



**Testimony of James Rogers
Senior Counsel
America First Legal Foundation**

Before the
House Judiciary Committee,
Subcommittee on Immigration Integrity, Security, and Enforcement

“The Impacts of Temporary Protected Status”

December 17, 2025

Chairman McClinton, Ranking Member Jayapal, and Members of the Subcommittee on Immigration Integrity, Security, and Enforcement: Thank you for the invitation to testify on this critical topic.

My expertise on our country’s immigration system is multi-faceted. From 2015 to 2021, I served our country as a Foreign Service Officer at the Department of State. From 2017 to 2019, I served as a Consular Officer conducting visa interviews in Brazil. I then spent two years—from 2019 to 2021—as an attorney advisor in the Office of the Assistant Legal Advisor for Consular Affairs. Since leaving the State Department and returning to the practice of law, a significant part of my practice has been litigating border security and immigration cases.

In my career, I have seen shocking abuses of our nation’s immigration laws and rampant exploitation of our immigration system. Temporary Protected Status (TPS) is a microcosm that illustrates many of the problems with our current system. Congress adopted the TPS statute intending to create a limited humanitarian program allowing aliens in the United States who are from countries facing armed conflict, natural disaster, or other extraordinary conditions to temporarily remain in the United States. However, it has evolved into a mechanism for circumventing immigration law, imposing fiscal burdens on taxpayers, and granting de facto amnesty to illegal aliens. The program fails every measure of its original purpose:

- It is not temporary: TPS designations persist for decades, with Somalia being under TPS since 1991, which is longer than some members of Congress have been alive.
- It is not protective: Recipients remain in the United States long after the effects of the triggering humanitarian event have faded, putting the lie to claims of the need for protection.
- It is not humanitarian: Economic motivations dominate, with most participants remaining in the United States not because they need humanitarian relief but because they are actually economic migrants who take jobs from American workers and exploit our nation's public benefits programs.
- It is not limited: Entire countries are designated for TPS even though most triggering events are highly localized and do not cause widespread disruptions in the entire country.
- It is not lawfully administered: Congress specifically empowered the Secretary of Homeland Security to “determine[] ... that a foreign state (or part of such foreign state) no longer continues to meet the conditions for [TPS] designation” and to “terminate the designation.”¹ Congress further established that “[t]here is no judicial review of any determination of the [Secretary of Homeland Security] with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.”² However, activist judges have violated Constitutional separation of powers and intervened anyway, over and over blocking Secretaries of Homeland Security from exercising their statutory powers to terminate TPS designations.
- It is not fiscally responsible: The low-skilled populations who most take advantage of TPS impose net costs on taxpayers.

I. TPS circumvents immigration law requirements and constitutes a backdoor amnesty of illegal aliens that encourages more illegal immigration.

TPS often operates as a circumvention mechanism that allows foreign nationals to remain indefinitely in the United States despite lacking

¹ 8 U.S.C. § 1254a(b)(3)(B)

² 8 U.S.C. § 1254a(b)(5)(A)

proper immigration status. “Originally, the [TPS] program was intended to provide temporary humanitarian relief from deportation in emergency situations. However, since its inception, TPS has been turned into a back-door amnesty program that shields illegal aliens from deportation for years—regardless of the situation in the aliens’ home countries.”³

The statutory language establishing TPS describes it as providing “temporary”⁴ relief, yet the program has become anything but temporary. The most egregious example is Somalia, which received TPS designation in September 1991⁵ and has maintained that status continuously for more than 34 years. El Salvador has been designated under TPS for over 24 years, since 2001.⁶

The TPS statute only allows a TPS designation to last for a maximum of 18 months, after which DHS must determine whether to extend or terminate the designation.⁷ DHS has frequently abused its authority to extend. When DHS “redesignates” a country for TPS, it has often extended TPS eligibility to additional aliens who entered the United States after the original designation date. However, nothing in the TPS statute authorizes the extension of the TPS eligibility date, which amounts to creating new categories of protected aliens through administrative fiat without congressional authorization. This creates fresh incentives for illegal immigration by signaling that those who successfully evade border security may eventually qualify for work authorization and protection from deportation.

