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Temporary Protected Status: Overview and Current Issues

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SUMMARY

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Temporary Protected Status: Overview and Current Issues

When civil unrest, violence, or natural disasters erupt in countries around the world, concerns arise over the ability of foreign nationals in the United States from those countries to safely return. Provisions exist in the Immigration and Nationality Act (INA) to offer temporary protected status (TPS) and other forms of relief from removal under specified circumstances. The Secretary of Homeland Security has the discretion to designate a country for TPS for periods of 6 to 18 months and can extend these periods if the country continues to meet the conditions for designation. Congress has also provided TPS legislatively. A foreign national who is granted TPS receives a registration document and employment authorization for the duration of a given TPS designation.

The United States currently provides TPS to approximately 437,000 foreign nationals from 10 countries: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, and Yemen. TPS for Guinea, Liberia, and Sierra Leone expired in May 2017, but certain Liberians maintain relief under an administrative mechanism known as Deferred Enforced Departure (DED). Since September 2017, the Secretary of Homeland Security has announced plans to terminate TPS for six countries—El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan—and extend TPS for Somalia, South Sudan, Syria, and Yemen. In March 2018, President Trump announced an end to DED for Liberia. Several lawsuits have been filed challenging the TPS termination decisions.

There is ongoing debate about whether migrants who have been living in the United States for long periods of time with TPS or DED should receive a pathway to legal permanent resident (LPR) status. Various proposals related to TPS have been introduced in the 115th Congress.

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Background

Federal law provides that all aliens[1] must enter the United States pursuant to the Immigration and Nationality Act (INA). The two major categories of aliens in the INA are (1) immigrants, who are admitted to the United States permanently, and (2) nonimmigrants, who are admitted for temporary reasons (e.g., students, tourists, temporary workers, or business travelers). Foreign nationals who lack proper immigration authorization generally fall into three categories: (1) those who are admitted legally and then overstay their nonimmigrant visas, (2) those who enter the country surreptitiously without inspection, and (3) those who are admitted on the basis of fraudulent documents. In all three instances, the aliens are in violation of the INA and subject to removal.

Temporary Protected Status (TPS), codified by INA Section 244,[2] provides temporary status to foreign nationals in the United States from countries experiencing armed conflict, natural disaster, or other extraordinary circumstances that prevent their safe return. This report begins by situating TPS in the context of humanitarian responses to migration. Another form of blanket relief from removal[3]—Deferred Enforced Departure (DED)—is also described, as is the historical use of these relief mechanisms. This report then provides data on the countries currently designated for TPS, including the conditions that have contributed to their designation. Past legislation to provide lawful permanent resident status to certain TPS-designated foreign nationals is also described. The report concludes with examples of activity in the 115th Congress related to TPS.

Humanitarian Response

As a State Party to the 1967 United Nations Protocol Relating to the Status of Refugees (hereinafter, U.N. Protocol),[4] the United States agrees to the principle of *nonrefoulement*, which asserts that a refugee should not be returned to a country where he/she faces serious threats to his/her life or freedom. (This is now considered a rule of customary international law.) *Nonrefoulement* is embodied in several provisions of U.S. immigration law. Most notably, it is reflected in INA provisions requiring the government to withhold the removal of a migrant to a country in which the migrant's life or freedom would be threatened on the basis of race, religion, nationality, membership in a particular social group, or political opinion.[5]

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[1] *Alien* is the term used in law and is defined as anyone who is not a citizen or national of the United States. A U.S. *national* is a person owing permanent allegiance to the United States and includes citizens. Noncitizen nationals are individuals who were born either in American Samoa or on Swains Island to parents who are not citizens of the United States. In this report, the terms *migrant*, *alien*, and *foreign national* are used interchangeably.

[2] 8 U.S.C. §1254a.

[3] The term *blanket relief* in this report refers to relief from removal that is administered to a group of individuals based on their ties to a foreign country; this stands in contrast to asylum, which is relief administered on a case-by-case basis to individuals based on their personal circumstances.

[4] The 1951 United Nations Convention Relating to the Status of Refugees, which was amended by its 1967 Protocol, defines who is a refugee and sets out the legal, social, and other kinds of protections that refugees and those seeking asylum are entitled to receive. It also states the responsibilities of nations that grant asylum. United Nations High Commission for Refugees, *Convention Relating to the Status of Refugees and Its 1967 Protocol*, Geneva, Switzerland, http://www.unhcr.org/en-us/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html.

[5] Section 208 of INA (8 U.S.C. §1158); Section 241(b)(3) of INA (8 U.S.C. §1231); and Section 101(a)(42) of INA (8 U.S.C. §1101(a)(42)).

The legal definition of a refugee in the INA, which is consistent with the U.N. Protocol, specifies that a refugee is a person who is unwilling or unable to return to his/her country of nationality or habitual residence because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.[6] This definition also applies to individuals seeking asylum. Under the INA, refugees and asylees differ on the physical location of the persons seeking the status. Those who are displaced abroad to a country other than their home country apply for refugee status, while those who are in the United States or at a U.S. port of entry apply for asylum.[7] Other migrants in the United States who may elicit a humanitarian response do not meet the legal definition for asylum; under certain circumstances these persons may be eligible for relief from removal through TPS or DED.

