

Nos. 25-1083 & 25-1084

IN THE
Supreme Court of the United States

MARKWAYNE MULLIN, Secretary, Department of
Homeland Security, et al., *Petitioners*,
v.
DAHLIA DOE, et al., *Respondents*.

DONALD J. TRUMP, President of the United
States, et al., *Petitioners*,
v.
FRITZ EMMANUEL LESLY MIOT, et al.,
Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES
COURTS OF APPEALS FOR THE SECOND AND THE D.C.
CIRCUITS

**BRIEF OF FAITH IN ACTION AND FAITH
LEADERS AS AMICI CURIAE IN SUPPORT
OF RESPONDENTS**

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STATEMENT OF INTEREST OF AMICI CURIAE¹

Amici comprise 56 Christian faith leaders who serve Haitian diaspora communities across the United States, including Catholic clergy and women religious (such as sisters); Baptist, Pentecostal, Presbyterian, and other Protestant and Evangelical pastors and bishops; and leaders of faith-based organizations supporting ministries in Haiti, together with Faith in Action, a global network of religious leaders and faith-based organizations with a significant presence in both the United States and Haiti. Many amici lead churches, parishes, and fellowships whose congregations include many of the estimated 352,959 Haitian nationals who hold Temporary Protected Status (“TPS”).²

Amici write because they have witnessed firsthand what any genuine review of conditions in Haiti would have revealed: that Haiti is in deep crisis and has been suffering catastrophic deterioration by every observable measure over the past few years, including during the critical period between July 2024, when then-DHS Secretary Mayorkas last designated Haitians as eligible for TPS protection, and November 2025, when then-DHS Secretary Noem (“Secretary Noem”) sought to terminate that protection. These conditions have led many of Faith

¹ No counsel for a party authored this brief in whole or in part, and no entity or person, other than amici curiae and their counsel, made a monetary contribution intended to fund the preparation or submission of this brief. *See* Sup. Ct. R. 37.6.

² A complete list of amici is set forth in the attached Appendix.

in Action's members, with great sorrow, to suspend mission trips to Haiti because the security situation makes travel too dangerous even for experienced clergy with deep community ties on the ground.

In their ministries, amici have connected with, and come to know, the Haitian community here in the United States. They know and have directly witnessed the unique contributions Haitian TPS holders make to the fabric of their communities and congregations. They know Haitian TPS holders as deeply spiritual, hardworking people who care for their neighbors. In Springfield, Ohio (where the Haitian community's presence has made national news), and elsewhere, Haitian TPS holders contribute to the economic and spiritual revitalization of their communities.

Amici fear for the safety of the Haitian TPS community, including amici's own congregants, who will suffer tremendously if forced to return to their home country where murder, sexual violence, internal displacement, and housing- and food-insecurity run rampant while well-armed criminal gangs work tirelessly to consolidate and expand their hold on the country.

Amici's sustained engagement with Haiti and the Haitian diaspora communities whose lives depend on this Court's decision gives them a direct and unique insight into conditions in Haiti. This comes from, among other things, amici's activities ministering to their diaspora congregants in the United States and supporting charitable and spiritual efforts in Haiti. They actively support churches, orphanages, community development projects,

feeding programs, assistance for internally displaced persons, and parish twinning partnerships in Haiti. Through these missions and their Haitian partner churches and charities, amici maintain continuous contact with conditions on the ground.

Amici's engagement with Haiti mirrors the deep bonds between Haiti and American society more broadly. Many Americans have traveled to Haiti on mission trips, adopted Haitian children, contributed to Haitian charities, and maintained lasting ties of friendship and kinship with the Haitian people. Many support family members still living in Haiti. These bonds are a testament to the enduring relationship between Haiti and the United States, a relationship rooted in love, faith, and shared humanity.

Amici urge this Court to recognize that by arbitrarily ignoring the deteriorating conditions in Haiti, Secretary Noem's decision to remove TPS protection subverts both the plain language of the TPS statute and the moral imperative it codifies.

SUMMARY OF ARGUMENT

Congress enacted TPS to replace an arbitrary, discretionary regime with a mandatory, fact-based framework for protecting foreign nationals who cannot safely return home. The statute requires the Secretary to review conditions in the designated country and determine whether the basis for designation continues to be met. Conditions in Haiti have worsened by every available measure during the review period—homicides, internal displacement, and gang territorial control have all increased—yet Secretary Noem concluded the opposite because she

failed to conduct the reasoned, fact-based analysis the statute demands. Her “national interest” rationales are equally unsupported, treating Haitian TPS holders as instruments of international messaging rather than as human beings whose lives are at stake. The Secretary’s conclusions are so contrary to the evidence that they could not have resulted from the analysis the statute requires. Her decision was arbitrary and capricious, and this Court should set aside the revocation of Haiti’s TPS status.