For example, after the January 12, 2010 Haiti earthquake, the original TPS designation for Haiti applied to Haitians who had been “continuously physically present” in the United States since January 21, 2010 and [had] ‘continuously resided’ in the United States since January 12, 2010.⁸ This cutoff date for continuous residence was later extended by a year to January 12, 2011, making eligible those who entered illegally during the

³ FEDERATION FOR AMERICAN IMMIGRATION REFORM, *Temporary Protected Status Exploited as Amnesty* (Feb. 2025), <https://perma.cc/P6EY-UAKE>.

⁴ See 8 U.S.C. § 1254a (using the word “temporary” 34 times)

⁵ *Designation of Nationals of Somalia for Temporary Protected Status*, 56 Fed. Reg. 46,804 (Sep. 16, 1991).

⁶ *Designation of El Salvador Under Temporary Protected Status Program*, 66 Fed. Reg. 14,214 (Mar. 9, 2001).

⁷ 8 U.S.C. § 1254a(b)(2)-(3).

⁸ *Designation of Haiti for Temporary Protected Status*, 75 Fed. Reg. 3,476 (Jan. 21, 2010).

year following the disaster.⁹ In August 2021, Secretary Mayorkas granted a wholly new TPS designation for Haiti based on “a deteriorating political crisis, violence, and a staggering increase in human rights abuses,” which covered Haitians who had “resided in the United States since July 29, 2021.”¹⁰ On January 2023, Secretary Mayorkas extended the date, making eligible for TPS any Haitians “who have been continuously residing in the United States since November 6, 2022,” thereby granting de facto amnesty to more than a years’ worth of illegal aliens from Haiti since the new designation, and more than a decade’s worth since the original designation.¹¹ For Somalia, the cutoff date was moved from September 16, 1991¹² to May 1, 2012¹³—extending the cutoff by nearly 21 years, effectively awarding amnesty to aliens who had illegally entered the United States from Somalia during those 21 years. For Syria, the cutoff advanced from March 29, 2012¹⁴ to January 24, 2024¹⁵—giving amnesty to nearly 12 years’ worth of illegal aliens from Syria. Venezuela received a TPS designation on March 8, 2021, and the 2023 redesignation extended the cutoff date to July 31, 2023,¹⁶ which expanded eligibility to hundreds of thousands of illegal aliens who had arrived in the intervening time.¹⁷

TPS designations and redesignations incentivize illegal border crossings. Extensions of cutoff dates create a powerful incentive for aliens from TPS countries to illegally immigrate to the United States and remain, in

⁹ *Extension and Redesignation of Haiti for Temporary Protected Status*, 76 Fed. Reg. 29,000 (May 19, 2011).

¹⁰ *Designation of Haiti for Temporary Protected Status*, 86 Fed. Reg. 41,863 (Aug. 3, 2021).

¹¹ *Extension and Redesignation of Haiti for Temporary Protected Status*, 88 Fed. Reg. 5,022 (Jan. 26, 2023).

¹² *Designation of Nationals of Somalia for Temporary Protected Status*, 56 Fed. Reg. 46,804 (Sep. 16, 1991).

¹³ *Extension and Redesignation of Somalia for Temporary Protected Status*, 77 Fed. Reg. 25,723 (May 1, 2012).

¹⁴ *Designation of Syrian Arab Republic for Temporary Protected Status*, 77 Fed. Reg. 19,026 (Mar. 29, 2012).

¹⁵ *Extension and Redesignation of Syria for Temporary Protected Status*, 89 Fed. Reg. 5,562 (Jan. 29, 2024)

¹⁶ *Extension and Redesignation of Venezuela for Temporary Protected Status*, 88 Fed. Reg. 68,130 (Oct. 3, 2023).

¹⁷ *Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure*, 86 Fed. Reg. 13,574 (Mar. 9, 2021).

hopes that they will be covered by an eventual date extension. Each extension signals to potential migrants that TPS will never actually end, encouraging additional illegal immigration from designated countries.