Temporary Protected Status

TPS is a blanket form of humanitarian relief. It is the statutory embodiment of *safe haven* for foreign nationals within the United States who may not meet the legal definition of refugee or asylee but are nonetheless fleeing—or reluctant to return to—potentially dangerous situations. TPS was established by Congress as part of the Immigration Act of 1990 (P.L. 101-649). The statute gives the Secretary of the Department of Homeland Security (DHS),[8] in consultation with other government agencies (most notably the Department of State), the authority to designate a country for TPS under one or more of the following conditions: ongoing armed conflict in a foreign state that poses a serious threat to personal safety; a foreign state request for TPS because it temporarily cannot handle the return of nationals due to an environmental disaster; or extraordinary and temporary conditions in a foreign state that prevent migrants from safely returning. A foreign state may not be designated for TPS if the Secretary of DHS finds that allowing its migrants to temporarily stay in the United States is against the U.S. national interest.[9]

The Secretary of DHS can designate a country for TPS for periods of 6 to 18 months and can extend these periods if the country continues to meet the conditions for designation.[10] To obtain TPS, eligible migrants within the United States must pay specified fees[11] and submit an application to DHS's U.S. Citizenship and Immigration Services (USCIS) before the deadline set forth in the *Federal Register* notice announcing the TPS designation. The application must include supporting documentation as evidence of eligibility (e.g., a passport issued by the designated country and records showing continuous physical presence in the United States since the date established in the TPS designation).[12] The statute specifies grounds of inadmissibility that

[6] INA §101(a)(42).

[7] See CRS Report R41753, *Asylum and "Credible Fear" Issues in U.S. Immigration Policy*; and CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

[8] When TPS was enacted in 1990, most immigration-related functions, including designating countries for TPS, fell under the authority of the Attorney General. With the creation of the Department of Homeland Security in 2002 (P.L. 107-296), most of the Attorney General's immigration-related authority transferred to the Secretary of DHS as of March 1, 2003.

[9] INA §244(b)(1).

[10] There is no limit on the number of extensions a country can receive.

[11] Fees for initial applicants include a $50 application fee (may not exceed $50 per 9 U.S.C. §1254a (c)(1)(B)), an $85 biometrics services fee for those age 14 and over, and a $410 filing fee for employment authorization (if applying for employment authorization and between the ages of 14 and 65). Applicants may request a waiver of the application and biometrics fees per 8 C.F.R. 103.7(c). Re-registration does not require the $50 application fee.

[12] See 8 C.F.R.§244.9 for details on evidence that must be submitted.

cannot be waived, including those relating to criminal convictions, drug offenses, terrorist activity, and the persecution of others.[13]

Individuals granted TPS are eligible for employment authorization, cannot be detained on the basis of their immigration status, and are not subject to removal while they retain TPS relief.[14] They may be deemed ineligible for public assistance by a state and may travel abroad with the prior consent of the DHS Secretary.[15] TPS does not provide a path to lawful permanent residence or citizenship, but a TPS recipient is not barred from adjusting to nonimmigrant or immigrant status if he or she meets the requirements.[16] DHS has indicated that information it collects when a migrant registers for TPS may be used to enforce immigration law or in any criminal proceeding.[17] In addition, withdrawal of an alien's TPS may subject the alien to exclusion or deportation proceedings.[18]

Deferred Enforced Departure

In addition to TPS, there is another form of blanket relief from removal known as deferred enforced departure (DED),[19] formerly known as extended voluntary departure (EVD).[20] DED is a temporary, discretionary, administrative stay of removal granted to aliens from designated countries. Unlike TPS, a DED designation emanates from the President's constitutional powers to conduct foreign relations and has no statutory basis. DED was first used in 1990 and has been used a total of five times (see "Historical Patterns of Blanket Relief"). Currently, certain Liberian nationals are designated under DED through March 31, 2019.[21]

DED and EVD have been used on a country-specific basis to provide relief from removal at the President's discretion, usually in response to war, civil unrest, or natural disasters.[22] When

[13] Section 212 of the INA specifies broad grounds on which foreign nationals are considered ineligible to receive visas and ineligible to be admitted to the United States. Section 244(c)(2) in the TPS statute lists which of these *grounds of inadmissibility* may be waived and which may not be waived.

[14] INA §244(a)(1)(A), (a)(1)(B), (d)(4).

[15] INA §244(f).

[16] For purposes of adjustment to legal permanent resident (LPR) status or a change to a nonimmigrant status, an alien granted TPS is considered as being in and maintaining "lawful status as a nonimmigrant" during the period in which the alien is granted TPS. INA §244(f)(4).

[17] 8 C.F.R. §244.16.

[18] 8 C.F.R. §244.14.

[19] DED is not to be confused with deferred action, which the Department of Homeland Security defines as "a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion." CRS Report R43852, *The President's Immigration Accountability Executive Action of November 20, 2014: Overview and Issues*; CRS Report R43747, *Deferred Action for Childhood Arrivals (DACA): Frequently Asked Questions*; and CRS Report R45158, *An Overview of Discretionary Reprieves from Removal: Deferred Action, DACA, TPS, and Others*.

[20] EVD status, which was used from 1960 to 1990, has been given to nationals of Iran, Lebanon, Nicaragua, Poland, and Uganda. Other countries whose nationals have benefitted in the past from a status similar to EVD include Cambodia, Chile, Cuba, Czechoslovakia, Dominican Republic, Hungary, Laos, Romania, and Vietnam.

[21] On March 27, 2018, President Trump issued a memorandum to the Secretary of Homeland Security, directing her to implement, for eligible Liberians, a 12-month deferred enforced departure (DED) wind-down period through March 31, 2019, upon which date DED would end. "Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security," March 27, 2018, https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-homeland-security/.

[22] For example, see Executive Order 12711, "Policy Implementation With Respect to Nationals of the People's Republic of China," *Public Papers of the Presidents of the United States: George Bush XLI, President of the United States: 1989-1993* (Washington: GPO, 1990); The White House (President Obama), "Presidential Memorandum—

Presidents grant DED through an executive order or presidential memorandum, they generally provide eligibility guidelines, such as demonstration of continuous presence in the United States since a specific date. Unlike TPS, the Secretary of State does not need to be consulted when DED is granted. In contrast to recipients of TPS, migrants who benefit from DED are not required to register for the status with USCIS unless they want work authorization.[23] Instead, DED is triggered when a protected migrant is identified for removal.

