters and the inability of U.S. humanitarian relief efforts to reduce systemic poverty or sustainably improve victims' livelihoods. The aftermath of the 2010 Haiti earthquake presents a compelling case study of the administrative and legislative ways the U.S. government could address both problems. Migration is already a proven and powerful force for reducing Haitians' poverty. A few modest changes in the U.S. approach could greatly aid Haiti's recovery:

- Create a Haitian Family Reunification Parole Program.
- Modify the Diversity Visa Lottery Program.
- Allow Haitians to be eligible for low-skill temporary work visas.
- Modify the U.S. Refugee Admissions Program.

Aid Is Not Enough

The U.S. strategy to assist Haitians has focused on providing aid as part of the international humanitarian assistance program. The United States has contributed about \$184 million and plans to allocate \$900 million more by the end of fiscal year 2012. So far, relief efforts have not done enough. There is scant sign of economic recovery, and a cholera outbreak has infected hundreds of thousands.

Aid, no matter how worthwhile for relief purposes, is unlikely to provide lasting prosperity for even small numbers of Haitians. Despite aid, trade preferences, public-health campaigns, and other efforts, the average living standard in Haiti *fell* by 50 percent over the past three decades—and that was *before* the earthquake. That is not a reason to end those noble efforts—things might have been even worse without them—but it is a reason to complement traditional activities with fresh approaches.

Migration, in contrast, has been a proven and powerful force for reducing the poverty of Haitian people:

- The average Haitian male moving to the U.S. immediately raises his economic productivity (and income) by a factor of six or more.
- Four out of every five Haitians who have escaped destitution did so by leaving Haiti.
- Remittances to Haiti by family members abroad greatly exceed foreign aid; they rise more quickly than aid after disasters and go directly to families who need relief.

Although the United States has granted Temporary Protected Status (TPS) to approximately 50,000 Haitians since the earthquake, only those already in the United States are eligible to apply. TPS does not authorize anyone to migrate to the United States after a natural disaster. No one leaving Haiti because of the earthquake qualifies as a refugee under current U.S. law.¹

Modest and Sensible Steps for Relief

By taking any one of several modest and sensible policy steps, the United States could do a much better job of handling migration induced by natural disasters and providing relief to people affected by catastrophes. Presented below are a set of actionable proposals to augment the U.S. humanitarian response by harnessing the enormous potential of migration. Some require legislative action by Congress, but others require only administrative action using existing discretionary authority.

1. The administration can create a Haitian Family Reunification Parole Program (HFRPP)

A program for Haiti similar to the Cuban Family Reunification Parole Program would grant parole to already approved beneficiaries of family-based permanent residence (“green card”) petitions and allow them to live and work in the United States while they wait for a visa.

Family reunification is already the principal channel of Haitian migration to the United States. Seventy-five percent of Haitians who became Legal Permanent Residents (LPRs) of the United States in 2009 were close relatives of U.S. citizens and other LPRs. While unlimited numbers of immediate relatives (spouses, children, and parents of adult U.S. citizens) are allowed to enter each year from any country, visas for other relatives are capped at 226,000 worldwide. A single country cannot receive more than 7 percent (15,820) of the total number of family-based visas each year. These visas are heavily oversubscribed and petitions are held in a queue based on their application or “priority date.” About 105,000 Haitians are waiting for a family-based green card; the wait period is typically between 4 and 11 years.

Instead of making these approved family members wait in a country ravaged by natural disasters, the United States can selectively grant legal entry to any number of them using

“parole” authority. The Secretary of Homeland Security already possesses this authority and has wide discretion to exercise it. The United States could choose to allow even a few thousand people to wait with their families in the United States by prioritizing those with the longest-pending applications or closest family relationships. Since migrants entering through this channel already have established support systems, they will require less assistance to integrate.

2. Congress can modify the Diversity Visa Lottery Program

The Diversity Visa (DV) lottery was created to allow limited immigration for people without family sponsors, that is, from countries that have not historically sent large numbers of migrants to the United States. By statute, 55,000 green cards are randomly allotted to six geographic regions through the DV program, but no more than 7 percent can be issued to persons born in any one country. Because of Haiti’s high number of family-based admissions, it is 1 of 19 “high-admission states” that was excluded from the DV program in 2011.

The U.S. government could make the DV lottery favorable to victims of natural disaster by allocating a portion of these visas specifically for humanitarian assistance. Setting a precedent, the Nicaraguan Adjustment and Central American Relief Act (NACARA) of 1997 reallocates 5,000 diversity visas annually toward a humanitarian purpose. NACARA provides green cards for certain Nicaraguans, Cubans, Salvadorans, Guatemalans, and nationals of former Soviet bloc countries. Legislators have also attempted to reallocate diversity visas toward other purposes or eliminate them altogether. For instance, H.R. 43 (2011) proposed eliminating the DV lottery and reallocating the green cards toward an employment-based visa requiring a higher educational degree. Given the existing debate surrounding the DV lottery, Congress could support a program of reallocating diversity visas in response to catastrophes.

