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# Temporary Protected Status: Current Immigration Policy and Issues

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## Summary

When civil unrest, violence, or natural disasters erupt in spots around the world, concerns arise over the safety of foreign nationals from these troubled places who are in the United States. Provisions exist in the Immigration and Nationality Act (INA) to offer temporary protected status (TPS) and other blanket forms of relief from removal under specified circumstances. A foreign national who is granted TPS receives a registration document and an employment authorization for the duration of TPS. The Secretary of Homeland Security, in consultation with the Secretary of State, has the discretion to issue TPS for periods of 6 to 18 months and can extend these periods if conditions do not change in the designated country. Congress has also provided TPS legislatively.

The United States currently provides TPS to over 300,000 foreign nationals from a total of 13 countries: El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Sierra Leone, Somalia, Sudan, South Sudan, Syria, and Yemen. Liberians have had relief from removal for the longest period, first receiving TPS in March 1991 following the outbreak of civil war, and again in 2014 due to the outbreak of the Ebola virus disease. On September 26, 2016, the Obama Administration announced that the TPS designation for Liberia, along with Sierra Leone and Guinea, would be terminated on May 21, 2017. Current debates have focused on whether the Administration should extend TPS to migrants from Central America because of criminal and security challenges in the region and whether it should re-designate TPS to Haiti due to effects of Hurricane Matthew.

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## Background

The Immigration and Nationality Act (INA) provides that all aliens (i.e., persons who are not citizens or nationals of the United States) must enter the United States pursuant to the INA. The major categories of aliens are immigrants, refugees and asylees (all admitted for or adjusted to legal permanent residence), and nonimmigrants (admitted for temporary reasons, e.g., students, tourists, or business travelers). Foreign nationals who lack proper immigration authorization are generally of three kinds: (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 Immigration and Nationality Act (INA) and subject to removal.<sup>1</sup>

As a signatory to the United Nations Protocol Relating to the Status of Refugees (hereinafter, U.N. Protocol), the United States agrees to the principle of *nonrefoulement*, which means that it will not return a migrant to a country where his life or freedom would be threatened. Nonrefoulement is embodied in several provisions of U.S. immigration law. Most notably, it is reflected in the 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.<sup>2</sup>

## Humanitarian Migrants

Humanitarian migrants may receive asylum or refugee status; however, not all humanitarian migrants are eligible for such status. The legal definition of asylum in the INA is consistent with the U.N. Protocol, which specifies that a refugee is a person who is unwilling or unable to return to his country of nationality or habitual residence because of a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The definitions of refugee and asylee are essentially the same in the INA, with the notable difference being the physical location of the persons seeking the status. Those who are in the United States or at a U.S. port of entry apply for asylum, while those who are displaced abroad apply for refugee status. The standards of proof and minimum thresholds are similar, but the procedures and priorities are quite different.<sup>3</sup>

If the motivation of the migrant is determined to be economic improvement rather than the political reasons that underpin the legal definition, the person is not considered eligible for asylum. This distinction is sometimes difficult to discern, because persecution as well as war may lead to economic hardships, and economic deprivation may trigger persecution or insurrection. Since factors such as extreme poverty, deprivation, violence, and the dislocation brought on by famines or natural disasters may evoke a humanitarian response; the term *humanitarian migrants* encompasses all those who emigrate to the United States for such reasons, including those who receive asylum.<sup>4</sup>

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<sup>1</sup> Alien is the term used in law. In this report, the terms “migrant” and “alien” are used interchangeably.

<sup>2</sup> Section 208 of INA (8 U.S.C. §1158); Section 241(b)(3) of INA (8 U.S.C. §1231); and Section 101(a) of INA (8 U.S.C. §1101(a)(42)).

<sup>3</sup> CRS Report R41753, *Asylum and “Credible Fear” Issues in U.S. Immigration Policy* and CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

<sup>4</sup> The term “humanitarian migrant” is not defined in the INA, nor, in this context, is it meant to imply that a sympathetic policy response is warranted. Rather, it refers to factors underlying the migrant’s justification for (continued...)