Historical Patterns of Blanket Relief

In 1990, when Congress enacted the TPS statute, it also granted TPS for 18 months to Salvadoran nationals who were residing in the United States. Since then, the Attorney General (and, later, the Secretary of DHS),[24] in consultation with the State Department, has granted TPS to migrants in the United States from the following countries: Angola, Bosnia-Herzegovina, Burundi, Guinea, Lebanon, Liberia, the Kosovo Province of Serbia, Kuwait, Rwanda, and Sierra Leone; none of these 10 countries are currently designated for TPS.[25]

Rather than extending the initial Salvadoran TPS when it expired in 1992, the George H. W. Bush Administration granted DED to an estimated 190,000 Salvadorans through December 1994. This Administration also granted DED to about 80,000 Chinese nationals in the United States following the Tiananmen Square massacre in June 1989, and these individuals retained DED status through January 1994. In December 1997, President Bill Clinton instructed the Attorney General to grant DED to Haitian nationals in the United States for one year, providing time for the Administration to work with Congress on long-term legislative relief for Haitians.[26] President George W. Bush directed that DED be provided to Liberian nationals whose TPS was expiring in September 2007; this status was extended several times by President Obama.[27] President Trump

Deferred Enforced Departure for Liberians," Memorandum for the Secretary of Homeland Security, September 28, 2016, https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-liberians.

[23] In general, the President directs executive agencies to implement procedures to provide DED and related benefits, such as employment authorization. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Temporary Protected Status (TPS) and Deferred Enforced Departure (DED)*, https://www.uscis.gov/sites/default/files/USCIS/About%20Us/Electronic%20Reading%20Room/Customer%20Service%20Reference%20Guide/TempProtectedStatus.pdf.

[24] With the creation of the Department of Homeland Security in 2002 (P.L. 107-296), most of the Attorney General's immigration-related authority transferred to the Secretary of DHS as of March 1, 2003.

[25] For current and historical information on TPS designations by country and links to *Federal Register* announcements, see U.S. Department of Justice, Executive Office for Immigration Review, *Temporary Protected Status*, https://www.justice.gov/eoir/temporary-protected-status.

[26] The Nicaraguan Adjustment and Central American Relief Act (NACARA) (Title II of P.L. 105-100) was enacted in 1997 and provided eligibility for lawful permanent resident (LPR) status to certain Nicaraguans, Cubans, Guatemalans, El Salvadorans, and nationals of the former Soviet bloc who had applied for asylum and had been living in the United States for a certain period of time. President Clinton, among others, argued that Haitians deserved similar legislative treatment. The Haitian Refugee Immigration Fairness Act (HRIFA) (P.L. 105-277) was enacted in 1998, allowing Haitian nationals who had been paroled into the United States before December 31, 1995, or who had applied for asylum before that date, to adjust to LPR status. For more information, see archived CRS Report RS21349, *U.S. Immigration Policy on Haitian Migrants*.

[27] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "DED Granted Country - Liberia," https://www.uscis.gov/humanitarian/deferred-enforced-departure/ded-granted-country-liberia/ded-granted-country-liberia.

announced on March 27, 2018, that DED for Liberia would terminate effective March 31, 2019 (see "Liberia").[28]

Countries Designated for Temporary Protections

Approximately 437,000 foreign nationals from the following 10 countries have TPS: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, and Yemen. In addition, certain Liberian nationals are covered by a designation of DED (see "Liberia" section below). The Administration has announced terminations of temporary protections for seven of these countries (six with TPS and one with DED). Several lawsuits have been filed challenging these decisions.

Table 1 lists the current TPS-designated countries, the most recent decision—to extend or terminate—by the Secretary of DHS, the date from which individuals are required to have continuously resided in the United States, and the designation's expiration date. In addition, **Table 1** shows the approximate number of individuals from each country who registered during the previous registration period and the number of individuals with TPS as of October 12, 2017.

Table 1. TPS Beneficiaries by Country of Citizenship

Country	Most Recent Decision	Required Arrival Date[a]	Expiration Date	Expected Reregistrants[b]	Individuals with TPS[c]
El Salvador	Termination	February 13, 2001	September 9, 2019	195,000	262,526
Haiti	Termination	January 12, 2011	July 22, 2019	46,000	58,557
Honduras	Termination	December 30, 1998	January 5, 2020	57,000	86,031
Nepal	Termination	June 24, 2015	June 24, 2019	8,950	14,791
Nicaragua	Termination	December 30, 1998	January 5, 2019	2,550	5,305
Somalia	Extension	May 1, 2012	March 17, 2020	500	499
South Sudan	Extension	January 25, 2016	May 2, 2019	70	77
Sudan	Termination	January 9, 2013	November 2, 2018	1,040	1,048
Syria	Extension	August 1, 2016	September 30, 2019	5,800	6,916
Yemen	Extension	January 4, 2017	March 3, 2020	1,250	1,116
Total				**317,660**	**436,866**

Source: CRS compilation of information from *Federal Register* announcements and USCIS data.

a. The arrival date represents the date from which individuals are required to have continuously resided in the United States in order to qualify for TPS and is determined by the most recent TPS designation for that country. A migrant is not considered to have failed this requirement for a "brief, casual, and innocent" absence. 8 U.S.C. §1254a(c) and 8 C.F.R. §244.1.

b. Data from *Federal Register* notices for each country. These data typically represent the number of individuals who registered during the previous registration period.

c. Data provided to CRS by USCIS. These data reflect individuals with TPS as of October 12, 2017; the data include some individuals who have since adjusted to another status, and may include individuals who have

[28] "Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security," March 27, 2018, https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-homeland-security/.

left the country or died; and do not necessarily include all migrants from the specified countries who are in the United States and are eligible for the status.