The actual numbers demonstrate this. For example, “the consistent abuse of TPS by the Biden administration has encouraged a spike in illegal immigration from Venezuela. Since the country was first designated for TPS protections in March 2021, encounters of Venezuelan nationals have precipitously risen, with both Fiscal Year (FY) 2023 and 2024 encounters topping 300,000.”¹⁸ Similarly, for Haiti: “These constant extensions and redesignations of TPS for Haitians correspond with increased numbers of Haitian nationals attempting to enter the country unlawfully. Since the Biden administration designated Haiti for TPS in August 2021, roughly 500,000 Haitians have been encountered by Customs and Border Protection (CBP) at our borders.”¹⁹

TPS recipients do not act like temporary sojourners. Rather, they demonstrate settlement patterns typical of permanent immigrants. Research from UCLA found that, on average, “TPS holders have resided in the United States for at least 20 years and two-thirds have a U.S-born child.”²⁰ These are not temporary evacuees waiting for conditions to improve so they can return to their home countries. To the contrary, these are permanent settlers using TPS as a substitute for lawful permanent residence.

II. TPS designations are overbroad and often fail to comply with statutory standards.

Its defenders often present TPS as a narrowly tailored emergency tool, but its actual administration reveals deep structural contradictions. TPS is reserved for specific circumstances in which a country is so dangerous or so overwhelmed that its nationals cannot safely return, yet at the same time the United States routinely treats those same countries as safe enough for the routine issuance of temporary U.S. visas to their citizens.

¹⁸ FEDERATION FOR AMERICAN IMMIGRATION REFORM, *Temporary Protected Status Exploited as Amnesty* (Feb. 2025), <https://perma.cc/P6EY-UAKE>.

¹⁹ *Id.*

²⁰ Cecilia Menjivar, *Temporary Protected Status for Central American Immigrants*, UCLA LATINO POLICY & POLITICS INITIATIVE (Aug. 2020), <https://perma.cc/7FFZ-BKZB>.

This tension is compounded by DHS’s practice of granting TPS on a blanket, nationwide basis—even when the triggering event was geographically limited and not throughout the country. Moreover, by applying an extra-statutory “redesignation” policy, executive action steadily expands the pool of beneficiaries beyond those actually present when the original crisis occurred, thereby violating the statute and Congressional intent.

A glaring contradiction exposes the pretextual nature of many TPS designations: the U.S. government continues to issue non-immigrant visas to nationals of TPS countries even while claiming conditions are too dangerous for returns. Non-immigrant visa applicants must demonstrate to consular officers that they intend to return to their home country after temporary U.S. travel.²¹ However, a TPS designation requires that “the return of aliens who are nationals of that state ... would pose a serious threat to their personal safety [because of armed conflict],” “the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state [because of natural disaster],” or that “extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety.” 8 U.S.C. § 1254a(b)(1).

If conditions truly prevent safe return—the statutory predicate for TPS—how can consular officers simultaneously determine that visa applicants will return home as required? At the same time DHS has been issuing or extending TPS designations, the State Department has been processing visa applications for nationals of the same countries. This suggests either that: (a) conditions are not uniformly dangerous enough to prevent safe return, or (b) the government is knowingly issuing visas to applicants who cannot credibly demonstrate they will return home—a violation of immigration law. Either scenario undermines the rationale for maintaining TPS designations. This administrative incoherence suggests that TPS designations are driven by political considerations rather than objective safety assessments.

While the above contradictions could possibly be explained if TPS designations were narrowly applied, they are not. Instead, designations are overbroad. They apply to all nationals of a country regardless of whether they are from regions actually affected by the precipitating event. When El Salvador received TPS in 2001, it was due to earthquakes that

²¹ 8 U.S.C. § 1184(b); *see also*, e.g., 8 U.S.C. § 1101(a)(15)(B).

affected specific regions. Yet the designation covered all Salvadorans in the United States, including those whose home regions were unaffected. Similarly, Hurricane Mitch in 1998 prompted TPS for Honduras and Nicaragua, but the hurricane’s damage was concentrated in specific areas. The 2010 Haiti earthquake devastated Port-au-Prince but left other regions of the country largely unscathed. Yet TPS covered all Haitians regardless of their area of origin. Genuine localized disasters should not trigger nationwide immigration relief. The statute allows for a TPS designation to cover only “part of [a] foreign state,”²² however, TPS designations have almost universally failed to impose any such limits, resulting in blanket protections that far exceed any conceivable humanitarian need.