The concept of “safe haven” embraces humanitarian migrants. It covers those who may not meet the legal definition of refugee but are nonetheless fleeing potentially dangerous situations. Safe haven also assumes that the host country, in this instance the United States, is the first country in which the fleeing migrant arrives safely, or is the country where the migrant is temporarily residing when the unsafe conditions occur. Safe haven is implicitly temporary in nature because it is given prior to any decision on the long-term resolution of the migrant’s status. It is also a form of blanket relief because it is premised on more generalized conditions of turmoil or deprivation in the country of origin, in contrast to the individual circumstances weighed in the case-by-case asylum process.

In terms of permanent residence over the long term, the United States endorses the internationally held position that voluntary repatriation is the best outcome for refugees. Resettlement in the country to which the asylum seeker fled is considered a secondary option, and resettlement in a third country is the last alternative.

## Temporary Protected Status

Temporary Protected Status (TPS) is the statutory embodiment of safe haven for those migrants who may not meet the legal definition of refugee but are nonetheless fleeing—or reluctant to return to—potentially dangerous situations. TPS is blanket relief that may be granted under the following conditions: there is ongoing armed conflict posing serious threat to personal safety; a foreign state requests TPS because it temporarily cannot handle the return of nationals due to environmental disaster; or there are extraordinary and temporary conditions in a foreign state that prevent migrants from returning, provided that granting TPS is consistent with U.S. national interests.<sup>5</sup>

The Secretary of Homeland Security, in consultation with the Secretary of State, can issue TPS for periods of 6 to 18 months and can extend these periods if conditions do not change in the designated country.<sup>6</sup> To obtain TPS, eligible migrants report to the U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS), pay a processing fee, and receive registration documents and a work authorization. The major requirements for migrants seeking TPS are proof of eligibility (e.g., a passport issued by the designated country, continuous physical presence in the United States since the date TPS went into effect, timely registration, and being otherwise admissible as an immigrant). The regulation specifies grounds of inadmissibility that cannot be waived, including those relating to criminal convictions and the persecution of others.<sup>7</sup>

Migrants who receive TPS are not on an immigration track that leads to permanent residence or citizenship. The “temporary” nature of TPS is apparent in the regulation. DHS has made clear that information it collects when a migrant registers for TPS may be used to institute exclusion or deportation proceedings upon the denial, withdrawal, or expiration of TPS.<sup>8</sup> Moreover, the TPS provision in the INA states that a bill or amendment that provides for the adjustment to lawful

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immigration.

<sup>5</sup> Section 244 of INA (8 U.S.C. §1254a).

<sup>6</sup> There is not a limit on the number of extensions a country can receive.

<sup>7</sup> 8 U.S.C. §240.

<sup>8</sup> *Ibid.*

temporary or legal permanent resident (LPR) status for any migrant receiving TPS requires a supermajority vote in the Senate (i.e., three-fifths of all Senators) voting affirmatively.<sup>9</sup>

## Other Blanket Forms of Relief

In addition to TPS, there is another discretionary form of blanket relief from removal known as deferred enforced departure (DED),<sup>10</sup> formerly known as extended voluntary departure (EVD).<sup>11</sup> The discretionary procedures of DED and EVD have been used on a country-specific basis to provide relief the Administration feels is appropriate, usually in response to war, civil unrest, or natural disasters. Several presidents, notably President George H.W. Bush and President Barack Obama, have cited presidential authority under the U.S. Constitution when they issued executive orders providing DED.<sup>12</sup> The statutory authorities typically cited by the agency for DED and EVD procedures are the section of immigration law that confers prosecutorial discretion for general enforcement and the section of the law covering the authority for voluntary departure.<sup>13</sup> When presidents grant DED, through an executive order or presidential memorandum, they will generally provide eligibility guidelines, such as a date of arrival into the United States. Unlike TPS, the Secretary of State need not be consulted when DED is granted.

The discretionary procedures of DED continue to be used to provide relief the Administration maintains is appropriate, and the executive branch's position is that all blanket relief decisions require a balance of judgment regarding foreign policy, humanitarian, and immigration concerns. In contrast to TPS, migrants who benefit from DED do not necessarily register for the status with USCIS, but they trigger the protection when they are identified for deportation. If, however, they seek to be employed in the United States, they must apply for a work authorization from USCIS.<sup>14</sup>

## Nationalities Receiving Temporary Protections

The United States currently provides TPS to over 300,000 foreign nationals from a total of 13 countries: El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Sierra Leone,

<sup>9</sup> Section 244(h) of INA (8 U.S.C. §1254a).

