

MEMORANDUM

TO:

Joe Biden

President Elect of the United States of America

Chad Wolf

Acting Secretary of Homeland Security

National Immigration Forum

American Civil Liberties Union (ACLU)

FROM: Isabel Ortega

DATE: 11 December 2020

Ensuring Humanitarian Protections for Central American TPS Beneficiaries

1) Abstract:

People from El Salvador, Nicaragua and Honduras are often victims of violent natural disasters and armed conflicts that kill, injure and displace them. Currently, El Salvador, Nicaragua and Honduras are on the Temporary Protected Status (TPS) countries list, meaning their citizens may apply for TPS. TPS allows foreign nationals to remain in the U.S. as long as their country remains too dangerous to travel back to. Once in the U.S, these individuals are granted employment authorizations and many establish themselves as significant members of their communities. Most recently, The Trump administration announced the termination of TPS and referred to the affected states as "shithole countries." Choosing to rescind TPS from vulnerable Central American citizens sets the dangerous precedent that immigrants are not worthy of political protection and further adds to U.S anti-immigrant sentiments. Additionally, repealing TPS alters a person's well-being, destroys families, and may ultimately grant a death sentence. Although the scale of this policy is international, I will focus on the three countries listed above due to increased displacement and violence from these regions in recent years. The following policy brief will contextualize TPS policy, analyze its impact on current recipients and ultimately suggest preliminary policy recommendations that will consider converting TPS beneficiaries into permanent residents to ensure full and fair access to humanitarian protection.

2) Background:

The Immigration Act of 1990 created Temporary Protected Status (TPS), an interim immigration status given to citizens of specific countries that experience "extraordinary and temporary conditions" (American Immigration Council). In response to the devastation caused by Hurricane Mitch in 1998, Honduras and Nicaragua were added to the designated TPS countries list, and similarly, El Salvador was added in 2001 as a response to the El Salvador earthquake. Due to their geographical location, the three countries are susceptible to various natural disasters that

cause death, destruction and devastation. The frequency and seriousness of these disasters causes many Central American citizens to relocate to the United States, where devastation due to natural disasters is less frequent.

The Department of Homeland Security may grant Temporary Protected Status (TPS) to citizens of certain countries who are unable to return to those countries due to difficult or dangerous circumstances (USCIS). Regional violence and criminal activity have augmented humanitarian needs in Guatemala, Honduras and El Salvador, known as the [Central Triangle of Latin America](#). Criminal violence increased significantly with the rise of gangs (such as MS-13) and local cartels, turning “northern Central America into one of the most dangerous areas in the world” (Rivera Hernandez, 2017). Fierce violence has become one of the main reasons for the expulsion of many Central American individuals, many who flee regions run by organized crime.

The Secretary of Homeland Security grants TPS to nationals of countries that are experiencing a natural disaster, ongoing armed conflict, or any kind of extraordinary epidemic (USCIS). In order to be eligible for TPS, a person must be a national of a designated country, file Form I-821 during the initial registration period, and must have been continuously physically present and continuously residing in the United States since the date specified for a designated country (USCIS). A person applying for TPS should be able to provide evidence such as proof of identity, nationality and date of entry. According to the USCIS website, TPS beneficiaries (or those who are found preliminarily eligible for TPS) are not allowed to be removed from the U.S. and may be granted employment or travel authorization. An individual that is granted TPS also cannot be detained by DHS on the basis of their immigration status in the U.S. As a result, Temporary Protected Status has provided a safety net for vulnerable individuals who are unable to safely return to their home countries.

3) Impact:

Beginning in 2017, the DHS secretary announced the stop of TPS for Central American countries, leading to strong backlash and several protests. In March of 2019, the Trump administration made the decision to halt the termination of TPS for more than 300,000 people from Honduras, Nicaragua and El Salvador as a result of two class action lawsuits filed against the DHS. In [Bhattarai v. Nielsen](#) and [Ramos V. Nielsen](#), immigrants and the ACLU make the



Support Families Who Are Losing Temporary Protected Status (TPS)

What is TPS?

TPS was established with [bipartisan support](#) by Congress in 1990 for people whose countries cannot handle their return due to civil war, armed conflict, environmental disasters, or other disasters.

This protection allows for recipients to work, pay taxes, and contribute to society without fear of deportation.

Why haven't they become citizens?

There is currently [no pathway](#) to become permanent residents or U.S. citizens for the [400,000+ immigrants with TPS](#), even though many have been here for 20+ years and have children who are U.S. citizens.

That includes [130,000 TPS holders](#) who are essential workers during the COVID-19 pandemic & contribute billions to the U.S. annually.

What can I do to help?

Get involved!

Call your U.S. senators and representatives and urge them to support [legislation that would provide a permanent solution for TPS holders](#) and benefit the American people.