INTRODUCTION

The United States government tells its citizens not to travel to Haiti for any reason and advises those who go anyway to leave DNA samples with their doctors, draft a will, and establish a proof of life protocol with their families. Throughout the period when Secretary Noem was required to review conditions in Haiti, every measurable indicator of human suffering—homicides, displacement, gang territorial control—moved in the same direction: worse. Yet she concluded, without any credible analysis, that hundreds of thousands of Haitian nationals can be sent back there in safety. The TPS statute was enacted to prevent exactly this kind of arbitrary decision—and the moral traditions that inspired it demand better.

Caring for one’s neighbor is a moral imperative emphasized in numerous cultures and religions, with particular prominence in Western, Judeo-Christian teachings. “You shall not . . . stand by idly when your neighbor’s life is at stake.” Leviticus 19:16. This command is echoed throughout Christian scripture. “If someone who has worldly means sees a brother in

need and refuses him compassion, how can the love of God remain in him?” 1 John 3:17. The Parable of the Good Samaritan illustrates the same principle. Luke 10:29–37.

Shortly after World War II, the international community translated this command into the Principle of Non-Refoulement, which serves as “the cornerstone of asylum and of international refugee law.” U.N. High Comm’r for Refugees, *UNHCR Note on the Principle of Non-Refoulement* (1997), <https://www.refworld.org/policy/legalguidance/unhcr/1997/36258> (last visited Apr. 10, 2026). The principle requires that people “be protected against return to a place where their life or freedom might be threatened until it has been reliably ascertained that such threats would not exist and that, therefore, they are not refugees.” *Id.* It “reflects the commitment of the international community to ensure to all persons the enjoyment of human rights, including the rights to life, to freedom from torture or cruel, inhuman, or degrading treatment or punishment, and to liberty and security of person.” *Id.*

Accordingly, Article 33(1) of the United Nations Convention Relating to the Status of Refugees prohibits signatories, including the United States, from expelling or returning any refugee “to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” Convention Relating to the

Status of Refugees, art. 33(1), July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 150.³

Congress gave this moral obligation the force of domestic law with the TPS statute, 8 U.S.C. § 1254a. As the Government’s opening brief aptly states: the purpose of the TPS program is to provide “shelter” for those whose home countries are afflicted by war, natural disasters, or other extraordinary conditions that would prohibit their safe return. Brief for Petitioners at 5–6 [hereinafter “Pet. Br.”]; 8 U.S.C. § 1254a(b)(1).

Congress established TPS because the pre-existing Extended Voluntary Departure (“EVD”) system left those seeking refuge at the whim of the Executive Branch’s discretion and, in some cases, apathy. With TPS, Congress sought to ensure that those who needed protection would get it, so it included detailed procedures for the administration of the TPS program to ensure that the government lived up to its moral responsibilities. Congress required that TPS decisions be made based on a reasonable, good-faith analysis of the facts, including the facts on the ground in the affected nation and facts about the affected population of potential TPS holders. Although the Secretary retains an appropriate measure of discretion, she must engage in the reasoned process specified by Congress, and her decisions must not be arbitrary, capricious, or so

³ The United States is party to the United Nations Protocol Relating to the Status of Refugees, which incorporates articles 2–34 of the Convention. Protocol Relating to the Status of Refugees, art. I, *done* Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577.

contrary to undisputed facts that the Secretary could not possibly have undertaken the informed, good-faith analysis the TPS statute requires.

There is no way to square Secretary Noem’s purported conclusions with the uncontroverted facts of Haiti’s circumstances or her statutory obligation to actually review those circumstances before rendering a decision. As a result, the Government takes a different tack, asking this Court to bless any TPS decision as unfettered. That result would embrace a misinterpretation of the TPS statute and constitute a grave moral failure, as thousands of Haitian TPS holders would be sent back to a nation where—as the Government itself well knows—they will assuredly suffer. For many of amici’s congregants, losing TPS status will be a death sentence.

The Court should decline the Government’s request.

ARGUMENT

I. CONGRESS ENACTED TPS TO REPLACE THE ARBITRARY EVD REGIME WITH A MANDATORY, FACT-BASED FRAMEWORK—THE VERY FRAMEWORK SECRETARY NOEM FAILED TO FOLLOW.