<sup>10</sup> DED is not considered an immigration status. Furthermore, 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*; and CRS Report R43747, *Deferred Action for Childhood Arrivals (DACA): Frequently Asked Questions*.

<sup>11</sup> EVD status, which was used from 1960 to 1990, has been given to Poles (July 1984 to March 1989), Nicaraguans (July 1979 to September 1980), Iranians (April to December 1979), and Ugandans (June 1978 to September 1986). Lebanese had been handled sympathetically as a group, getting EVD on a case-by-case basis since 1976, prior to receiving TPS from 1991 to 1993. 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.

<sup>12</sup> 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 Memorandum for the Secretary of Homeland Security from President Barack Obama on the Subject of Deferred Enforced Departure for Liberians, September 26, 2014.

<sup>13</sup> Section 240 of INA (8 U.S.C. §1229a); §240B (8 U.S.C. §1229c).

<sup>14</sup> In general, the president will direct executive agencies to provide DED and related benefits, such as employment authorization. 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>.

Somalia, Sudan, South Sudan, Syria, and Yemen. The size of each country’s population benefitting from TPS can vary greatly. For example, it is estimated that no more than 200 South Sudanese benefit from TPS, while it is also estimated that approximately 195,000 Salvadorans have TPS. Liberians have had relief from removal for the longest period, first receiving TPS in March 1991 following the outbreak of civil war, then designated with DED,<sup>15</sup> and ultimately receiving TPS from November 2014 to May 2017 due to the Ebola outbreak.

**Table 1. Countries Whose Nationals in the United States Currently Benefit from Temporary Protected Status**

Country	Arrival Date <sup>a</sup>	Current Expiration Date	Estimated Number <sup>b</sup>
El Salvador	February 13, 2001	March 9, 2018	195,000
Guinea	November 20, 2014	May 21, 2017	930
Haiti	January 12, 2011	July 22, 2017	50,000
Honduras	December 30, 1998	January 5, 2018	57,000
Liberia	November 20, 2014	May 21, 2017	2,160
Nepal	June 24, 2015	June 24, 2018	8,950
Nicaragua	December 30, 1998	January 5, 2018	2,550
Sierra Leone	November 20, 2014	May 21, 2017	1,180
Somalia	May 1, 2012	March 17, 2017	270
South Sudan	January 25, 2016	November 2, 2017	75-200 <sup>c</sup>
Sudan	January 9, 2013	November 2, 2017	450
Syria	August 1, 2016	March 31, 2018	5,800
Yemen	January 4, 2017	September 3, 2018	1,000

**Source:** CRS compilation of USCIS data.

- a. The arrival date represents the date from which individuals are required to continuously reside in the United States in order to qualify for TPS. The date for continuous residence is determined by the most recent TPS designation for that state. Continuous physical presence is another requirement for TPS eligibility and is a date designated by the Secretary of Homeland Security. A migrant is not considered to have failed these requirements for a brief, casual, and innocent absence. 8 U.S.C. §1254a(c).
- b. Estimates based upon USCIS data for designated status or work authorizations. These approximate numbers do not necessarily include all migrants from the countries who are in the United States and might be eligible for the status. USCIS updates these numbers when it renews TPS for nationals from a given country.
- c. There are approximately 50 South Sudan TPS beneficiaries and it is estimated than an additional 25-150 nationals of South Sudan (or individuals without nationality who last resided in South Sudan) may be eligible for TPS under the country’s last TPS re-designation in January 2016.

## Historical Patterns of Blanket Relief

In 1990, when Congress enacted the TPS statute, it also granted TPS for one year to nationals from El Salvador who were residing in the United States. Subsequently, the Attorney General, in

<sup>15</sup> Most recently, Liberia’s DED designation was extended to March 2018. The White House, *Presidential Memorandum—Deferred Enforced Departure for Liberians*, September 28, 2016, <https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-liberians>.

consultation with the State Department, granted TPS to migrants in the United States from the following countries: Liberia from March 1991 to October 2007; Kuwait from March 1991 to March 1992; Rwanda from June 1995 to December 1997; Lebanon from March 1991 to March 1993; the Kosovo Province of Serbia from June 1998 to December 2000; Bosnia-Herzegovina from August 1992 to February 2001; Angola from March 29, 2000 to March 29, 2003; Sierra Leone from November 4, 1997 to May 3, 2004; and Burundi from November 4, 1997 to May 2, 2009.