Central America

The only time Congress has granted TPS was in 1990 (as part of the law establishing TPS) to eligible Salvadoran nationals in the United States.[29] In the aftermath of Hurricane Mitch in November 1998, then-Attorney General Janet Reno announced that she would temporarily suspend the deportation of migrants from El Salvador, Guatemala, Honduras, and Nicaragua. On January 5, 1999, the Attorney General designated Honduras and Nicaragua for TPS due to extraordinary displacement and damage from Hurricane Mitch.[30] Prior to leaving office in January 2001, the Clinton Administration said it would temporarily halt deportations to El Salvador because of a major earthquake. In 2001, the George W. Bush Administration decided to grant TPS to Salvadoran nationals following two earthquakes that rocked the country.[31]

Over the years, the George W. Bush Administration granted, and the Obama Administration extended, TPS to Central Americans from El Salvador, Honduras, and Nicaragua on the rationale that it was still unsafe for nationals to return due to the disruption of living conditions from environmental disasters.

Beginning in late 2017, the Trump Administration announced decisions to terminate TPS for Nicaragua and El Salvador and to put on hold a decision about Honduras. In November 2017, DHS announced that TPS for Nicaragua would end on January 5, 2019—12 months after its last designation would have expired—due to nearly completed recovery efforts following Hurricane Mitch.[32] On the same day, DHS announced that more information was necessary to make a determination about TPS for Honduras; as a result, statute dictates that its status be extended for six months.[33] On January 8, 2018, DHS announced the decision to terminate TPS for El Salvador—whose nationals account for about 60% of TPS recipients—after an 18-month transition period. El Salvador's TPS designation is scheduled to end on September 9, 2019.[34] On May 4, 2018, DHS announced the decision to terminate the TPS designation for Honduras, with an 18-month delay (until January 5, 2020) to allow for an orderly transition.[35]

[29] For historical analysis, see archived CRS Report IB87205, *Immigration Status of Salvadorans and Nicaraguans* (available to congressional clients upon request).

[30] U.S. Department of Justice, Immigration and Naturalization Service, "The Designation of Honduras Under Temporary Protected Status," 64 *Federal Register* 524-526, January 5, 1999; U.S. Department of Justice, Immigration and Naturalization Service, "The Designation of Nicaragua Under Temporary Protected Status," 64 *Federal Register* 526-528, January 5, 1999.

[31] U.S. Department of Justice Immigration and Naturalization Service, "The Designation of El Salvador Under Temporary Protected Status," 66 *Federal Register* 14214-14216, March 9, 2001.

[32] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Termination of the Designation of Nicaragua for Temporary Protected Status,"82 *Federal Register* 59636-59642, December 15, 2017.

[33] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Honduras for Temporary Protected Status,"82 *Federal Register* 59630-59636, December 15, 2017.

[34] U.S. Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for El Salvador," press release, January 8, 2018, at https://www.dhs.gov/news/2018/01/08/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected.

[35] U.S. Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for Honduras," press release, May 4, 2018, at https://www.dhs.gov/news/2018/05/04/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected

The large number of Central Americans with TPS, along with their length of U.S. residence and resulting substantial economic and family ties, have led some to support extending TPS for Central Americans and Salvadorans in particular. Supporters have argued that ongoing violence and political unrest have left these countries unable to adequately handle the return of their nationals and that a large-scale return could have negative consequences for the United States economy and labor supply, American families, foreign relations, and the flow of remittances sent by Central Americans living in the United States to their relatives in Central America.[36] Opponents have argued that ending TPS for these countries is a move toward correctly interpreting the original intent of the program—to provide *temporary* safe haven. There is some support in Congress for a legislative means of allowing TPS recipients with several years of U.S. residence to remain in the United States permanently (see "Selected Activity in the 115th Congress" below); others argue that Congress's intent in creating the statute was to provide *temporary* relief and that no special consideration should be given to allow these individuals to stay in the United States.

Haiti

The devastation caused by the January 12, 2010, earthquake in Haiti prompted calls for the Obama Administration to grant TPS to Haitian nationals in the United States.[37] The scale of the humanitarian crisis after the earthquake—with estimates of thousands of Haitians dead and reports of the total collapse of Port au Prince's infrastructure—led DHS to grant TPS for 18 months to Haitian nationals who were in the United States as of January 12, 2010.[38] At the time, then-DHS Secretary Janet Napolitano stated: "Providing a temporary refuge for Haitian nationals who are currently in the United States and whose personal safety would be endangered by returning to Haiti is part of this Administration's continuing efforts to support Haiti's recovery."[39] On July 13, 2010, DHS announced an extension of the TPS registration period for Haitian nationals, citing difficulties nationals were experiencing in obtaining documents to establish identity and nationality, and in gathering funds required to apply for TPS.[40]

DHS extended the TPS designation for Haiti in May 2011, providing another 18 months of TPS, through January 22, 2013.[41] At the same time, DHS issued a redesignation, enabling eligible Haitian nationals who arrived in the United States up to one year after the earthquake to receive

[36] For information on country conditions, see CRS Report R43616, *El Salvador: Background and U.S. Relations*;CRS Report R44560, *Nicaragua: In Brief*; and CRS Report RL34027, *Honduras: Background and U.S. Relations*.

[37] The issue of Haitian TPS had arisen several times prior, most notably after the U.S. Ambassador declared Haiti a disaster in September 2004 due to the magnitude of the effects of Tropical Storm Jeanne. A series of tropical cyclones in 2008 resulted in hundreds of deaths and led some to label the city of Gonaives uninhabitable. The Administration of President George W. Bush did not grant TPS or other forms of blanket relief to Haitians, nor was legislation enacted that would have provided TPS to Haitians, such as H.R. 522 in the 110th Congress. For background information on Haitian migration to the United States, see archived CRS Report RS21349, *U.S. Immigration Policy on Haitian Migrants*.