This overbreadth creates obvious opportunities for abuse. Nationals who were not affected by the disaster, or who left their country years before the event occurred, receive the same protections as those genuinely displaced. It makes little sense for TPS designations to grant blanket relief without distinguishing between those who are actually threatened and those seeking economic or other opportunity.

Additionally, DHS’s practice of “redesignation” has no basis in the statute. The law authorizes the Secretary to “designate” countries and to “extend” designations, but “redesignation”—which makes eligible nationals who arrived after the original designation—appears nowhere in the statutory text. This is executive branch innovation, not congressional authorization. “The notion that the government could, without statutory authority, ‘re-designate’ a country by simply using the original emergency – for the purpose of giving work authorization and protection from deportation to people who were not in the U.S. at the time of the first designation – is outrageous.”²³

Furthermore, TPS’s primary use by illegal aliens contradicts the original intent of the statute. The legislative context indicates Congress initially intended TPS for persons legally present in the United States who could not return home due to emergencies. The statute does not prohibit illegal aliens from applying, but it appears Congress contemplated protecting tourists, students, and temporary workers—not illegal border crossers.

²² 8 U.S.C. § 1254a(b)(1).

²³ FEDERATION FOR AMERICAN IMMIGRATION REFORM, *Temporary Protected Status Exploited as Amnesty* (Feb. 2025), <https://perma.cc/P6EY-UAKE>.

A country qualifies for a TPS designation in three circumstances: 1) armed conflict; 2) natural disaster; or 3) “extraordinary and temporary conditions in the foreign state.”²⁴ DHS has frequently abused the “extraordinary and temporary conditions” category to confer TPS designations on countries lacking any specific justification. In fact, this category has become an unlimited avenue for the Secretary of Homeland Security to designate countries based on policy preferences rather than statutory criteria.

III. Judicial overreach has usurped executive authority over TPS.

Federal judges have repeatedly blocked DHS attempts to terminate TPS designations, usurping the executive branch’s statutory authority over immigration matters. The Administrative Procedure Act (APA) has become a weapon for preventing TPS termination, regardless of improved country conditions or statutory requirements.

The TPS statute requires the Secretary of Homeland Security to review country conditions “[a]t least 60 days before” expiration of the TPS designation and publish termination or extension determinations in the Federal Register.²⁵ Terminations cannot take effect earlier than 60 days after notice publication. These requirements exist to ensure deliberate, evidence-based decision-making. Furthermore, Congress has specifically commanded that “[t]here is no judicial review of any determination of the [Secretary of Homeland Security] with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.”²⁶

Yet courts have reviewed the Trump Administration’s TPS determinations anyway, demanding far more than the statute requires for terminations while permitting extensions with minimal scrutiny.

Federal courts have been flooded with lawsuits from immigrant advocacy groups and civil-rights organizations challenging every major Trump-era effort to terminate TPS for specific countries such as Haiti, Honduras, Nepal, Nicaragua, and Venezuela. Notwithstanding the TPS statute’s clear command that there shall be no judicial review of TPS determinations, courts ignore statutory language, granting relief based on

²⁴ 8 U.S.C.A. § 1254a(b)(1).

²⁵ 8 U.S.C. § 1254a(b)(3).

²⁶ 8 U.S.C. § 1254a(b)(5).

litigants' arguments that the Department of Homeland Security's country-conditions reviews and terminations violated the APA.

As a result, TPS terminations announced by the Trump administration have often been stalled for extended periods, with courts requiring do-over reviews and additional explanations that extended status far beyond the original termination dates. In practice, this litigation transformed what the statute describes as a discretionary, time-limited protection into a status that is extremely difficult to unwind once granted, because any attempt to end or narrow TPS now faces immediate challenges alleging procedural defects, inadequate reasoning, or improper motives under the APA and constitutional law.

Courts have imposed stringent procedural requirements that effectively prevent TPS termination. Judges demand extensive evidence that conditions have improved, apply deferential review to designation decisions but strict scrutiny to terminations, and seize upon any procedural irregularity to block implementation. This approach inverts the statutory scheme. TPS was never intended to create permanent expectations. The statute explicitly states that the Secretary "may" grant TPS and that designations last for limited periods. Yet courts now treat long-term extensions as creating vested rights that cannot be disturbed without extraordinary justification.

