



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

¹ See, e.g., Global Justice Clinic, NYU School of Law, Extraordinary Conditions: A Statutory Analysis of Haiti's Qualification for TPS, October 2017, http://chrgj.org/wp-content/uploads/2017/10/171025_Global-Justice-Clinic-Haiti-TPS-Report-web-version.pdf; Robert Warren & Donald Kerwin, *A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti*, 5 JMHS 3 (2017).

² Global Justice Clinic, *supra* note 1.

³ INS, TPS for El Salvadorans (March 2, 2001), available at https://www.uscis.gov/sites/default/files/files/pressrelease/TPSQ_030201.pdf.

Haiti in more than half a century.⁴ These additional disasters have prevented and slowed earthquake recovery, making it unsafe for Haitian nationals to return.⁵

The DHS may extend TPS if the conditions for which a country received designation continue to exist.⁶ 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.⁷

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 2012.⁸ 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.⁹

The DHS may extend TPS if the conditions for which a country received designation continue to exist.¹⁰ 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.¹¹ Additionally, approximately 400,000 Salvadorans are still living as internally displaced people in the country.¹² 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.¹³

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

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.*

⁹ See, e.g., 81 Fed. Reg. 44645 (July 8, 2016), available at <https://www.federalregister.gov/documents/2016/07/08/2016-15802/extension-of-the-designation-of-el-salvador-for-temporary-protected-status>;

¹⁰ See INA § 244(b)(1)(B); INA § 244(b)(3)(C).

¹¹ See 81 Fed. Reg. 44645.

¹² United States Conference of Catholic Bishops, *Temporary Protected Status: A Vital Piece of the Central American Protection and Prosperity Puzzle* (October 2017).

¹³ *Id.*

plan.¹⁴ 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.¹⁵

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.¹⁶

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

Yours sincerely,

(Institutional affiliations for identification purposes only)

Deborah M. Weissman

Reef C. Ivey II Distinguished Professor of Law
University of North Carolina School of Law

Benjamin Casper Sanchez

Director
James H. Binger Center for New Americans
University of Minnesota Law School

Stephen Yale-Loehr

Professor of Immigration Law Practice
Cornell Law School

Amelia McGowan

Adjunct Professor
Mississippi College School of Law

¹⁴ *Id.*

¹⁵ See Global Justice Clinic, *supra* note 1; Manuel Orozco, Laura Porras and Julia Yansura, *The Continued Growth of Family Remittances to Latin America and the Caribbean in 2015*, Inter-American Dialogue, (Feb. 2016), available at <http://www.thedialogue.org/wp-content/uploads/2016/02/2015-Remittances-to-LAC-2122016.pdf>; Center for Migration Research University of Kansas, *Temporary Protected Status in the United States: The Experiences of Honduran, and Salvadoran Immigrants* (May 2017)

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

Barbara Hines

Clinical Professor of Law (Retired)
University of Texas School of Law

Elora Mukherjee

Associate Clinical Professor of Law and Director Immigrants' Rights Clinic
Columbia Law School

Lauren Gilbert

Professor of Law
St. Thomas University School of Law

Estelle McKee

Clinical Professor
Cornell Law School

Lauren Carasik

Clinical Professor of Law
Western New England University School of Law

Erica Schommer

Clinical Assistant Professor of Law
St. Mary's University School of Law

Karen Musalo

Professor
U.C. Hastings College of the Law

Jackie Pearce

Clinical Teaching Fellow
Cardozo Law School, Immigration Justice Clinic

Elizabeth Keyes

Associate Professor
University of Baltimore School of Law

Claire R. Thomas

Director, Asylum Clinic
New York Law School

Karla McKanders

Clinical Professor of Law
Vanderbilt University

Christopher Strawn

Instructor, Director of the Immigration Law Clinic
University of Washington School of Law

Jacqueline Bhabha

Professor of the Practice of Health and Human Rights
Harvard Chan School of Public Health

Sabrineh Ardalan

Assistant Clinical Professor
Harvard Law School

Theo Liebmann

Clinical Professor of Law
Hofstra Law School

Lenni Benson

Professor of Law, Director Safe Passage Project Clinic
New York Law School

Hiroko Kusuda

Clinic Professor
Loyola University New Orleans College of Law

Gemma Solimene

Clinical Associate Professor of Law
Fordham University School of Law

Jaya Ramji-Nogales

I. Herman Stern Research Professor
Temple Law School

Richard Frankel

Associate Professor of Law
Drexel University Thomas R. Kline School of Law

Nickole Miller

Clinical Teaching Fellow
University of Baltimore School of Law, Immigrant Rights Clinic

Philip L. Torrey

Managing Attorney, Harvard Immigration and Refugee Clinical Program
Harvard Law School

William Brooks

Clinical Professor of Law
Touro Law Center

H. Marissa Montes

Co-Director, Loyola Immigrant Justice Clinic
Loyola Law School

Ellie Happel

Haiti Program Director
Global Justice Clinic, New York University School of Law

Prerna Lal

Clinical Supervisor and Staff Attorney, EBCLC
UC Berkeley School of Law

Margaret Satterthwaite

Professor of Clinical Law
New York University School of Law

Irene Scharf

Professor of Law
Univ. of Massachusetts School of Law

Shoba Sivaprasad Wadhia

Samuel Wekss Faculty Scholar and Clinical Professor of Law
Penn State Law - University Park

Stephen Wizner

William O. Douglas Clinical Professor Emeritus
Yale Law School

Denise Gilman

Director, Immigration Clinic
University of Texas School of Law

Jon Bauer

Clinical Professor of Law and Richard D. Tulisano '69 Scholar in Human Rights
University of Connecticut School of Law

Lauren R. Aronson

Assistant Professor of Professional Practice/Director, Immigration Law Clinic
Louisiana State University Law Center

Deborah C. Malamud

Professor of Law
New York University School of Law

Sarah Sherman-Stokes

Lecturer and Clinical Instructor
Boston University School of Law

Jonathan Weinberg

Professor of Law
Wayne State University

Anna Welch

Clinical Professor
University of Maine School of Law

Elissa Steglich

Clinical Professor
University of Texas School of Law

Sarah Paoletti

Practice Professor of Law and Director, Transnational Legal Clinic
University of Pennsylvania School of Law

Alina Das

Professor of Clinical Law
New York University School of Law

Talia Peleg

Visiting Clinical Law Professor
CUNY School of Law

Jessica Rofé

Immigrant Defense Fellow
New York University School of Law

Nancy Morawetz

Professor of Clinical Law
New York University School of Law

Sarah Vendzules

Acting Assistant Professor, Lawyering
New York University School of Law

Nicole Phillips

Adjunct Professor
UC Hastings College of Law

Naomi Sunshine

Associate Director, Lawyering Program and Acting Assistant Professor
New York University School of Law

Amanda Lisa David

Adjunct Professor of Clinical Law
New York University School of Law

Deborah Popowski

Executive Director, Center for Human Rights and Global Justice
New York University School of Law

Nikki Reisch

Legal Director, Center for Human Rights and Global Justice
New York University School of Law