[38] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Haiti for Temporary Protected Status," 75 *Federal Register* 3476-3479, January 21, 2010.

[39] U.S. Department of Homeland Security, "Statement from Secretary Janet Napolitano," press release, January 15, 2010.

[40] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Initial Registration Period for Haitians under the Temporary Protected Status Program," 75 *Federal Register* 39957, July 13, 2010.

[41] U.S. Department of Homeland Security, "Secretary Napolitano Announces Extension of Temporary Protected Status for Haitian Beneficiaries," press release, May 17, 2011.

TPS. The redesignation targeted individuals who were allowed to enter the United States immediately after the earthquake on temporary visas or humanitarian parole,[42] but were not covered by the initial TPS designation.[43] Subsequently, then-Secretary Jeh Johnson extended Haiti's designation several times, through July 22, 2017.[44]

A May 2, 2017, letter from members of the Congressional Black Caucus to then-DHS Secretary John Kelly urged an 18-month extension of TPS for Haiti, citing continued recovery difficulties from the 2010 earthquake that killed over 300,000 people, an ongoing cholera epidemic, and additional damages from Hurricane Matthew in 2016.[45] On May 24, 2017, then-Secretary Kelly extended Haiti's TPS designation for six months (the minimum allowed by statute), from its planned expiration on July 22, 2017, to January 22, 2018, and encouraged beneficiaries to prepare to return to Haiti should its designation be terminated after six months.[46] An October 4, 2017, letter from the Haitian ambassador to Acting DHS Secretary Elaine Duke requested that Haiti's designation be extended for an additional 18 months.[47] On November 20, 2017, DHS announced its decision to terminate TPS for Haiti, with an 18-month transition period. Its designation is set to terminate on July 22, 2019.[48]

Liberia

Liberians in the United States first received TPS in March 1991 following the outbreak of civil war. Although that war ended, a second civil war began in 1999 and escalated in 2000.[49] Approximately 10,000 Liberians in the United States were given DED in 1999 after their TPS expired. Their DED status was subsequently extended to September 29, 2002. On October 1, 2002, Liberia was redesignated for TPS for a period of 12 months, and that status continued to be extended. On September 20, 2006, the George W. Bush Administration announced that TPS for Liberia would expire on October 1, 2007, but that this population would be eligible for DED until March 31, 2009. On March 23, 2009, President Obama extended DED for those Liberians until March 31, 2010, and several times thereafter.[50]

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[42] Parole allows an individual, who may be inadmissible or otherwise ineligible for admission into the United States, to be granted authorization to enter the United State for a temporary period. INA §212(d)(5) (8 U.S.C. §1182(d)(5)).

[43] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension and Re-designation of Haiti for Temporary Protected Status," 76 *Federal Register* 29000-29004, May 19, 2011.

[44] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Haiti for Temporary Protected Status," 80 *Federal Register* 51582-51588, August 25, 2015.

[45] For conditions following Hurricane Matthew, see CRS In Focus IF10502, *Haiti: Cholera, the United Nations, and Hurricane Matthew*.

[46] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Haiti for Temporary Protected Status," 82 *Federal Register* 23830-23837, May 24, 2017.

[47] Letter from Paul G. Altidor, Ambassador to the United States from Haiti, to Elaine C. Duke, Acting Secretary of the Department of Homeland Security, October 4, 2017.

[48] U.S. Department of Homeland Security, "Acting Secretary Elaine Duke Announcement On Temporary Protected Status For Haiti," press release, November 20, 2017, at https://www.dhs.gov/news/2017/11/20/acting-secretary-elaine-duke-announcement-temporary-protected-status-haiti.

[49] See CRS Report RL33185, *Liberia's Post-War Development: Key Issues and U.S. Assistance*.

[50] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Filing Procedures and Automatic Extension of Employment Authorization and Related Documentation for Liberians Provided Deferred Enforced Departure," 75 *Federal Register* 15715, March 30, 2010; The White House (President Obama), *Presidential Memorandum—Deferred Enforced Departure for Liberians*, Memorandum for the Secretary of Homeland Security, September 28, 2016, https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-liberians.

As a result of the Ebola outbreak in West Africa in 2014, eligible Liberians were again granted TPS, as were eligible Sierra Leoneans and Guineans.[51] On September 26, 2016, DHS issued a notice for Liberia providing a six-month extension of TPS benefits, to May 21, 2017, to allow for an "orderly transition" of affected persons' immigration status, and did the same for similarly affected Sierra Leoneans and Guineans. This action voided a previously scheduled November 21, 2016, expiration of TPS for all three countries.[52]

Liberia's DED status was extended by President Obama through March 31, 2018, for a specially designated population of Liberians who had been residing in the United States since October 2002.[53] President Trump announced on March 27, 2018, that extending DED for Liberia was not warranted due to improved conditions in Liberia, but that the United States' foreign policy interests warranted a 12-month wind-down period.[54] The termination of DED for Liberia is to take effect on March 31, 2019. Approximately 745 Liberians have approved employment authorization documents (EADs) under that DED directive.[55] This number does not reflect all Liberians who might be covered under this DED announcement—only those who applied for and received an EAD.

