New York, November 20, 2017

The Honorable Elaine C. Duke
Acting Secretary of Homeland Security
Washington, D.C. 20528

Dear Acting Secretary Duke,

The undersigned law professors and scholars write to express our concern regarding the potential termination of Temporary Protected Status (TPS) for more than 50,000 Haitians and 200,000 Salvadorans living in the United States. The statutory basis for an extension of TPS for Haiti and El Salvador is strong. As legal experts, we write to encourage you to exercise your statutory authority and extend TPS for Haiti and El Salvador for 18 months.¹

The DHS designated Haiti for TPS days after an earthquake decimated the nation’s capital in January 2010.² The DHS redesignated Haiti for TPS in 2011, emphasizing the gravity of the earthquake and noting the sudden and dramatic spread of one of the world’s worst cholera outbreaks. TPS has been extended for Haiti four times since redesignation.

The DHS designated El Salvador for TPS after two deadly earthquakes struck the country within a month of each other in 2001.³ The DHS has redesignated El Salvador for TPS nine times since then because of the country’s slow recovery after the earthquakes, large number of Salvadorans still living as internally displaced people, and subsequent natural and manmade disasters that continue to substantially disrupt El Salvador’s living conditions.

**Country Conditions Warrant Redesignation:**

Haiti and El Salvador have not yet overcome the unprecedented damage and extraordinary challenges that the earthquakes and subsequent natural and manmade disasters caused.

**Haiti**

Haiti has undergone two additional catastrophes since its initial designation in January 2010: the outbreak of cholera, introduced into Haiti’s waterways through reckless sanitation at a United Nations military base, and Hurricane Matthew in October 2016, the strongest hurricane to hit

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² Global Justice Clinic, supra note 1.

Haiti in more than half a century. These additional disasters have prevented and slowed earthquake recovery, making it unsafe for Haitian nationals to return.

The DHS may extend TPS if the conditions for which a country received designation continue to exist. Haiti has not yet overcome the unprecedented damage and extraordinary challenges that the earthquake and subsequent disasters caused. The country continues to face displacement—nearly 40,000 people live in internally displaced people camps; a housing crisis forces families to settle in unsafe, makeshift shelters; cholera continues to sicken and kill Haitians every month, and extreme hunger and malnutrition caused by drought and storms have worsened since 2015, with an estimated 2.4 million people facing extreme food insecurity.

Although these conditions are extraordinary, the Haitian government has made impressive progress in reducing the number of cases of cholera and resulting deaths. As of 2017, Haiti finally has an elected president and a full parliament, for the first time since 2012. This progress remains fragile, however, and the termination of TPS for Haiti would have significant destabilizing consequences.

**El Salvador**

El Salvador continues to face a substantial disruption of living conditions as a result of the earthquakes in 2001. The earthquakes caused displacement of people and serious losses in infrastructure, housing, and the agricultural sector. Subsequent disasters and increased violence exacerbated these conditions. As a result, the Salvadoran government is unable to adequately handle the return of its nationals.

The DHS may extend TPS if the conditions for which a country received designation continue to exist. In 2016, DHS noted that despite El Salvador’s efforts to address the substantial disruption of living conditions, subsequent disasters as well as increased levels of crime and insecurity are hindering recovery. El Salvador continues to struggle with serious infrastructure problems, an extreme housing shortage, water contamination, and food insecurity as a result of the worst drought in 35 years. Additionally, approximately 400,000 Salvadorans are still living as internally displaced people in the country. Their situation is particularly concerning given the rise in extortion and violence—El Salvador’s homicide rate is among the highest in the world at 81 per 100,000 people; in addition to the exorbitant human toll, the costs of violence and crime represent about 5.9 percent of the GDP.

Despite a slow recovery, the Salvadoran government recently formed a National Council for Citizen Security and is partnering with the UN and US to implement a 5-year integrated security

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4 Global Justice Clinic, supra note 1.
5 Id.
6 See INA § 244(b)(1)(C), 8 U.S.C. § 1254 (2012); INA § 244(b)(3)(C).
7 Global Justice Clinic, supra note 1.
8 Id.
10 See INA § 244(b)(1)(B); INA §244(b)(3)(C).
13 Id.
plan. However, these steps towards stabilizing the country would be gravely impaired should Salvadorans living in the U.S. with TPS be forced to return.

**The Haitian and Salvadoran Governments Both Seek Redesignation**

The Haitian and Salvadoran governments, overwhelmed by the need to cope with these devastating conditions, requested an extension of 18 months, emphasizing that they are currently incapable of safely receiving their nationals. In addition, the Haitian and Salvadoran economies both depend on remittances from their diaspora: Haitian TPS beneficiaries working in the United States support an estimated 250,000 of their relatives in Haiti; while 77 percent of Salvadoran TPS beneficiaries send remittances that contribute to the roughly $4 billion sent each year.

The loss of TPS and return of more than 50,000 Haitians and 200,000 Salvadorans to their respective countries would undermine the progress that both Haiti and El Salvador have made addressing post-earthquake conditions. It would divide families and hurt the U.S. economy, which collects tax payments as well as Social Security and Medicare contributions from Haitian and Salvadoran TPS holders.

We therefore respectfully urge you to grant 18-month extensions of TPS to Haiti and El Salvador.

Yours sincerely,

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14 *Id.*
16 See Center for Migration Research, *supra* note 15.
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