



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION



October 28, 2016

The Honorable Jeh Johnson
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW Washington, DC 20528

Dear Secretary Johnson,

The American Immigration Lawyers Association (AILA) and the American Immigration Council (Council) write to express our opposition to the Department of Homeland Security's (DHS) plans to resume normal deportations to Haiti and to urge the Administration to provide humanitarian relief to Haitian nationals by redesignating Haiti for Temporary Protected Status (TPS) and creating an additional parole policy while the country once again works to recover from the effects of a natural disaster.

In 2010, a catastrophic earthquake devastated Haiti, killing approximately 200,000 people and displacing more than two million. In response, the United States designated Haiti for TPS and further committed to granting eligible Haitians humanitarian parole while the country recovered. In 2011, the U.S. government redesignated Haiti for TPS. In August, 2015, TPS was extended for another 18 months into 2017. In addition, in 2015, DHS began accepting applications for the Haitian Family Reunification Parole Program (HFRPP), which allows certain U.S. citizens and permanent residents to apply for parole for their family members in Haiti to permit them to come to the United States while they wait to apply for permanent residence. Both the ongoing extensions of TPS and the recent institution of the HFRPP are clear indications that the U.S. recognizes that conditions in Haiti remain dire.

Despite this, on September 22, 2016, DHS announced plans to resume regular deportations of Haitians for the first time since the earthquake. This decision was made despite the country's inability to recover from the earthquake, its ongoing struggles to combat the worst epidemic of cholera in the world, and persistent political and social instability. Two weeks after this announcement, Hurricane Matthew made landfall on the Western Coast of Haiti. The full extent of the devastation is still unknown, but as of October 8, 2016 about 900 Haitians had lost their lives, with aid officials reporting that 90 percent of some areas were destroyed and unreachable.¹

¹ <http://www.bbc.com/news/world-latin-america-37596222>

Cholera, which killed 10,000 Haitians and sickened hundreds of thousands of others after the earthquake, is surging again after the storm.²

On October 12, in response to the hurricane, DHS announced that it would temporarily suspend removal flights to Haiti. The announcement was an important recognition of the devastation wrought by the storm. But more comprehensive, lasting solutions are needed to ensure that Haitians are not deported to unsafe conditions or subjected to prolonged detention until deportations fully resume. DHS has stated its intention to resume removal flights “as soon as possible,” thus signaling its intent to deter future arrivals at a time when the country of Haiti and its nationals need humanitarian protection.

At this point, DHS has not yet proposed a plan for how it will process those Haitians it is currently detaining. More than six years after the earthquake, as Haiti was still struggling to recover, Hurricane Mathew swept in and compounded the devastation. DHS’s plans to hold Haitians in detention until country conditions improve is shortsighted and ignores the reality of the long journey the small island nation faces to rebuild and recover. If DHS plans to detain Haitians until they can return to Haiti safely, thousands of individuals will be subjected to extremely prolonged, likely indefinite, detention.

DHS needs a humane, safe, and workable plan. AILA and the Council urge the Administration to redesignate Haiti for TPS to include Haitians who are currently in the U.S. but who arrived after January 12, 2011, and therefore do not qualify for TPS under the current designation. TPS was created to offer temporary humanitarian protection to foreign nationals in the U.S. when country conditions temporarily prevent them from returning safely to their home country, or in certain circumstances, where the country is unable to handle the return of its nationals adequately. The conditions in Haiti have significantly worsened and clearly qualify under the statute for TPS redesignation.

In addition, we encourage the Administration to exercise its authority under Immigration and Nationality Act §212(d)(5) to provide humanitarian parole to eligible Haitians who are currently in detention and arriving at our border. Humanitarian parole is designed to bring individuals into the U.S. for a temporary period of time for urgent humanitarian reasons. As stated above, Haiti is and has been in a catastrophic state of turmoil for years, and Hurricane Matthew’s havoc has only made a bad situation worse. Humanitarian parole would provide temporary relief to those escaping the devastation in Haiti who might not be eligible for TPS under a new designation while ensuring that they are not hastily returned to unsafe and unlivable conditions.

² <http://www.nytimes.com/2016/10/15/world/americas/cholera-haiti-hurricane-matthew.html>

In addition, as Haitian families arrive in the U.S., we ask that the Administration make every effort to avoid detaining and separating family units. Families do not need to be detained, but instead can be monitored by supervised release and other alternatives to detention.

The U.S. must focus on a humanitarian response to this latest crisis in Haiti that includes TPS redesignation, parole, alternatives to detention, and family unity. We would appreciate the opportunity to meet with you as soon as possible to receive an update on the Administration's policies regarding the detention, processing, and protection of recently arrived Haitians.

Please contact Alyson Sincavage, Legislative Associate at the American Immigration Lawyers Association, 202/507-7657, asincavage@aila.org or Joshua Breisblatt, Policy Analyst at the American Immigration Council, 202/507-7533, jbreisblatt@immcouncil.org.

Sincerely,



Benjamin Johnson
Executive Director
The American Immigration Lawyers
Association



Beth Werlin
Executive Director
The American Immigration Council

cc: Alejandro Mayorkas, Deputy Secretary, U.S. Department of Homeland Security

Gil Kerlikowske, Commissioner, U.S. Customs and Border Protection

Sarah Saldaña, Director, U.S. Immigration and Customs Enforcement

León Rodríguez, Director, U.S. Citizenship and Immigration Services

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