Nepal

Nepal was devastated by a massive earthquake on April 25, 2015, killing over 8,000 people. The earthquake and subsequent aftershocks demolished much of Nepal's housing and infrastructure in many areas. Over half a million homes were reportedly destroyed.[56] On June 24, 2015, citing a substantial but temporary disruption in living conditions as a result of the earthquake, then-DHS Secretary Jeh Johnson designated Nepal for TPS for an 18-month period.[57] TPS for Nepal was extended for 18 months in October 2016.[58] On April 26, 2018, Secretary Nielsen announced her decision to terminate the TPS designation for Nepal, citing her assessment that the original conditions under which the country was designated are no longer substantial and that Nepal can adequately handle the return of its nationals.[59] A 12-month delay of the termination date to allow

[51] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Liberia for Temporary Protected Status," 79 *Federal Register* 69502-69502, November 21, 2014; and U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Initial Registration Period for Guinea, Liberia and Sierra Leone for Temporary Protected Status," 80 *Federal Register, Number 122, 36551-36552,* June 25, 2015.

[52] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Liberia's Designation for Temporary Protected Status," 81 *Federal Register* 66059-66064, September 26, 2016.

[53] The White House (President Obama), "Presidential Memorandum—Deferred Enforced Departure for Liberians," Memorandum for the Secretary of Homeland Security, September 28, 2016, https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-liberians.

[54] "Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security," March 27, 2018, https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-homeland-security/.

[55] Numbers provided to CRS by USCIS, September 11, 2017.

[56] See CRS Report R44303, *Nepal: Political Developments and U.S. Relations*.

[57] U.S. Department of Justice, Immigration and Nationalization Service, "Designation of Nepal for Temporary Protected Status," 80 *Federal Register* 36346-36350, June 24, 2015.

[58] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extensions of the Designation of Nepal for Temporary Protected Status," 81 *Federal Register* 74470-74475, October 26, 2016.

[59] U.S. Department of Homeland Security, "Secretary Kirstjen M. Nielsen Announcement on Temporary Protected Status for Nepal," press release, April 26, 2018, at https://www.dhs.gov/news/2018/04/26/secretary-kirstjen-m-nielsen-announcement-temporary-protected-status-nepal.

for an orderly transition was also announced; the TPS designation for Nepal is thus set to terminate on June 24, 2019.[60]

Somalia

Somalia has endured decades of chronic instability and humanitarian crises. Since the collapse of the authoritarian Siad Barre regime in 1991, it has lacked a viable central authority capable of exerting territorial control, securing its borders, or providing security and services to its people.[61] Somalia was first designated for TPS in 1991 based on extraordinary and temporary conditions "that prevent[ed] aliens who are nationals of Somalia from returning to Somalia in safety."[62] Through 23 subsequent extensions or redesignations, Somalia has maintained TPS due to insecurity and ongoing armed conflict that present serious threats to the safety of returnees. DHS announced the latest extension—for 18 months—on July 19, 2018, and its current expiration date is March 17, 2020.[63]

Sudan and South Sudan

Decades of civil war preceded South Sudan's secession from the Republic of Sudan in 2011.[64] Citing both ongoing armed conflict and extraordinary and temporary conditions that would prevent the safe return of Sudanese nationals, the Attorney General designated Sudan for TPS on November 4, 1997. Since then, Sudan has been redesignated or had its designation extended 14 times.

On July 9, 2011, South Sudan became a new nation.[65] With South Sudan's independence from the Republic of Sudan, questions arose about whether nationals of the new nation would continue to be eligible for TPS. In response, the DHS Secretary designated South Sudan for TPS on October 17, 2011.[66] TPS has since been extended or redesignated four times due to ongoing armed conflict and extraordinary and temporary conditions in South Sudan, including "ongoing civil war marked by brutal violence against civilians, egregious human rights violations and abuses, and a humanitarian disaster on a devastating scale across the country."[67] The latest extension was for 18 months and expires on May 2, 2019.[68]

Meanwhile, citing improved conditions in Sudan, including a reduction in violence and an increase in food harvests, then-Acting DHS Secretary Elaine Duke announced in September 2017 that Sudan's TPS designation would expire on November 2, 2018.[69]

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[60] Ibid.

[61] See CRS In Focus IF10155, *Somalia*.

[62] U.S. Department of Justice, Immigration and Nationalization Service, "Designation of Nationals of Somalia for Temporary Protected Status," 56 *Federal Register* 46804-46805, September 16, 1991.

[63] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Somalia for Temporary Protected Status," 83 *Federal Register* 13695-43700, August 27, 2018.

[64] See CRS In Focus IF10182, *Sudan: An Overview*.

[65] See CRS In Focus IF10218, *South Sudan*.

[66] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Republic of South Sudan for Temporary Protected Status," 76, 198 *Federal Register* 63629-63635, October 13, 2011.

[67] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of South Sudan for Temporary Protected Status," 82 *Federal Register* 44205-44211, September 21, 2017.

[68] Ibid.

[69] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Termination of the Designation

Syria

The political uprising of 2011 in Syria grew into an intensely violent civil war that has led to 5.6 million Syrians fleeing the country and 6 million more internally displaced by 2018.[70] On March 29, 2012, then-Secretary of Homeland Security Janet Napolitano designated the Syrian Arab Republic (Syria) for TPS through September 30, 2013, citing temporary extraordinary conditions that would make it unsafe for Syrian nationals already in the United States to return to the country.[71] In that initial granting of TPS, Secretary Napolitano made clear that DHS would conduct full background checks on Syrians registering for TPS.[72] TPS for Syrian nationals has since been extended. The 18-month extension on August 1, 2016, was accompanied by a redesignation, which updated the required arrival date into the United States for Syrians from January 5, 2015, to August 1, 2016.[73] On January 31, 2018, Secretary Nielsen announced her decision to extend the TPS designation for Syria for another 18 months, citing the ongoing armed conflict and extraordinary conditions that prompted the original designation.[74] This announcement did not include a redesignation; thus, Syrians who entered the United States after August 1, 2016, are not eligible.[75]

Yemen

On September 3, 2015, then-Secretary Jeh Johnson designated Yemen for TPS through March 3, 2017, due to ongoing armed conflict in the country.[76] A 2015 DHS press release stated that "requiring Yemeni nationals in the United States to return to Yemen would pose a serious threat to their personal safety."[77] The civil war in Yemen reached new levels in 2017. The United Nations estimated that the civilian death toll had reached 10,000, and the World Food Program reported that 60% of Yemenis, or 17 million people, were in "crisis" or "emergency" food situations.[78] Relief efforts in the region have been complicated by ongoing violence and considerable damage to the country's infrastructure. On January 4, 2017, DHS extended and redesignated Yemen's current TPS designation through September 3, 2018. The redesignation updated the required

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of Sudan for Temporary Protected Status," 82 *Federal Register* 47228-47234, October 11, 2017.