On July 9, 2011, South Sudan became a new nation.<sup>16</sup> With South Sudan's independence from the Republic of Sudan, which has had TPS since 1997, some questioned their continued eligibility for TPS under the Sudan designation. With the new designation of South Sudan, some individuals now qualify for TPS under the South Sudanese designation, while others may still qualify under the Sudan designation.<sup>17</sup>

Rather than extending Salvadoran TPS when it expired in 1992, the George H. W. Bush Administration granted DED to what was then estimated as 190,000 Salvadorans through December 1994. The George H. W. Bush Administration also granted DED to about 80,000 Chinese following the Tiananmen Square massacre in June 1989, and the Chinese retained DED through January 1994. In December 1997, President Clinton instructed the Attorney General to grant DED to the Haitians for one year due to country conditions.

## Leading Concerns

### 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 and infrastructure. Over half a million homes were reportedly destroyed.<sup>18</sup> On June 24, 2015, citing a substantial but temporary disruption in living conditions as a result of the earthquake, DHS Secretary Jeh Johnson designated Nepal for TPS for an 18-month period.<sup>19</sup> It is estimated that 8,950 nationals of Nepal were eligible for TPS under this designation. TPS for Nepal was last extended in October 2016 and is set to expire on June 24, 2018.<sup>20</sup>

### Guinea and Sierra Leone

In January 2014, the Ebola virus disease was detected in West Africa, beginning in Guinea and spreading to Liberia, and Sierra Leone.<sup>21</sup> On November 21, 2014, Secretary of Homeland Security Jeh Johnson designated Guinea and Sierra Leone for TPS through May 21, 2016,<sup>22</sup> citing

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<sup>16</sup> CRS In Focus IF10218, *South Sudan* and CRS In Focus IF10182, *Sudan: An Overview*.

<sup>17</sup> 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.

<sup>18</sup> CRS Report R44303, *Nepal: Political Developments and U.S. Relations*.

<sup>19</sup> Previously, legislation was introduced in the House (Nepal Temporary Protected Status Act of 2015; H.R. 2033) that would designate Nepal for TPS.

<sup>20</sup> U.S. Citizenship and Immigration Services, "Extensions of the Designation of Nepal for Temporary Protected Status," 81 *Federal Register* 74470-74475, October 26, 2016.

<sup>21</sup> CRS In Focus IF10300, *Ebola in West Africa: Issues with Elimination*.

<sup>22</sup> Liberians were also designated for TPS in the announcement. See **Liberians** below.

the outbreak of the Ebola in West Africa.<sup>23</sup> The Ebola outbreak, the first in West Africa, was the largest outbreak and as of November 21, 2014, over 2,400 had died in the two countries and there had been over 6,700 reported cases.<sup>24</sup> However, on September 26, 2016, the Administration stated that the Ebola virus had subsided and that the conditions in Sierra Leone and Guinea no longer supported its designation for TPS. Therefore, TPS for Sierra Leone and Guinea was extended for an additional six months (expiring May 21, 2017) for “orderly transition” but is set to terminate thereafter.<sup>25</sup>

## Syria

The political uprising of 2011 in Syria soon grew into an intensely violent civil war that had displaced over 6 million people by 2014.<sup>26</sup> 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.<sup>27</sup> Foreign nationals from Syria are among those subject to additional security screenings and background checks in order to obtain a visa to come to the United States because Syria is deemed a state sponsor of terrorism.<sup>28</sup> The ongoing uprising against Syrian President Bashar al Asad had escalated to the point that then-DHS Secretary Napolitano said “conditions in Syria have worsened to the point where Syrian nationals already in the United States would face serious threats to their personal safety if they were to return to their home country.” In the initial granting of TPS, Napolitano made clear that DHS would conduct full background checks on Syrians registering for TPS.<sup>29</sup> On August 1, 2016, TPS was once again extended for Syria through March 31, 2018. The extension was also accompanied by a re-designation, which updated the required arrival date<sup>30</sup> into the United States for Syrians from January 5, 2015, to August 1, 2016.<sup>31</sup>

