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Temporary Protected Status: Overview and Current Issues

Abstract

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 issue TPS for periods of 6 to 18 months and can extend these periods if conditions leading to the designating of TPS do not change. 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, Sudan, South 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). Haiti's TPS designation was extended for an additional six months from July 22, 2017, to January 22, 2018. In September 2017, the Secretary of Homeland Security announced plans to terminate Sudan's designation on November 2, 2018, while extending South Sudan's designation by 18 months to May 2, 2019. T

here is ongoing debate about whether migrants who have been living in the United States for long periods of time with TPS should receive a pathway to legal permanent resident (LPR) status. Recent policy debates have also focused on whether the Administration should extend TPS for migrants from Central America because of crime and security challenges in the region, as well as for countries in the Caribbean due to recent hurricanes and, in the case of Haiti, ongoing recovery from natural disasters. In addition, Venezuela's political and economic strife have prompted some U.S. lawmakers to call for its designation for TPS.

Keywords

temporary protected status, TPS, Immigration and Nationality Act, INA

Comments

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Temporary Protected Status: Overview and Current Issues

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Summary

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Background

Federal law provides that all aliens¹ 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, refugees, and asylees, all of whom have legal permanent residence (LPR) status, 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 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 in INA §1254a, provides temporary lawful 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 removal²—Deferred Enforced Departure (DED)—is also described, as is the historical use of these relief mechanisms. The 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, and 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),³ 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.⁴

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. Non-citizen 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 In this report, the term “blanket relief” 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.

³ 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>.

⁴ 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)).

Such migrants may receive asylum or refugee status. 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.⁵ 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.⁶ 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 migrants 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 Department of Homeland Security (DHS) Secretary,⁷ in consultation with other government agencies, may 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 environmental disaster, or extraordinary and temporary conditions in a foreign state that prevent migrants from safely returning. TPS may not be designated if the DHS Secretary finds that allowing migrants to temporarily stay in the United States is against the national interest.⁸

The DHS Secretary can issue TPS for periods of 6 to 18 months and can extend these periods if conditions do not change in the designated country.⁹ To obtain TPS, eligible migrants within the United States submit an application to U.S. Citizenship and Immigration Services (USCIS), pay specified fees,¹⁰ and receive registration documents. The application must be submitted before the deadline set forth in the *Federal Register* notice announcing TPS designation and 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

⁵ INA 101(a)(42).

⁶ See CRS Report R41753, *Asylum and “Credible Fear” Issues in U.S. Immigration Policy*; and CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

⁷ 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 DHS Secretary as of March 1, 2003.

⁸ INA §244(b)(1).

⁹ There is no limit on the number of extensions a country can receive.

¹⁰ 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.

established in the TPS designation).¹¹ The statute specifies grounds of inadmissibility that cannot be waived, including those relating to criminal convictions and the persecution of others.¹²

Individuals granted TPS are not considered to be permanently residing in the United States “under color of law,” may be deemed ineligible for public assistance by a state, and may travel abroad only with the prior consent of the DHS Secretary. TPS does not provide a path to lawful permanent residence or citizenship.¹³ DHS has made clear that information it collects when a migrant registers for TPS may be used to enforce immigration law or in any criminal proceeding.¹⁴ In addition, withdrawal of an alien’s TPS may subject the alien to exclusion or deportation proceedings.¹⁵

Deferred Enforced Departure

In addition to TPS, there is another form of blanket relief from removal known as deferred enforced departure (DED),¹⁶ formerly known as extended voluntary departure (EVD).¹⁷ DED is a temporary, discretionary, administrative stay of removal granted to aliens from designated countries. Unlike TPS, 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.¹⁸ Currently, certain Liberian nationals are designated under DED through March 31, 2018.

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.¹⁹ When Presidents grant DED, through an executive order or presidential memorandum, they generally provide eligibility guidelines, such as 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.

DED continues to be used to provide relief to those the Administration deems appropriate. The executive branch’s position has been that all blanket relief decisions require balancing foreign

¹¹ See 8 C.F.R. §244.9 for details on evidence that must be submitted.

¹² Section 212 of the INA specifies broad reasons for which foreign nationals are considered ineligible to receive visas and ineligible to be admitted to the United States. Section 244(c) in the TPS statute lists which of these “grounds of inadmissibility” may be waived and which may not be waived.