[70] See CRS Report R43119, *Syria: Overview of the Humanitarian Response*; and CRS Report RL33487, *Armed Conflict in Syria: Overview and U.S. Response*.

[71] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Syrian Arab Republic for Temporary Protected Status," 61 *Federal Register* 19026-19030, March 29, 2012.

[72] Secretary of Homeland Security Janet Napolitano, "Temporary Protected Status (TPS) for Syrian Nationals," press release, March 23, 2012, http://www.dhs.gov/ynews/releases/20120323-napolitano-statement-syria-tps.shtm.

[73] Previously, Syrians who had arrived in the United States after January 5, 2015, were not eligible for TPS. The redesignation allows Syrians that arrived between January 5, 2015, and August 1, 2016, to also be eligible for TPS. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension and Redesignation of Syria for Temporary Protected Status," 81 *Federal Register* 50533-50541, August 1, 2016.

[74] U.S. Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement On Temporary Protected Status For Syria," press release, January 31, 2018, at https://www.dhs.gov/news/2018/01/31/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected.

[75] U.S. Department of Homeland Security Citizenship and Immigration Services, "Extension of the Designation Syria for Temporary Protected Status," 83 *Federal Register* 9329-9336, March 5, 2018.

[76] U.S. Department of Homeland Security Citizenship and Immigration Services, "Designation of the Republic of Yemen for Temporary Protected Status," 80 *Federal Register* 53319-53323, September 3, 2015.

[77] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "DHS Announces Temporary Protected Status Designation for Yemen," press release, September 3, 2015, http://www.uscis.gov/news/dhs-announces-temporary-protected-status-designation-yemen.

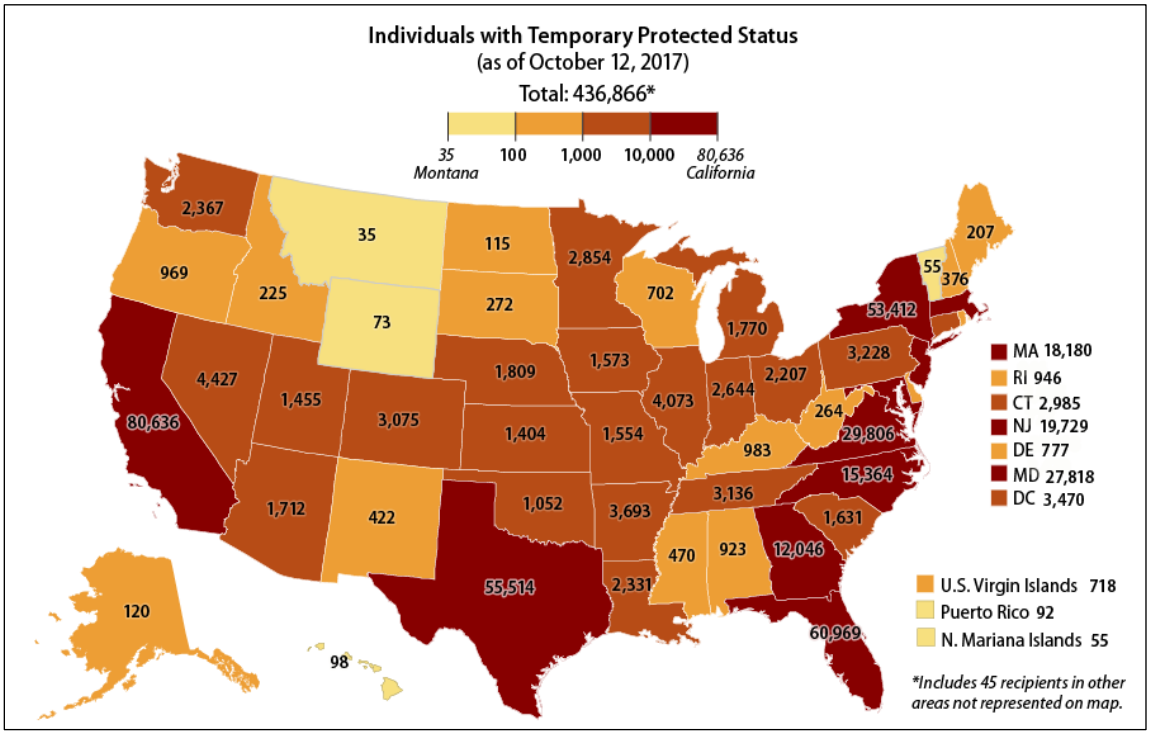
[78] See CRS Report R43960, *Yemen: Civil War and Regional Intervention*.

arrival date into the United States for individuals from Yemen from September 3, 2015, to January 4, 2017.[79] The *Federal Register* notice explained that the "continued deterioration of the conditions for civilians in Yemen and the resulting need to offer protection to individuals who have arrived in the United States after the eligibility cutoff dates" warranted the redesignation of TPS.[80] On July 5, 2018, DHS extended Yemen's TPS designation for another 18 months, resulting in an expiration date of March 3, 2020.[81]

State of Residence of TPS Recipients

Individuals with TPS reside in all 50 states, the District of Columbia, and the U.S. territories. The highest populations live in traditional immigrant gateway states: California, Florida, Texas, and New York. In addition to these four, six other states had at least 10,000 TPS recipients as of October 2017: Virginia, Maryland, New Jersey, Massachusetts, North Carolina, and Georgia. Hawaii, Wyoming, Vermont, and Montana had fewer than 100 individuals with TPS. See **Figure 1** and **Table A-1**.