Before TPS, the Executive Branch relied on its “broad latitude in enforcing the immigration laws” to grant or withhold EVD to certain classes of foreign nationals. *Hotel & Rest. Emps. Union v. Smith*, 846 F.2d 1499, 1510 (D.C. Cir. 1988) (opinion of Mikva, J.); Pet. Br. at 22–23. As the Government highlights, the Executive’s decisions to extend EVD protections

were largely discretionary and unreviewable. *Id.* at 23.

TPS was enacted in large part because Congress viewed that unfettered, discretionary regime as inadequate to the moral task at hand. *See, e.g., National TPS All. v. Noem*, 150 F.4th 1000, 1009–10 (9th Cir. 2025) (discussing Congressional “concerns about granting unbridled deference to the Executive branch in determining the country designations and time periods for relief” leading to the enactment of the TPS statute to replace the EVD system’s “ad hoc framework for providing relief”).

TPS’s moral character is apparent on the face of the statute. It provides refuge in the United States for those whose home countries are afflicted by war, natural disaster, or other extraordinary conditions that prevent people from returning home safely. 8 U.S.C. § 1254a(b).

This Court and others have likewise recognized that the program is a “humanitarian” one. *See, e.g., Sanchez v. Mayorkas*, 593 U.S. 409, 412 (2021) (recognizing that TPS “provides humanitarian relief”); *Salguero-Fuentes v. Holder*, 569 F.3d 399, 400 (8th Cir. 2009) (explaining that TPS provides “temporary humanitarian relief”).

That moral character is no accident. In the first floor debates over the Immigration Act of 1990, which included the TPS statute, Massachusetts Representative Joe Moakley, the primary sponsor of the TPS program and its shepherd through the House, was explicit that TPS reflected “our deep moral obligation to protect innocent victims.” 136

Cong. Rec. H8687 (daily ed. Oct. 2, 1990). He continued:

[T]hese are good people we seek to protect. Somehow, I think we owe it to them. We also owe it to ourselves to enact this measure. Mr. Chairman, America is the beacon of freedom and hope for the people of the world because of our values and respect for human life and dignity. This is what makes us great and unique in the community of nations. We owe it to ourselves to practice what we preach. We owe it to ourselves to uphold our country's traditions. We owe it to our posterity to act today in a manner which will make our children proud. Let it not be said that the America of 1990 does not have the heart and soul to provide this modest temporary protection to refugees from war . . . [H]elp save some lives.

Id.

Others echoed that same sentiment. Texas Representative Jack Brooks defended TPS as “a compassionate and humanitarian action on the part of the United States . . . in keeping with the finest of our national traditions.” *Id.* at H8685. Pennsylvania Representative William Gray described it as “a matter of human compassion.” *Id.* West Virginia Representative Nick Rahall emphasized that “[t]he United States has always been a leader in recognizing the rights of victims of inescapable violence” and that “we should continue to protect those who have no

other choice than to leave their homelands.” *Id.* at H8687.

Against the backdrop of this moral imperative, the inadequacies of the pre-TPS discretionary regime were plain. Pennsylvania Representative William Gray, for example, pointed to the plight of 14,000 Liberians stranded in the United States: unable to return home because of rampant civil war and left without any protections because of administrative inaction. *Id.* at H8685. He urged that “[w]hat is needed now is the force of law to protect these people” and that “[t]hey need to be removed from the whim of procedural discretion and administration lethargy.” *Id.* Ohio Representative Mary Rose Oakar likewise advocated passage of TPS because “[t]he current procedure for extended voluntary departure is so arbitrary and discretionary that aliens are reluctant to come forward.” *Id.* at H8686. TPS would, in her words, provide “[a]n orderly, systematic procedure for providing temporary protected status for nationals of countries undergoing war, civil war, or other extreme tragedy” and “replace the current ad hoc haphazard procedure.” *Id.* Representative Moakley was again explicit, explaining that TPS “establishes a statutory framework for future uses of safe haven protection [and] ends the current ad hoc approach to dealing with people in need.” *Id.* at H8687.

The statutory text makes manifest Congress’ desire to “enshrine[] a more formal and orderly mechanism for group-based grants of humanitarian protection” than was found in the EVD regime. Pet. Br. at 23 (internal citation and quotation marks omitted). It imposes clear procedural guidelines for

determining which nations should be designated under the statute and, as relevant here, sets out a detailed analysis that must be conducted before a country's TPS designation can be terminated. 8 U.S.C. § 1254a(a), (b). In particular, before revoking a country's TPS designation, the Secretary of Homeland Security must (1) "consult[] with appropriate agencies of the Government"; (2) "review the conditions in the foreign state (or part of such foreign state) for which a designation is in effect"; and (3) "determine whether the conditions for such designation . . . continue to be met." 8 U.S.C. § 1254a(b)(3).