Share this graphic!



argument that ending TPS for Central American citizens is part of a larger effort to decrease the amount of BIPOC immigrants in the United States. In choosing to rescind TPS, the Trump administration promotes an “exclusive form of American nationalism” that distinguishes between who is “American” but most importantly, who is not (Lee, 2020).

Considering that TPS recipients are required to continuously reside in the U.S. and are granted employment authorizations, it is likely that these foreign nationals are well-established members of their communities that have turned this nation into their home. Rescinding TPS from Central American beneficiaries provides “thin access to safety net services” (Gelatt, 2020) not only because of their status as non-citizens, but also because of the constant doubt of whether or not they will be allowed to remain in the country. Choosing to revoke TPS without offering an alternative path to residency demonstrates how the U.S.’s immigration laws revolve around anti-immigrant, white supremacist agenda.

Displacing individuals by deporting them to a country they had previously fled negatively alters an individuals’ well-being, as they may return to inherently violent, dangerous and poverty-stricken conditions. TPS’s existence solely relies on the decision of compassionate political leaders to protect it and if lawmakers do not pursue a solution to protect the status of TPS recipients, a sense of instability and fear will continue to exist among individuals who solely rely on the policy to remain in the U.S. without legal retribution.

4) Recommendations

Currently, there are an estimated [331,533 TPS beneficiaries](#) from El Salvador, Honduras and Nicaragua living in the United States. According to a preliminary injunction granted in *Ramos v. Nielsen*, employment authorizations for TPS holders from Central America will be extended until 2021. If court proceedings continue past the date of January 4, 2021, the Department of Homeland Security will also extend TPS-related documents for those who are eligible. The following are policy recommendations to consider regarding permanent residency for TPS recipients:

- 1. Decriminalize TPS beneficiaries who remain in the U.S.**

Some TPS beneficiaries may remain in the U.S. illegally if their status is rescinded, meaning they are more likely to be tracked and deported. Offering a compassionate policy that considers the circumstances of why they arrived in the U.S. may create a route to attain citizenship.

- 2. Address the causes of immigration in vulnerable Central American regions**

For the 2019 fiscal year, the Trump administration suggested cutting aid to Central America by 29% with disastrous results (US State). By increasing foreign assistance to these countries, the United States can help address gang violence and poverty, strengthening states such as El Salvador and Honduras who are currently facing a humanitarian disaster.

- 3. Create a specific path to residency for TPS recipients**

The USCIS states that it takes about 7 to 33 months to process applications for permanent residency (Immigration Impact). With court backlogs, limited staff and now a global pandemic, this process may take even longer and doesn’t guarantee it will be accepted. Creating a separate

application for TPS recipients or prioritizing their applications due to their extraordinary circumstances can facilitate a path to permanent residency.

It is inhumane to rescind TPS from vulnerable Central American immigrants without offering a path to permanent residency. If you send people escaping the results of a natural disaster, poverty or violence back to those conditions, they are more likely to return when they are once again unsafe. Additionally, TPS beneficiaries are significant participants of the U.S. economy and society, and U.S. development would suffer without them. As mentioned by the ACLU, the debate between choosing to keep or end TPS stems from anti racial and immigrant sentiments by the current administration. By keeping TPS benefits for the people of Central America, America avoids unnecessary death or injuries, ensuring humanitarian protection and compassionate migration policies for Central America's most endangered individuals. WORDS: 1393

5) References

“Bhattarai v. Nielsen,” ACLU of Southern California, March 19, 2020,
<https://www.aclusocal.org/en/cases/bhattarai-v-nielsen>

Garcia, D., & Hovring, R. 2018. 10 Things You Should Know About the Violence in Central America. Retrieved from
<https://www.nrc.no/news/2018/september/10-things-you-should-know-about-the-violence-in-central-america/>

Gelatt, J. 2020. Immigrant Workers: Vital to the US COVID-19 Response, Disproportionately Vulnerable. *Migration Policy Institute*.

Hernández, R. D. 2017. Making Absence Visible: The Caravan of Central American Mothers in Search of Disappeared Migrants. *Latin American Perspectives*, 44(5), 108-126.

How Long Does It Take USCIS to Issue a Green Card? 2019. Retrieved from
<https://immigrationimpact.com/2018/07/24/how-long-does-uscis-issue-green-card/>

Lee, E. 2019. America First, Immigrants Last: American Xenophobia Then and Now. *The Journal of the Gilded Age and Progressive Era*, 19(1), 3-18.

“Ramos V. Nielsen,” ACLU of Southern California, April 15, 2020
<https://www.aclusocal.org/en/cases/ramos-v-nielsen>

Temporary Protected Status: An Overview. 2020. Retrieved from
<https://www.americanimmigrationcouncil.org/research/temporary-protected-status-overview>

Temporary Protected Status. USCIS. 2015.
<https://www.uscis.gov/humanitarian/temporary-protected-status>

U.S. Strategy for Central America - United States Department of State. 2020. Retrieved from
<https://www.state.gov/u-s-strategy-for-central-america/>