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<sup>23</sup> U.S. Citizenship and Immigration Services, “Designation of Guinea and Sierra Leone for Temporary Protected Status,” 79 *Federal Register* 69502-69502, November 21, 2014; U.S. Citizenship and Immigration Services, “Designation of Guinea for Temporary Protected Status,” 79 *Federal Register* 69511-69515, November 21, 2014; and U.S. Citizenship and Immigration Services, “Designation of Sierra Leone for Temporary Protected Status,” 79 *Federal Register* 69506-69511, November 21, 2014.

<sup>24</sup> As of April 13, 2016, the Ebola breakout in Sierra Leone and Guinea had resulted in 17,938 reported cases and 6,500 reported deaths. In addition, Liberia had 10,678 reported Ebola cases and 4,810 deaths, Centers for Disease Control and Prevention, *2014 Ebola Outbreak in West Africa - Case Counts*, Atlanta, GA, April 13, 2016, <http://www.cdc.gov/vhf/ebola/outbreaks/2014-west-africa/case-counts.html>. See CRS In Focus IF10178, *Ebola: 2014 Outbreak in West Africa*.

<sup>25</sup> U.S. Citizenship and Immigration Services, “Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Sierra Leone’s Designation for Temporary Protected Status,” 81 *Federal Register* 66054-66059, September 26, 2016; and U.S. Citizenship and Immigration Services, “Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Guinea’s Designation for Temporary Protected Status,” 81 *Federal Register* 66064-66069, September 26, 2016.

<sup>26</sup> CRS Report R43119, *Syria: Overview of the Humanitarian Response* and CRS Report RL33487, *Armed Conflict in Syria: Overview and U.S. Response*.

<sup>27</sup> 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.

<sup>28</sup> No nonimmigrant visa under §101(a)(15) of the INA shall be issued to any migrant from a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate U.S. agencies, that such migrant does not pose a threat to the safety or national security of the United States.

<sup>29</sup> 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>.

<sup>30</sup> The arrival date represents the date from which individuals are required to continuously reside in the United States in order to qualify for TPS. The date for continuous residence is determined by the most recent TPS designation for that (continued...)

## Yemen

The civil war in Yemen reached crisis proportions last year, and the United Nations estimated that at least 5,878 people had been killed in the violence as of December 2015.<sup>32</sup> Additionally, relief efforts to the region have been difficult to deliver due to ongoing violence and considerable damage to the country's infrastructure. A DHS release stated that "requiring Yemeni nationals in the United States to return to Yemen would pose a serious threat to their personal safety."<sup>33</sup> On September 3, 2015, Secretary of Homeland Security Johnson designated Yemen for TPS through March 3, 2017, due to the ongoing armed conflict in the country. On January 4, 2017, Yemen's current TPS designation was extended and re-designated through September 3, 2018. The re-designation updated the required arrival date<sup>34</sup> into the United States for individuals from Yemen from September 3, 2015, to January 4, 2017.<sup>35</sup> 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.<sup>36</sup>

## Haiti

The devastation caused by the January 12, 2010, earthquake in Haiti prompted calls for the Obama Administration to grant TPS to Haitians in the United States at the time of the earthquake.<sup>37</sup> The scale of humanitarian crisis after the earthquake—estimated thousands of Haitians dead and reported total collapse of the infrastructure in the capital city of Port au Prince—led DHS to grant on January 15, 2010, TPS for 18 months to Haitian nationals who were in the United States as of January 12, 2010. Then-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

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(...continued)

state.

<sup>31</sup> 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. Citizenship and Immigration Services, "Extension and Redesignation of Syria for Temporary Protected Status," 81 *Federal Register* 50533-50541, August 1, 2016.

<sup>32</sup> CRS Report R43960, *Yemen: Civil War and Regional Intervention*.

<sup>33</sup> 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>

<sup>34</sup> The arrival date represents the date from which individuals are required to continuously reside in the United States in order to qualify for TPS. The date for continuous residence is determined by the most recent TPS designation for that state.