Lest there be any doubt that the statute was not intended to carry forward the discretionary character of the EVD regime, the statute itself uses the term "discretion" only *once*, and then only when describing the ability to extend a country's TPS designation "for an additional period of 6 months (or, in the discretion of the [Secretary], a period of 12 or 18 months)." 8 U.S.C. § 1254a(b)(3)(C).⁴

⁴ The same considerations set forth above counsel in favor of a narrower, rather than broader, interpretation of the jurisdictional bar set forth in 8 U.S.C. § 1254a(b)(5)(A). Indeed, had Congress intended to provide the Executive Branch with unfettered and unreviewable discretion to grant humanitarian relief (as the Government contends), it would have remained silent and left the EVD-regime in place. The existence of the statute itself disproves any such contention, and the Congressional record confirms that Congress sought to replace the EVD-regime precisely because of its wholly discretionary character.

II. THE RECORD CONFIRMS THAT SECRETARY NOEM DID NOT CONDUCT THE REASONED, FACT-BASED REVIEW THE TPS STATUTE REQUIRES.

Before revoking Haiti's TPS designation, Secretary Noem was required to (1) "consult[] with appropriate agencies of the Government"; (2) "review the conditions in the foreign state (or part of such foreign state) for which a designation is in effect"; and (3) "determine whether," based on that consultation and review, Haiti was afflicted by any "extraordinary and temporary conditions" that would prevent Haitian nationals "from returning to the state in safety." 8 U.S.C. § 1254a(b)(1)(C), (b)(3). The law, and respect for the human dignity of those Haitian TPS holders whose lives she was weighing, demanded that she undertake this process sincerely and in good faith and, in so doing, demanded that she "examine the relevant data and articulate a satisfactory explanation for [her] action including a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation marks and citation omitted).

Where an agency fails to fulfill statutorily mandated obligations by, for example, failing to consider important facts and issues, providing explanations that "run[] counter to the evidence," or providing explanations that are "so implausible that [they] could not be ascribed to a difference in view or the product of agency expertise," the agency's actions are arbitrary and capricious under the

Administrative Procedure Act (“APA”). *Id.*; 5 U.S.C. § 706(2)(A).

Secretary Noem failed to discharge these responsibilities. As set forth below, the facts show that Haiti is “a nation deep in crisis.” J.A. 680. Her decision-making process produced no credible analysis supporting the contention that Haitian TPS holders can “return[] to the state in safety”—a contention that is wholly “counter to the evidence” and “so implausible that [it] [can]not be ascribed to a difference in view or the product of agency expertise.” *State Farm*, 463 U.S. at 43. Rather than follow the informed, multi-step process the TPS statute requires, Secretary Noem attempted to apply the arbitrary process of the previous, now-rejected EVD system.

Amici do not ask this Court to substitute its judgment for the Secretary’s on matters committed to her discretion. They ask only that the Court require the Secretary to engage in the reasoned fact-based review process the statute mandates before exercising that discretion. As set forth below, the overwhelming and uncontroverted evidence of Haiti’s deterioration during the review period—evidence the Secretary’s own decision fails to address—demonstrates that no such review occurred.

A. Conditions in Haiti Have Worsened by Every Measure During the Review Period.

The evidence of Haiti’s deterioration is overwhelming and uncontroverted. Any genuine review of conditions—the review the statute

requires—would have confronted these facts. When then-DHS Secretary Mayorkas last redesignated Haiti for TPS in July 2024, conditions in the country were already dire. In the sixteen months that followed—the period for which Secretary Noem was required to review whether those conditions “continue to be met,” 8 U.S.C. § 1254a(b)(3)(A)—they grew dramatically worse. Haiti today is among the most dangerous nations on the planet. On July 15, 2025, the U.S. State Department issued (and has since maintained) a “Level 4: Do Not Travel” advisory “due to *kidnapping, crime, terrorist activity, civil unrest, and limited health care.*” U.S. Dep’t of State, *Haiti Travel Advisory* (July 15, 2025), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html>, (last visited Apr. 10, 2026) (emphasis in original). The situation is so severe that the State Department recommends that those traveling to Haiti in spite of the advisory designate a family member to serve as a “point of contact” with “kidnappers or hostage-takers”; “[e]stablish a proof of life protocol”; “[l]eave DNA samples” with their medical providers; “[d]raft a will”; and “put [their] financial affairs in order” before leaving. *Id.*