¹³ For purposes of adjustment to legal permanent residence status or change to nonimmigrant status, an alien granted TPS is considered as being in and maintaining “lawful status as a nonimmigrant.” INA §244(f).

¹⁴ 8 C.F.R. §244.16.

¹⁵ 9 C.F.R. §244.14.

¹⁶ 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.” See CRS Report R43852, *The President’s Immigration Accountability Executive Action of November 20, 2014: Overview and Issues*; and CRS Report R43747, *Deferred Action for Childhood Arrivals (DACA): Frequently Asked Questions*.

¹⁷ EVD status, which was used from 1960 to 1990, has been given to nationals of Poland, Nicaragua, Iran, Uganda, and Lebanon. Other countries whose nationals have benefitted in the past from a status similar to EVD include Cambodia, Cuba, Chile, Czechoslovakia, Dominican Republic, Hungary, Laos, Rumania, and Vietnam.

¹⁸ See “Historical Patterns of Blanket Relief.”

¹⁹ For example, 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); and 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>.

policy, humanitarian, and immigration concerns. 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.²⁰ Instead, DED is triggered when a protected migrant is identified for deportation.

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. Subsequently, the Attorney General (and, later, the DHS Secretary),²¹ in consultation with the State Department, granted TPS to migrants in the United States from the following countries: Liberia, Kuwait, Rwanda, Lebanon, the Kosovo Province of Serbia, Bosnia-Herzegovina, Angola, Sierra Leone, Burundi, and Guinea; none of these 10 countries are currently designated for TPS.²²

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. The George H. W. Bush 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 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.²³ 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 and is currently set to expire on March 31, 2018.²⁴

Countries Designated for Temporary Protections

Approximately 437,000 foreign nationals from the following 10 countries have TPS as of October 2017: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and

²⁰ In general, the President directs executive agencies to implement procedures to provide DED and related benefits, such as employment authorization. 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>.

²¹ 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.

²² 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*, at <https://www.justice.gov/eoir/temporary-protected-status>.

²³ 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 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*.

²⁴ 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>.

Yemen. In addition, certain Liberian nationals are covered by a designation of DED (see the “Liberia” section below). **Table 1** shows the current TPS-designated countries, 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

As of October 2017

Country	Arrival Date ^a	Expiration Date	Expected Re-registrants ^b	Individuals with TPS ^c
El Salvador	February 13, 2001	March 9, 2018	195,000	262,528
Haiti	January 12, 2011	January 22, 2018	46,000	58,557
Honduras	December 30, 1998	January 5, 2018	57,000	86,031
Nepal	June 24, 2015	June 24, 2018	8,950	14,791
Nicaragua	December 30, 1998	January 5, 2018	2,550	5,306
Somalia	May 1, 2012	September 17, 2018	250	499
South Sudan	January 25, 2016	May 2, 2019	70	77
Sudan	January 9, 2013	November 2, 2018	1,040	1,048
Syria	August 1, 2016	March 31, 2018	5,800	6,916
Yemen	January 4, 2017	September 3, 2018	1,000	1,116
Total			317,660	436,869

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

- 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.
- Data from the most recent *Federal Register* notices for each country. These data represent the number of individuals who registered during the previous registration period.
- Data provided to CRS by USCIS. These data reflect individuals with TPS as of October 12, 2017; include some individuals who have since adjusted to another status and may include individuals who have 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.²⁵ 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.²⁶ Prior to leaving office in

²⁵ For historical analysis, see archived CRS Report IB87205, *Immigration Status of Salvadorans and Nicaraguans* (available upon request).

²⁶ Department of Justice, Immigration and Naturalization Service, “The Designation of Honduras Under Temporary (continued...)”

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.²⁷

Over the years, the George W. Bush Administration granted, and the Obama Administration continued to grant, TPS to Central Americans from El Salvador, Honduras, and Nicaragua on the rationale that it is still unsafe for nationals to return due to the disruption of living conditions from environmental disasters. The May 16, 2016, announcement for Nicaragua, for example, stated, “Nicaragua has experienced a series of environmental disasters that have exacerbated the persisting disruptions caused by Hurricane Mitch and significantly compromised Nicaragua’s ability to adequately handle the return of its nationals.”²⁸ Similarly, the July 8, 2016, *Federal Register* notice re-designating El Salvador for TPS stated: “There continues to be a substantial, but temporary, disruption of living conditions in El Salvador resulting from a series of earthquakes in 2001, and El Salvador remains unable, temporarily, to handle adequately the return of its nationals.”²⁹