<sup>35</sup> 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.

<sup>36</sup> *Ibid.*

<sup>37</sup> The issue of Haitian TPS has arisen several times in the past few 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.<sup>37</sup> The Administration of President George W. Bush 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 110<sup>th</sup> Congress, enacted. Opponents to Haitian TPS traditionally argue that it would result in an immigration amnesty for unauthorized Haitians and foster illegal migration from the island. CRS Report RS21349, *U.S. Immigration Policy on Haitian Migrants*.

efforts to support Haiti's recovery."<sup>38</sup> On July 13, 2010, Napolitano announced an extension of the TPS registration period for Haitian nationals. Citing the difficulties nationals were experiencing in obtaining documents to establish identity and nationality, and the difficulty in gathering the funds required to apply for TPS, the registration period was extended through January 18, 2011.<sup>39</sup>

Then-Secretary Napolitano extended and re-designated TPS for Haitians on May 17, 2011. The extension was effective July 23, 2011, and enabled eligible individuals who arrived up to one year after the earthquake in Haiti 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 parole but were not covered by the initial TPS grant. The extension and re-designation was for a period of 18 months, through January 22, 2013.<sup>40</sup> Subsequently, the DHS Secretary has extended the designation of Haiti for TPS several times, lastly in August 2015 (through July 22, 2017).<sup>41</sup> In addition, after Hurricane Matthew hit Haiti in October 2016, advocates began to push for the re-designation of Haiti for TPS.<sup>42</sup> The hurricane's effects were widespread, leaving 1.4 million people in need of immediate assistance.<sup>43</sup>

## Liberia

Liberians in the United States have had relief from removal for the longest period of those who have had TPS or other forms of blanket relief from deportation. They first received TPS in March 1991 following the outbreak of civil war. Although that civil war ended, a second civil war began in 1999 and escalated in 2000.<sup>44</sup> Approximately 10,000 Liberians in the United States were given DED in 1999 after their TPS expired September 28, 1999. 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 the status continued to be extended. On September 20, 2006, however, the George W. Bush Administration announced that Liberian TPS would expire on October 1, 2007, and they were once again granted DED until March 31, 2009. On March 23, 2009, President Obama extended DED for Liberians until March 31, 2010, which he extended thereafter several times.<sup>45</sup> Liberia's DED status was last extended through March 31, 2018, for Liberians who had been residing in the United States since October 2002.<sup>46</sup>

<sup>38</sup> U.S. Department of Homeland Security, "Statement from Secretary Janet Napolitano," press release, January 15, 2010.

<sup>39</sup> 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.

<sup>40</sup> U.S. Department of Homeland Security, "Secretary Napolitano Announces Extension of Temporary Protected Status for Haitian Beneficiaries," press release, May 17, 2011.

<sup>41</sup> U.S. Citizenship and Immigration Services, "Extension of the Designation of Haiti for Temporary Protected Status," *80 Federal Register* 51582-51588, August 25, 2015.

<sup>42</sup> Institute for Justice & Democracy in Haiti, *President Obama: Redesignate Haiti for TPS and Expand HFRP Now!*, <http://www.ijdh.org/2016/10/topics/immigration-topics/president-obama-redesignate-haiti-for-tps-and-expand-hfrp-now/>.

<sup>43</sup> For more information on the effects of Hurricane Matthew on Haiti, see CRS In Focus IF10502, *Haiti: Cholera, the United Nations, and Hurricane Matthew*.

<sup>44</sup> CRS Report RL33185, *Liberia's Post-War Development: Key Issues and U.S. Assistance*, by Nicolas Cook.

<sup>45</sup> 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.

<sup>46</sup> The White House, *Presidential Memorandum—Deferred Enforced Departure for Liberians*, September 28, 2016, [https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-\(continued...\)](https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-(continued...))