Haiti is controlled by criminal gangs who, through violence, kidnapping, rape, and sexual exploitation, terrorize the population and undermine any semblance of government authority or control. Since at least the latter-half of 2024, Haitian gangs have “attack[ed] state institutions, infrastructure, private businesses and residences;” expanded their reach well-outside Port-au-Prince (the capital city); and have been able to “fortify strategic corridors and

maintain dominance over critical maritime and overland trafficking routes.” U.N. High Comm’r for Human Rights, *Situation of Human Rights in Haiti*, ¶ 7, U.N. Doc. A/HRC/58/76 (July 1, 2025) <https://docs.un.org/en/A/HRC/58/76>, (last visited Apr. 10, 2026) [hereinafter “July 2025 HCHR Report”]; U.N. High Comm’r for Human Rights, *Situation of Human Rights in Haiti* (advance unedited version), ¶ 5, U.N. Doc. A/HRC/61/74 (Mar. 23, 2026), <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session61/advance-version/a-hrc-61-74-auv.pdf> (last visited Apr. 10, 2026) [hereinafter “March 2026 HCHR Report”]. The UN describes gangs “us[ing] violence to assert their criminal control over populations” and “target[ing] individuals perceived as collaborating with the police or with self-defense groups, or as defying gang-imposed ruling.” March 2026 HCHR Report ¶ 4. This includes using “sexual violence, including collective rape and sexual exploitation . . . as a tool to coerce their victims and assert dominance over communities.” July 2025 HCHR Report ¶ 17.

Homicide rates in Haiti are staggering—and they worsened during the review period. U.N. data on reported intentional homicides between July 1, 2024, and February 1, 2026, reflects a steady march of death, with monthly totals ranging from 517 (in July 2024) to as high as 998 (in December 2024). *See* Peace Security Data Hub, *Haiti Security and Crime Statistics Dataset*, <https://psdata.un.org/dataset/BINUH-SCStats> (choose “Download”; then choose “Download CSV”) (last visited Apr. 10, 2026). In the months leading up

to Secretary Noem’s November 2025 de-designation, the tallies were 648 (August), 611 (September), 684 (October), and 696 (November). In comparison, FBI data on homicides in the U.S. (which has nearly *30 times* Haiti’s population) identified 1,046 homicides in August 2025, 1,081 in September, 981 in October, and 940 in November. U.S. Census Bureau, *Haiti*, <https://www.census.gov/popclock/world/ha> (estimating a Haitian population of 12 million and a U.S. population of more than 342 million) (last visited Apr. 10, 2026); Fed. Bureau of Investigation Crime Data Explorer, *Expanded Homicides Reported in the United States*, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/shr> (last visited Apr. 10, 2026). Thus Haiti, a country with approximately 3.5% of our population, nevertheless experienced 65% as many homicides as the United States did in that same four-month period—a per-capita homicide rate roughly nineteen times that of the United States.

Yet these figures fail to capture the extent of the horror Haitians are facing in their country. Gang killings are often incredibly gruesome, following “trials” in which the “guilty” are sentenced to death, shot, and their bodies set on fire. March 2026 HCHR Report ¶ 4. Mass killings inflict further terror on the population. On October 3, 2024, gangs killed at least 100 people and injured sixteen others in an attack launched in Pont Sondé (approximately sixty-six miles north of Port-au-Prince). July 2025 HCHR Report ¶ 15. And over the course of five days in December 2024, at least 207 people were killed in a series of gang executions in Port-au-Prince. *Id.* In other cases, groups are executed on the orders of gang

leaders as part of purported Vodou ceremonies. For instance, in May 2025, 15 elderly men were “sacrifice[d]” and their throats slashed as part of such a ceremony. March 2026 HCHR Report ¶ 12. In January 2026, six women were similarly sacrificed in another purported ceremony. *Id.*

The rampant violence has, predictably, resulted in widespread and accelerating displacement, as well as housing- and food-insecurity. As of approximately December 2024, “there were at least 1,041,229 internally displaced people in Haiti, owing primarily to the escalating armed violence in the metropolitan area of Port-au-Prince.” July 2025 HCHR Report ¶ 21. Over half of these were children. *Id.* These people were “forced to seek shelter with host families with limited financial resources or in makeshift shelters that lacked basic security, and where access to food and water was severely limited.” *Id.* By September 2025—just two months before Secretary Noem’s termination decision—that number had risen to 1,412,199, a 36% increase in ten months, “primarily driven by escalating gang violence in the Centre and Artibonite departments.” March 2026 HCHR Report ¶ 16. In other words, during the very period when the Secretary was supposed to be assessing whether conditions had improved, the number of people driven from their homes grew by nearly 400,000.