As the dates approach by which the DHS Secretary must make a decision about TPS for the Central American countries, supporters are lobbying for an extension, arguing that the ongoing violence and political unrest prevent these countries from being able to handle the return of their nationals. The arrival dates for Central Americans to be eligible for TPS are 16–19 years ago, depending on the country (see **Table 1**). Citing high crime rates and security challenges in the region,³⁰ proponents of TPS for Central Americans have argued for moving the arrival dates forward to encompass those who have fled to the United States in recent years. Those who oppose the extension or expansion of TPS for Central Americans maintain that the country conditions do not meet the threshold for TPS and that an expansion would encourage illegal immigration by inspiring Central Americans to come to the United States in hopes that they would eventually be covered by TPS.

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.³¹ The scale of the

(...continued)

Protected Status,” 64 *Federal Register* 524-526, January 5, 1999; Department of Justice, Immigration and Naturalization Service, “The Designation of Nicaragua Under Temporary Protected Status,” 64 *Federal Register* 526-528, January 5, 1999.

²⁷ Department of Justice, Immigration and Naturalization Service, “The Designation of El Salvador Under Temporary Protected Status,” 66 *Federal Register* 14214-14216, March 9, 2001.

²⁸ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Extension of the Designation of Nicaragua for Temporary Protected Status,” 81 *Federal Register* 30325-30331, May 16, 2016.

²⁹ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Extension of the Designation of El Salvador for Temporary Protected Status,” 81 *Federal Register* 44645-44651, July 8, 2016.

³⁰ 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*.

³¹ The issue of Haitian TPS had arisen several times in earlier years, 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 George W. Bush Administration did not grant TPS or other forms of blanket relief to Haitians, nor was legislation that would have provided TPS to Haitians, such as H.R. 522 in the 110th Congress, enacted. Opponents of Haitian TPS have argued that it would result in an immigration “amnesty” for the unauthorized Haitians and foster illegal migration from the island. For background information on Haitian migration to the United States, see archived CRS Report RS21349, (continued...)

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 on January 15, 2010, to grant TPS for 18 months to Haitian nationals who were in the United States as of January 12, 2010. 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.”³² 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.³³

DHS extended the TPS designation for Haiti on May 17, 2011, enabling eligible Haitian nationals who arrived in the United States up to one year after the earthquake to receive TPS. The re-designation targeted individuals who were allowed to enter the United States immediately after the earthquake on temporary visas or humanitarian parole³⁴ but were not covered by the initial TPS designation.³⁵ The extension of Haiti’s TPS designation was for 18 months, through January 22, 2013.³⁶ Then-Secretary Jeh Johnson subsequently extended Haiti’s designation several times, through July 22, 2017.³⁷

A May 2, 2017, letter from members of the Congressional Black Caucus to then-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 2016.³⁸ On May 24, 2017, then-Secretary Kelly extended Haiti’s TPS designation for the minimum of six months, 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.³⁹ An October 4, 2017, letter from the Haitian ambassador to Acting DHS Secretary Elaine Duke requests that Haiti’s designation be extended for an additional 18 months.⁴⁰

(...continued)

U.S. Immigration Policy on Haitian Migrants. For conditions in Haiti following the 2010 earthquake, see archived CRS Report R41023, *Haiti Earthquake: Crisis and Response*; and CRS In Focus IF10502, *Haiti: Cholera, the United Nations, and Hurricane Matthew*.

³² U.S. Department of Homeland Security, “Statement from Secretary Janet Napolitano,” press release, January 15, 2010.

³³ 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.

³⁴ 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)).

³⁵ 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.

³⁶ U.S. Department of Homeland Security, “Secretary Napolitano Announces Extension of Temporary Protected Status for Haitian Beneficiaries,” press release, May 17, 2011.

³⁷ 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.

³⁸ For conditions following Hurricane Matthew, see CRS In Focus IF10502, *Haiti: Cholera, the United Nations, and Hurricane Matthew*.

³⁹ 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.

⁴⁰ Letter from Paul G. Altidor, Ambassador to the United States from Haiti, to Elaine C. Duke, Acting Secretary of the (continued...)