As noted earlier with the Ebola outbreak in West Africa, Liberia was once again granted TPS and the arrival period was moved up to November 2014.<sup>47</sup> However, similar to Sierra Leone and Guinea, on September 26, 2016, DHS announced that the Ebola virus had subsided in Liberia and decided to extend its TPS designation until May 21, 2017, to allow for an “orderly transition” and terminate it thereafter.<sup>48</sup>

## Central America

Whether to grant blanket relief to nationals from neighboring Central American countries has perplexed policymakers for several decades. The only time Congress has specifically granted TPS was in 1990 to nationals of El Salvador.<sup>49</sup> 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 December 30, 1998, the Attorney General designated TPS for undocumented Hondurans and Nicaraguans in the United States as of that date because, the Clinton Administration maintained, Honduras and Nicaragua had such extraordinary displacement and damage from Hurricane Mitch as to warrant TPS. Prior to leaving office in January 2001, the Clinton Administration said it would temporarily halt deportations to El Salvador. In 2001, the George W. Bush Administration decided to grant TPS to Salvadorans following two earthquakes that rocked El Salvador.

Over the years, the George W. Bush Administration granted, and now the Obama Administration has continued to grant, TPS to Central Americans from El Salvador, Honduras, and Nicaragua. Their rationale has been consistent when announcing the re-designation; for example: “There continues to be a substantial, but temporary, disruption of living conditions in Nicaragua resulting from Hurricane Mitch, and Nicaragua remains unable, temporarily, to handle adequately the return of its nationals.”<sup>50</sup> Similarly, the *Federal Register* notice re-designating Salvadoran 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.”<sup>51</sup>

However, the period of arrival for the Central Americans with TPS ended in 1999 for Guatemalans and Nicaraguans and in 2001 for Salvadorans. There is renewed pressure for the Obama Administration to move the arrival period forward to encompass the Central Americans who have fled to the United States in recent years. In FY2013, El Salvador, Guatemala, and Honduras were the top countries where credible fear was found among foreign nationals who

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(...continued)

liberians.

<sup>47</sup> U.S. Citizenship and Immigration Services, “Designation of Liberia for Temporary Protected Status,” 79 *Federal Register* 69502-69502, November 21, 2014; and 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.

<sup>48</sup> 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.

<sup>49</sup> For historical analysis, see out of print CRS Report 97-810, *Central American Asylum Seekers: Impact of 1996 Immigration Law* (available upon request.)

<sup>50</sup> U.S. Citizenship and Immigration Services, “Extension of the Designation of Nicaragua for Temporary Protected Status,” 78 *Federal Register* 20128-20133, April 3, 2013.

<sup>51</sup> U.S. Citizenship and Immigration Services, “Extension of the Designation of El Salvador for Temporary Protected Status,” 78 *Federal Register* 2013-12793, May 30, 2013.

were in expedited removal.<sup>52</sup> Proponents of TPS for Central Americans cite the crime rates and security challenges in the region.<sup>53</sup> Those who oppose the expansion of TPS for Central Americans maintain that the country conditions do not meet the threshold for TPS.

## Adjustment of Status

Because migrants granted TPS are not eligible to become legal permanent residents (LPRs) in the United States, a special act of Congress is required for such migrants to adjust to LPR status. For example, Congress enacted legislation in 1992 that allowed Chinese who had deferred enforced departure following the Tiananmen Square massacre to adjust to LPR status (P.L. 102-404). The 105<sup>th</sup> Congress passed legislation enabling Haitians to adjust status (P.L. 105-277). There is 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 legislation to adjust their status. Provisions that would have allowed nationals from various countries that have had TPS to adjust to LPR status had been introduced in past Congresses, but not enacted.<sup>54</sup> The Senate-passed comprehensive immigration reform (CIR) in the 113<sup>th</sup> 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 as passed would have established.<sup>55</sup>

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The original version of this report was written by former CRS Specialist in Immigration Policy Ruth Ellen Wasem.

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<sup>52</sup> U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration and Border Security, *Asylum Abuse: Is it Overwhelming our Borders?*, 113<sup>th</sup> Cong., 1<sup>st</sup> sess., December 12, 2013.

<sup>53</sup> CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*.

<sup>54</sup> See archived CRS Report R40848, *Immigration Legislation and Issues in the 111th Congress*; archived CRS Report RL34204, *Immigration Legislation and Issues in the 110th Congress*; and archived CRS Report RS22111, *Alien Legalization and Adjustment of Status: A Primer*.

<sup>55</sup> See archived CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*.