The religious community’s experience in Haiti and ministering to Haitian congregants bears out these horrific experiences. In March 2025, Catholic sisters Evanette Onezaire and Jeanne Voltaire were murdered by gang members who stormed the town of

Mirebalais. Diego López Colín, *Armed Gangs Murder 2 Nuns in Haiti*, Nat'l Catholic Reg. (Apr. 4, 2025), <https://www.ncregister.com/cna/armed-gangs-murder-2-nuns-in-haiti> (last visited Apr. 10, 2026). In August 2025, an Irish missionary and six others (including a three-year-old child) were abducted from the St. Helene Orphanage. James Blears, *Haiti: Irish missionary, orphanage staff, 3-year-old released after abduction*, Vatican News (Aug. 30, 2025), <https://www.vaticannews.va/en/world/news/2025-08/haiti-irish-missionary-orphanage-staff-free-after-abduction.html> (last visited Apr. 10, 2026).

William O'Neill, the U.N. High Commissioner's designated expert on human rights in Haiti, concluded in July 2025 that "[t]he human rights situation in Haiti is catastrophic by any measure" and that "[t]here is currently no possibility for a safe, dignified and sustainable return of Haitians who are abroad." Statement of William O'Neill, *States Should Not Return Anyone to Haiti* (July 4, 2025), <https://www.ohchr.org/en/statements-and-speeches/2025/07/states-should-not-return-anyone-haiti-un-expert-bill-oneill> (last visited Apr. 10, 2026). In fact, he said, "[i]f anything, their country is much more dangerous than the one they fled" and "nowhere is safe in Haiti." *Id.* That assessment was rendered four months before Secretary Noem's termination decision—and conditions have only deteriorated since, as the data set forth above confirms.

**B. Secretary Noem Found Improvement
Where the Record Shows Only
Deterioration.**

The statute required Secretary Noem to determine whether the conditions that warranted Haiti’s TPS designation “continue to be met.” 8 U.S.C. § 1254a(b)(3)(A). Those conditions did not merely continue—they intensified. Homicides rose. Displacement surged by 36%. Gang control expanded beyond the capital. Yet Secretary Noem concluded, in late November 2025, that “there are no extraordinary and temporary conditions in Haiti that prevent Haitian nationals . . . from returning in safety.” 90 Fed. Reg. 54733, 54735 (Nov. 28, 2025). That conclusion, given the record before her, could not have been the product of the reasoned, fact-based analysis the statute demands.

The sole bases for her conclusion appear to be that (1) unspecified “parts of the country are suitable to return to,” (2) a vague hope that a new Gang Suppression Force might have some success in stemming the epidemic of violence plaguing the country, and (3) an expectation of “modest GDP growth.” *Id.* None of these rationales engages with the central, unavoidable fact: conditions in Haiti got worse during the review period, not better.

Secretary Noem’s contention that “parts of the country are suitable to return to” is wholly unsupported by any analysis, data, or evidence (*see* J.A. 685–86) and, in any event, cannot be squared with the indisputable facts: conditions in Haiti are and have been deteriorating; gangs are expanding their territorial control over the country; murder,

violence, and sexual violence are rampant; nearly 1.5 million people and counting are displaced from their homes; and housing- and food-insecurity are inescapable facts of life for a substantial percentage of the population. The story of Haiti remains one of profound human suffering and social collapse.

As for Secretary Noem’s invocation of “modest GDP growth,” GDP is irrelevant to the question the statute asks. A nation can post growing GDP figures while its citizens are being murdered in the streets, displaced by the hundreds of thousands, and subjected to gang-imposed rule. Haiti is doing all three—and all three are getting worse.

To be sure, the Secretary retains an appropriate measure of discretion in weighing the evidence and determining whether conditions warrant a TPS designation, extension, or termination. But the statute requires that she actually consider and weigh the evidence. The record contains no evidence that the Secretary actually undertook the evaluation process the statute requires, and the Federal Register notice identifies no factual basis that could have resulted from such a process. 8 U.S.C. § 1254a(b). Notably, the Government does not even attempt to defend the reasonability of Noem’s analysis or otherwise suggest that she engaged in any good-faith effort to comply with the statute’s mandated review process. Instead, it pleads that the TPS statute does not require any “meaningful” consultation with other agencies or assessment of the facts. Pet. Br. at 36–39. This is because, according to the Government, the statute provides the Secretary with substantial “flexibility” in

exercising what the Government describes as essentially unfettered “discretion to consider relevant factors.” Pet. Br. at 26, 37.