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 2000.⁴¹ 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 re-designated 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.⁴²

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.⁴³ 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.⁴⁴

Liberia’s DED status was last 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 2002.⁴⁵ Approximately 745 Liberians currently have approved employment authorization documents (EADs) under that DED directive.⁴⁶ 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 7.8 magnitude earthquake on April 25, 2015, killing over 8,000 people. The earthquake and subsequent aftershocks demolished much of Nepal’s housing

(...continued)

Department of Homeland Security, October 4, 2017.

⁴¹ See CRS Report RL33185, *Liberia’s Post-War Development: Key Issues and U.S. Assistance*.

⁴² 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>.

⁴³ 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.

⁴⁴ 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.

⁴⁵ 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>.

⁴⁶ Numbers provided to CRS by USCIS.

and infrastructure. Over half a million homes were reportedly destroyed.⁴⁷ 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.⁴⁸ TPS for Nepal was extended in October 2016, and is set to expire on June 24, 2018.⁴⁹

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.⁵⁰ 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.”⁵¹ Through 22 subsequent extensions or re-designations, 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 January 17, 2017, and its current expiration date is September 17, 2018.⁵²

Sudan and South Sudan

Decades of civil war preceded South Sudan’s secession from the Republic of Sudan in 2011.⁵³ 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 re-designated or had its designation extended 14 times.

On July 9, 2011, South Sudan became a new nation.⁵⁴ 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, 2011.⁵⁵ TPS has since been extended or re-designated 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

⁴⁷ See CRS Report R44303, *Nepal: Political Developments and U.S. Relations*.

⁴⁸ U.S. Department of Justice, Immigration and Nationalization Service, “Designation of Nepal for Temporary Protected Status,” 80 *Federal Register* 36346-36350, June 24, 2015.

⁴⁹ 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.

⁵⁰ See CRS In Focus IF10155, *Somalia*.

⁵¹ 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.

⁵² U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Extensions of the Designation of Somalia for Temporary Protected Status,” 82 *Federal Register* 4905-4911, January 17, 2017.

⁵³ See CRS In Focus IF10182, *Sudan: An Overview*.

⁵⁴ See CRS In Focus IF10218, *South Sudan*.

⁵⁵ 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.

humanitarian disaster on a devastating scale across the country.”⁵⁶ The latest extension was for 18 months and expires May 2, 2019.⁵⁷

Meanwhile, citing improved conditions in Sudan, including a reduction in violence and an increase in food harvests, Acting DHS Secretary Elaine Duke announced in September 2017 that Sudan’s TPS designation would expire on November 2, 2018.⁵⁸

Syria

The political uprising of 2011 in Syria grew into an intensely violent civil war that displaced over six million people by 2014.⁵⁹ 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.⁶⁰ In the initial granting of TPS, Secretary Napolitano made clear that DHS would conduct full background checks on Syrians registering for TPS.⁶¹ TPS for Syrian nationals has since been extended, most recently on August 1, 2016, through March 31, 2018. The extension was also accompanied by a re-designation, which updated the required arrival date into the United States for Syrians from January 5, 2015, to August 1, 2016.⁶²

Yemen

A 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.⁶³ Additionally, relief efforts in the region have been complicated by ongoing violence and considerable damage to the country’s infrastructure. 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.”⁶⁴ On September 3, 2015, then-Secretary Jeh Johnson designated Yemen for TPS through March 3, 2017, due to the ongoing armed conflict in the country.⁶⁵ On January 4, 2017, DHS extended and re-designated

⁵⁶ 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.

⁵⁷ *Ibid.*

⁵⁸ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Termination of the Designation of Sudan for Temporary Protected Status,” 82 *Federal Register* 47228-47234, October 11, 2017.

⁵⁹ See CRS Report R43119, *Syria: Overview of the Humanitarian Response*; and CRS Report RL33487, *Armed Conflict in Syria: Overview and U.S. Response*.

⁶⁰ 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.

⁶¹ 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>.

⁶² Previously, Syrians who had arrived in the United States after January 5, 2015, were not eligible for TPS. The re-designation 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.

⁶³ See CRS Report R43960, *Yemen: Civil War and Regional Intervention*.

⁶⁴ 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>.

⁶⁵ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Designation of the Republic of Yemen for Temporary Protected Status,” 80 *Federal Register* 53319-53323, September 3, 2015.