IV. TPS beneficiaries impose net fiscal burdens on American taxpayers.

TPS beneficiaries impose significant net fiscal burdens because, similar to the trends for illegal aliens in general, they tend to have low levels of education and are usually employed in low-skilled jobs.²⁷ The fiscal impact of TPS thus mirrors that of illegal immigration generally due to the

²⁷ Cecilia Menjívar, *Temporary Protected Status in the United States: The Experiences of Honduran and Salvadoran Immigrants*, CENTER FOR MIGRATION RESEARCH, THE UNIVERSITY OF KANSAS (May 2017), <https://perma.cc/HK8K-GP58> ("The general educational levels for TPS holders are also similar to those of undocumented immigrants; in 2009, 47% of undocumented immigrant adults ages 25-64 had less than a high school education, compared to 8% of U.S.-born residents of the same age"); Jesús Villero, Brendan Warshauer, and Youran Wu, *550,000 Workers Lose Status by End of 2025: Potential Impact by State and Industry*, PENN WHARTON UNIVERSITY OF PENN-

low educational profile of recipients. Research on illegal immigration—the population from which most TPS recipients are drawn—shows that illegal immigrants “are a net fiscal drain on public budgets” because “[t]hey receive more in benefits from the system than they pay into it.”²⁸

A 2017 study found that, using net-present-value methods, the average illegal immigrant creates a lifetime net fiscal drain on the United States taxpayer of about \$87,000 to \$110,000, depending on whether U.S.-born descendants are included.²⁹ As of March 31, 2025, there were 1.3 million TPS recipients in the United States.³⁰ That means the total net fiscal drain impact of TPS recipients is between \$113.1 billion and \$143 billion. These estimates *include* the fiscal impact of the taxes that TPS beneficiaries pay. This is because even though most of them work, they work in low-paying, low-skill jobs, and are therefore a net drain on the America people.

V. Conclusion

TPS has become a case study in how well-intentioned statutes can be twisted and abused beyond recognition. Rather than offering narrowly tailored, temporary relief in genuine emergencies, it now functions as a rolling, quasi-permanent status that undermines the rule of law, burdens taxpayers, and signals to the world that illegal entry will eventually be rewarded.

Reform is essential. The best solution is for Congress to abolish TPS entirely. At the very least, Congress can and should make the following changes to the TPS statute:

- Restrict TPS eligibility to legally admitted aliens;
- Eliminate the catch-all “extraordinary and temporary conditions” category;
- Explicitly prohibit redesignations;

SYLVANIA BUDGET MODEL (Nov. 19, 2025) <https://perma.cc/EWZ7-BG7U> (“an estimated 38.9% of TPS holders have less than a high school education, the share is only 10.7% among U.S.-born individuals and 24.8% among non-TPS foreign-born groups”).

²⁸ Steven A. Camarota, *The Cost of Illegal Immigration*, NATIONAL AFFAIRS (June 17, 2024) <https://perma.cc/44JR-C6UP>. The 2017 report showed a cost of between \$65,000 to \$82,000. The figures cited here have been adjusted for inflation.

²⁹ Steven A. Camarota, *Deportation vs. the Cost of Letting Illegal Immigrants Stay*, CENTER FOR IMMIGRATION STUDIES (Aug. 2017), <https://perma.cc/H69J-URMG>.

³⁰ JILL H. WILSON, CONG. RSCH. SERV., RS20844, TEMPORARY PROTECTED STATUS AND DEFERRED ENFORCED DEPARTURE (2025).

- Require that designations be limited to specific geographic areas within a county and not made on a country-wide basis;
- Set firm time limits on designations that cannot be renewed; and
- To prevent courts from substituting their policy views for the judgments of politically accountable officials, forbid any district or circuit court from issuing any form of injunctive, declaratory, or vacatur relief related to the Secretary's decisions to designate, redesignate, or terminate TPS for a country.

Unless TPS is abolished, or without these reforms, TPS will continue to undermine our immigration system and burden American taxpayers while providing minimal genuine humanitarian protection.