Indeed, the Government seems to suggest that requiring Secretary Noem to engage in a reasonable good-faith analysis in accordance with the express terms of the statute “upends the statutory scheme Congress enacted.” Pet. Br. at 26. The Government’s position rests on its claim that, in TPS, “Congress deliberately preserved [the] Executive Branch discretion” featured in the pre-TPS EVD regime. Pet. Br. at 23. Just the opposite is true. As discussed above, TPS was enacted in explicit rejection of exactly that feature of the EVD landscape.

Secretary Noem’s decision, and the explanation offered in support of it, are so unmoored from the actual, verifiable facts on the ground in Haiti that she cannot possibly have engaged in the reasoned decision-making process required under the law and mandated by the moral imperative to give due regard for the lives and humanity of Haitian TPS holders. The record before her showed a country where conditions were getting worse by every available metric. She found the opposite. Her decision, and the process failure it reflects, violated both the TPS statute and the APA. 5 U.S.C. § 706(2)(A).

III. SECRETARY NOEM'S "NATIONAL INTEREST" RATIONALES ARE UNSUPPORTED, ILLOGICAL, AND CONTRARY TO THE STATUTE'S PURPOSE.

Despite the catastrophic conditions in the country, the Secretary could still revoke Haiti's TPS status if "permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States." 8 U.S.C. § 1254a(b)(1)(C). It is not.

Secretary Noem purported to make such a finding on three primary bases. Pet. Br. at 12–13. First, she claimed that TPS acts as a "pull factor" for illegal immigration from Haiti. *Id.*; 90 Fed. Reg. at 54737. Second, she found that "Haiti lacks a functioning central authority capable of maintaining or sharing" information. Pet. Br. at 13; 90 Fed. Reg. at 54737. This lack of a functioning government supposedly "limit[s] the U.S. government's ability to screen and vet Haitians in the United States with [TPS]." Pet. Br. at 13; 90 Fed. Reg. at 54737. Third, she concluded that ending TPS for Haiti would "reflect[] a necessary and strategic vote of confidence" in Haiti's future. Pet. Br. at 13; 90 Fed. Reg. at 54738. In addition, she cited the "added strain on local communities" that results when aliens "overstay nonimmigrant visas," notwithstanding the fact that TPS holders are not within that class of persons. Pet.

Br. at 41–42; 90 Fed. Reg. at 54736.⁵ None of these is a legitimate ground for her decision.

The “national interest” may be an expansive standard (90 Fed. Reg. at 54735), but it cannot encompass sophistry and non-*sequiturs*. TPS cannot credibly “pull” Haitians to the United States when the statute’s protections are, by its express terms, limited to those who are already in the United States at the time of designation and the administration has already separately barred Haitians from entering the country. J.A. 690–91. Likewise, the lack of a functioning government (which seemed to figure nowhere in Secretary Noem’s analysis as to whether Haiti was unsafe) and alleged inability to “vet” TPS holders makes no sense in the context of persons who are already in the United States and subject to eligibility requirements. 8 U.S.C. § 1254a(c).

The third basis is frightening in its implications. The Government suggests that it is in our national interest to force hundreds of thousands of Haitian nationals to return to Haiti—where they are likely to experience significant suffering, terror, and death—so that we can project and message “confidence” in Haiti’s future.

That messaging goal has nothing to do with the effect of Haitian TPS holders on our country, their contributions to our communities, or any risks or

⁵ The Government’s brief refers to “the ‘added strain’ TPS holders place on public resources and ‘an already limited job market.’” Pet. Br. at 41. This grossly misstates the Federal Register notice, however, which specifically refers to the effects of “aliens who overstay nonimmigrant visas” rather than TPS holders. 90 Fed. Reg. at 54736.

dangers they (might allegedly) pose. Secretary Noem would treat Haitian TPS holders as pawns to be used in service of vague international messaging so that “[t]he United States can[] call for bold change on the ground [without] signaling doubt from afar” (whatever that is supposed to mean). 90 Fed. Reg. at 54738. Her logic is gruesome. “[E]ven if . . . there existed conditions that were extraordinary and temporary that prevented Haitian nationals . . . from returning in safety” (and such conditions unquestionably exist here), she advises that it is in our national interest to force Haitian TPS holders back anyway so that we can project an unwarranted message of “confidence.” In other words, the Government proposes to sacrifice human lives for a press release.

Haitian TPS holders (like *all* TPS holders) are first and foremost human beings. They are here because Haiti is and has been descending deeper into chaos, struggling to recover from devastating natural disasters that opened the door to political violence, assassinations, and gang control across the country. Amnesty Int’l, *Gang Violence and Unrest in Haiti*, <https://www.amnesty.org/en/projects/gang-violence-in-haiti/> (last visited Apr. 10, 2026). They are taxpayers, workers, entrepreneurs, students, friends, valued community members and congregants, and in every other meaningful way cherished members of the societies in which they live. See J.A. 693–94, 710–13; Brief of Amicus Curiae Springfield Neighbors United in Opposition to Application to Stay, *Trump v. Miot*, No. 25-A-999, at 7–9, 16–23 (U.S. Mar. 16, 2026).