Figure 1. Individuals with Temporary Protected Status by State of Residence



Source: CRS calculation of data provided by USCIS. Map created by CRS.

Notes: These data reflect individuals with TPS as of October 12, 2017; data include some individuals who have since adjusted to another status and may include individuals who have moved to another state, left the country, or died; data do not necessarily include all migrants from the specified countries who are in the United States and are eligible for the status.

[79] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension and Redesignation of the Republic of Yemen for Temporary Protected Status," 82 *Federal Register* 859-866, January 4, 2017.

[80] Ibid.

[81] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Yemen for Temporary Protected Status," 83 *Federal Register* 40307-40313, August 14, 2018.

Adjustment of Status

A grant of TPS does not provide a migrant with a designated pathway to lawful permanent resident (LPR) status; however, a TPS recipient is not barred from adjusting to nonimmigrant or immigrant status if he or she meets the requirements. There are statutory limitations on Congress providing adjustment of status to TPS recipients.[82]

Over the years, Congress has provided eligibility for LPR status to groups of nationals who had been given temporary relief from removal. In 1992, Congress enacted legislation allowing Chinese nationals who had DED following the Tiananmen Square massacre to adjust to LPR status (P.L. 102-404). The Nicaraguan Adjustment and Central American Relief Act (NACARA) (Title II of P.L. 105-100), which became law in 1997, provided eligibility for LPR status to certain Nicaraguans, Cubans, Guatemalans, Salvadorans, and nationals of the former Soviet bloc who had applied for asylum and had been living in the United States for a certain period of time. The 105th Congress passed the Haitian Refugee Immigration Fairness Act, enabling Haitians who had filed asylum claims or who were paroled into the United States before December 31, 1995, to adjust to legal permanent residence (P.L. 105-277).

Legislation that would have allowed nationals from various countries that have had TPS to adjust to LPR status received action in past Congresses, but was not enacted. For instance, the Senate-passed comprehensive immigration reform bill in the 113th Congress (S. 744) did not include specific provisions for foreign nationals with TPS to adjust status, but many would have qualified for the registered provisional immigrant status that S. 744 would have established.[83]

Selected Activity in the 115th Congress

The 115th Congress has introduced various proposals related to TPS. Some bills would extend or expand TPS designations for certain countries,[84] prohibit federal funds from being used to implement recent TPS terminations, or provide adjustment to LPR status for TPS recipients who have been living in the United States for several years.[85] Other bills variously seek to limit the program by transferring authority from DHS to Congress to designate foreign states; making unauthorized aliens and members of criminal gangs ineligible; restricting the criteria for designating a foreign state; making TPS recipients subject to detention and expedited removal; or phasing out the program.[86]

[82] INA §244(h) states that the consideration of any bill, resolution, or amendment that provides for the adjustment to lawful temporary or lawful permanent resident status for any TPS recipient requires a supermajority in the Senate (i.e., three-fifths of all Senators) voting affirmatively.

[83] See archived CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*.

[84] H.R. 1014, H.R. 2597, and H.R. 6325 for example.

[85] H.R. 3440, H.R. 3647, H.R. 4184, H.R. 4253, H.R. 4384, H.R. 4750, H.R. 4796, H.R. 4956, S. 1615, S. 2144, and S. 2367, for example.

[86] H.R. 2431, H.R. 2604, H.R. 3697, H.R. 4750, H.R. 4760, H.R. 5496, H.R. 6134, H.R. 6136, H.R. 6204, and S. 52, S. 1757, S. 2199, and S. 2380, for example.

Appendix.

Table A-1. Individuals with Temporary Protected Status by State of Residence

State	Individuals with TPS	State	Individuals with TPS
Alabama	923	Nevada	4,427
Alaska	120	New Hampshire	376
Arizona	1,712	New Jersey	19,729
Arkansas	3,693	New Mexico	422
California	80,636	New York	53,412
Colorado	3,075	North Carolina	15,364
Connecticut	2,985	North Dakota	115
Delaware	777	Ohio	2,207
District of Columbia	3,470	Oklahoma	1,052
Florida	60,969	Oregon	969
Georgia	12,046	Pennsylvania	3,228
Hawaii	98	Rhode Island	946
Idaho	225	South Carolina	1,631
Illinois	4,073	South Dakota	272
Indiana	2,644	Tennessee	3,136
Iowa	1,573	Texas	55,514
Kansas	1,404	Utah	1,455
Kentucky	983	Vermont	55
Louisiana	2,331	Virginia	29,806
Maine	207	Washington	2,367
Maryland	27,818	West Virginia	264
Massachusetts	18,180	Wisconsin	702
Michigan	1,770	Wyoming	73
Minnesota	2,854	U.S. Virgin Islands	718
Mississippi	470	Puerto Rico	92
Missouri	1,554	Northern Mariana Islands	55
Montana	35	Other	45
Nebraska	1,809	**Total**	**436,866**

Source: CRS calculation of data provided by USCIS.

Notes: These data reflect individuals with TPS as of October 12, 2017; data include some individuals who have since adjusted to another status and may include individuals who have moved to another state, left the country, or died; data do not necessarily include all migrants from the specified countries who are in the United States and are eligible for the status.

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