Yemen's current TPS designation through September 3, 2018. The re-designation updated the required arrival date into the United States for individuals from Yemen from September 3, 2015, to January 4, 2017.⁶⁶ 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 re-designation of TPS.⁶⁷

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 limitations on Congress providing adjustment of status to TPS recipients.⁶⁸

A number of examples exist of Congress providing 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 LPR status (P.L. 105-277). There is also a community of Liberians who have had some type of blanket relief from removal since 1991, a temporary reprieve for 25 years that has prompted various proposals to adjust their status.

Legislation that would have allowed nationals from various countries that have had TPS to adjust to LPR status was introduced in past Congresses, but 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.⁶⁹

Selected Activity in the 115th Congress

The 115th Congress has introduced various proposals related to TPS. Some bills would extend or expand TPS designation for certain countries, or provide adjustment to LPR status for TPS recipients who have been living in the United States for several years. Other bills 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

⁶⁶ 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.

⁶⁷ *Ibid.*

⁶⁸ 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.

⁶⁹ See archived CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*.

designating a foreign state, and making TPS recipients subject to detention and expedited removal.

Some Members of the 115th Congress have expressed support through resolutions⁷⁰ or letters⁷¹ to the Administration for continuing the designation of certain countries for TPS. In addition, some Members have expressed support for designating additional countries for TPS.⁷²

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⁷⁰ For example, H.Con.Res. 4 was introduced in January 2017, expressing support for TPS for Haitians.

⁷¹ For example, a May 2017 letter from the 47 House members of the Congressional Black Caucus urged DHS to extend Haiti's TPS designation by 18 months; Letter from Yvette D. Clarke, Member of Congress, Cedric Richmond, Member of Congress, and Mia Love, Member of Congress, et al. to The Honorable John F. Kelly, Secretary of Homeland Security, May 2, 2017. Twenty-six Senators also signed onto a letter in July 2017 urging the Administration to continue extending the TPS designations for all 10 currently designated countries, citing challenges with recovery efforts after natural disasters, high crime levels, and ongoing armed conflict. The letter also described economic contributions made by TPS holders to the U.S. economy as well as to the rebuilding efforts in their countries of origin through remittances; Letter from Kirsten Gillibrand, United States Senator, Robert Menendez, United States Senator, and Edward J. Markey, United States Senator, et al. to The Honorable Rex Tillerson and The Honorable John F. Kelly, U.S. Secretary of State and U.S. Secretary of Homeland Security, July 18, 2017. A September 2017 letter from a bipartisan group of 116 lawmakers called on the Administration to extend TPS for El Salvador and Honduras due to the ongoing violence and political unrest following natural disasters in both countries; Letter from James P. McGovern, Member of Congress, Randy Hultgren, Member of Congress, and Norma Torres, Member of Congress, et al. to Honorable Elaine C. Duke, Acting Secretary of Homeland Security, September 11, 2017. Twenty-one Democratic senators (and one Independent) submitted a letter in October 2017 urging the Administration to extend TPS for El Salvador and Honduras, pointing out the national security and economic interests of the United States; Letter from Ben Cardin, U.S. Senator, Chris Van Hollen, U.S. Senator, and Tim Kaine, U.S. Senator, et al. to Honorable Rex Tillerson and Honorable Elaine C. Duke, Secretary of State and Acting Secretary of Homeland Security, October 19, 2017.

⁷² For example, several lawmakers submitted a letter to Acting Secretary of Homeland Security Elaine Duke in August 2017 urging a designation of TPS for Venezuela, citing the "increasingly dire situation" in that country, including "extreme shortages of food." Signatories argued that the Maduro regime's targeting of Venezuelans in the United States raises concerns for their safe return; Letter from Bill Nelson, U.S. Senator, Robert Menendez, U.S. Senator, and Richard J. Durbin, U.S. Senator, et al. to Honorable Elaine C. Duke, Acting Secretary of Homeland Security, August 29, 2017. In September 2017, 75 lawmakers submitted a request to President Trump urging him to grant TPS to foreign nationals from several countries in the Caribbean impacted by Hurricane Irma. The countries included were Barbuda, where over 90% of the island was reportedly destroyed, the Dominican Republic, and Saint Martin; Letter from Eliot L. Engel, Member of Congress, Ileana Ros-Lehtinen, Member of Congress, and Barbara Lee, Member of Congress, et al. to The President of the United States, September 12, 2017.