The “national interest” cannot be so expansive a standard as to encompass any determination or judgment the Secretary might make and on whatever basis she might do so. If it were, the TPS program would be no less discretionary than the EVD regime Congress sought to improve upon. Indeed, the Secretary’s reliance on rationales unrelated to the statutory question—whether conditions in Haiti prevent safe return—is itself further evidence that she did not conduct the analysis the statute requires.

Further, any conception of what is “contrary to” our “national interest” that allows the Government to sacrifice Haitian TPS holders for the purposes of international messaging is wholly inconsistent with the moral imperatives that drove Congress to create TPS in the first place. Congress enacted TPS to fulfill “our deep moral obligation to protect innocent victims.” 136 Cong. Rec. at H8687. It acted because the EVD regime left vulnerable populations “at the whim of procedural discretion and administration lethargy.” *Id.* at H8685. To use TPS holders as instruments of international messaging—to force them back to a country the Government itself warns is too dangerous to visit—is to replicate the very moral failure Congress sought to cure.

Secretary Noem’s decision was “unmoored from the purposes and concerns of the [statute]” and so “cannot pass muster” under the APA. *Judulang v. Holder*, 565 U.S. 42, 64 (2011).

CONCLUSION

Amici believe Haiti can have a better future—that “the light shines in the darkness, and the

darkness has not overcome it.” John 1:5. But that hope does not reflect current reality. Haiti’s present is darker than ever. Secretary Noem offered no credible explanation for her contrary conclusions because none exists. The evidence before her showed a country in accelerating collapse, yet she found the opposite. Her decision reflects precisely the kind of arbitrary exercise of executive discretion that Congress enacted TPS to prevent.

Our traditions teach that we bear a solemn obligation to protect those who cannot safely return to their homes. Congress honored that obligation when it enacted TPS. This Court should hold the Government to it and demand the statute’s process be followed.

Dated: April 13, 2026

Respectfully Submitted,

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TABLE OF APPENDICES

LIST OF AMICI CURIAE.....1a

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2. Sister Sherline Sasuveur
3. Sister Patricia Dillon
4. Reverend Wayne Watts
5. Reverend Joseph P. Edwige Carre
6. Reverend Doctor Wilguymps Charles
7. Reverend Doctor Wadler Jules
8. Reverend Doctor Evens Jules
9. Reverend Daniel Jeanty
10. Prophet Archer Segur
11. Reverend Pierre Grégoire Saint-Louis
12. Patricia Wawzyneicki
13. Pastor Ronald Surin
14. Pastor Perry Tima
15. Pastor Guylou Louis
16. Pastor Chris Cassagnol
17. Pastor Carlot Celestin
18. Doctor Mary Susan Carlson, M.D.
19. Doctor David Schmidt, M.D.
20. Cheryl Nichols
21. Chaplain Anne Gibbons
22. Bishop Fred Ulysse
23. Reverend Doctor Keny Felix
24. Gail Grady
25. Sister Charlotte Destine
26. Sister Anne Marie Gardiner

27. Sister Mary Nolan
28. Apostle Maureen Manoly
29. Doctor Ralph Cheriza
30. Reverend Sharon Woomer
31. Reverend Tim Hickey, CSSp
32. Reverend Mark Woomer
33. Brother Jean Martin Valliere
34. Reverend Doctor Jean Marc Desire
35. Reverend Doctor Dieufort Fleurissant
36. Sister Margaret O'Shea
37. Sister Joanne Ralph
38. Reverend Viles Dorsainvil
39. Father Yves Geffrard
40. Reverend Doctor Frantz D. Eugene
41. Reverend Betty Voigt
42. Pastor Hector Clerveaux
43. Reverend Jocelin Maurilus
44. Reverend Founa Augustin Badet
45. Reverend Jennifer Joseph
46. Doctor Leluxe Alexis
47. Reverend Pierre JeanLouis
48. Reverend Timothy Shreenan
49. Reverend Doctor Jean-Yves Marcelon
50. Reverend Doctor Ricardo Bonachy Telemaque
51. Pastor Emmanuel Louiseau
52. Pastor Eddy Jean
53. Reverend Laura Everett
54. Bishop Frantz Saintilma

55. Reverend Doctor Myrlande Guillaume-
DesRosiers
56. Reverend Doctor Varnel Antoine
57. Bishop Serge Jerome