Aside from allocating a portion of diversity visas for humanitarian purposes, Congress could also pass legislation that would exempt Haiti from disqualification from the DV lottery. Both courses of action are numbers-neutral—the same number of visas will be allotted, and the processing costs remain the same. Individual eligibility conditions to apply for the DV lottery stipulate that an applicant must possess at least a high school education or equivalent work experience, ensuring that the migrants will be productive members of society and present a net benefit to the U.S. economy.

1. Between 1952 and 1980, the U.S. legal definition of “refugee” included people fleeing natural catastrophes, but it no longer does. Details are in the research paper underlying this brief.

3. The administration can make Haitians eligible for low-skill temporary or immigrant work visas

Low literacy rates and limited English preclude many Haitians from taking advantage of many employment-based visas. Most Haitians, however, would qualify for temporary low-skill work visas such as the H-2A and H-2B. The former fills agricultural jobs, while the latter fills nonagricultural jobs such as those at vacation resorts. Haiti, however, is excluded from the list of eligible countries published annually by the Secretary of Homeland Security in consultation with the State Department.

The criteria to determine a country's eligibility for the H-2A and H-2B visas leave the Secretary of Homeland Security some room for discretion. Current law allows the administration to choose eligible countries according to "such other factors as may serve the U.S. interest."² Admitting Haitians under this program can serve U.S. national interest by providing U.S. industries with labor while helping to give Haitians the skills they need to help rebuild their country.

The H-2A and H-2B are temporary, nonimmigrant visas. The EB-3, on the other hand, is a permanent immigrant visa for unskilled workers. EB-3 visas are capped at 10,000 each year, but even fewer are available because 5,000 are allocated toward NACARA. These EB-3 visas are provided for jobs that are not temporary or seasonal in nature and for which qualified workers are not available in the United States. Although Haitians are eligible for EB-3 visas, the limited number of visas and the long wait periods make them an ineffective means for post-disaster migration. Congress could consider reallocating some of the EB-3 visas, especially in light of the dwindling demand for visas by NACARA beneficiaries, to persons with humanitarian needs.

4. Congress can modify the U.S. Refugee Admissions Program

The U.S. Refugee Admissions Program (USRAP) allocates 80,000 visas, broken down by regional ceilings, to applicants claiming refugee status. The definition of *refugee* does not include people fleeing natural disasters, although it once did: from 1952 to 1980, people fleeing natural catastrophes could claim refugee status under U.S. law. The Refugee Act of 1980 changed the definition to eliminate that provision.

We do not recommend attempting to change the definition of refugee in U.S. law today, which would face insurmountable challenges. Instead, we propose legislation akin to the Refugee Protection Act of 2010, which would have amended section 207 of the Immigration and Nationality Act, which authorizes the USRAP, to include those "who otherwise have a shared need for resettlement due to vulnerabilities or a lack of local integration prospects in their country of first asylum."³ This amendment would broaden the class of persons eligible to be admitted as refugees and permit the Secretary to accept disaster-affected refugees. In this way, individuals in need of resettlement because of a natural disaster could qualify for the USRAP even if they do not fall under the strict definition of a refugee.

This channel of entry has clear advantages for targeting the most vulnerable. USRAP provides resettlement benefits such as housing assistance, job training, language skills, and sponsorship. These benefits would grant access to poorer Haitians without the means, family ties, or education to enter the United States by traditional channels. Previous attempts to broaden access to the refugee program have met opposition in part because of the associated costs. But all forms of humanitarian assistance have large costs, as do alternative ways of handling post-disaster migrants such as forced repatriation. And the total number of beneficiaries from assistance could in principle remain fixed even if there were changes in the criteria for who fills those slots.

All of these options present an opportunity to make substantial impacts with modest effort. The United States can position itself to respond to humanitarian crises more effectively by enacting such forward-thinking policy.

Further detail on these policy options, and additional options for the administration and Congress, are discussed by Royce Murray and Sarah Williamson in the research paper "Migration as a Tool for Disaster Recovery: A Case Study on U.S. Policy Options for Post-Earthquake Haiti," Working Paper 255, Center for Global Development. The full paper and other materials in both English and French are available at www.cgdev.org/smartrelief.

2. 8 C.F.R. § 214.2(h)(5)(i)(F)(1)(i).

3. Refugee Protection Act of 2010, p. 65.

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