

TOWARDS AN ADJUSTMENT OF STATUS FOR SALVADORANS WITH TPS

A Pathway to Permanent Residency in the United States

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In January, 2018 the US government announced that it will not renew Temporary Protected Status (TPS) for Salvadorans. Salvadorans with TPS have 18 months, or until September 2019, to either leave the country or try to make other arrangements. This note will explore the consequences of this decision and offer several proposals for avoiding or mitigating the potential harm to Salvadorans currently protected by TPS.¹

The decision to end TPS for Salvadorans falls on the heels of other such decisions. Several months earlier, the Trump administration announced that it will not renew TPS for 5,000 Nicaraguans, 59,000 Haitians and 86,000 Hondurans living in the United States, with very serious consequences for these countries. The decision to end TPS for Salvadorans is similarly painful, and even larger in scale. Salvadorans are the largest group with TPS, representing over 260,000 out of 440,000 total recipients.²

Providing legal permanent residency for Salvadorans with Temporary Protected Status comes as a logical, humane and politically important and defensible step for the United States and the US Congress. Salvadorans with TPS have set down roots and are by now fully integrated

members of American society. They constitute a vibrant economic force and support US foreign policy interests. As a population, they mirror US native born or naturalized citizens in terms of many of their characteristics. Granting them permanent residency would strengthen the social and economic fiber of the United States, while also advancing US interests of stability, prosperity and democracy abroad.

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De Facto Americans

For 18 consecutive years, four administrations continued the TPS designation for Salvadorans. As a result of these extensions of TPS, Salvadorans have gradually set down roots in the United States. Although they arrived with so-called temporary status, 18 years is a long time for anything to be temporary. Seeing the way that over 200,000 Salvadorans with TPS have built lives for themselves over the past two decades is a testament to their hard work and their commitment to core American values. Their time in the United States indicates that they have appreciated and taken advantage of the opportunities presented to them by TPS, and in doing so have fully integrated into American society.

Contributing to the US Economy

Some 260,000 Salvadorans are currently protected by TPS. They are a hardworking community, participating in the labor force at a higher rate than the US national average. Nine out of every ten Salvadorans under TPS are in the labor force, and only 5% of them are unemployed.³

Moreover, Salvadorans with TPS have “higher employment rates among women and higher earnings among men”⁴ and are firmly established in the American middle class with median household incomes of US\$50,000 a year.⁵

Salvadorans with TPS typically work in sectors that complement the US labor force. For example, while 4% of the US labor force works in construction, 22% of Salvadorans with TPS work in that sector. Similarly, while less than 1% of the general labor force works in housekeeping and cleaning, 20% of Salvadorans with TPS work in that sector. What is important to note here is that Salvadorans with TPS are complementing the US labor force by filling in where needed, rather than competing with US workers for jobs.

An Asset, Not a Burden

Salvadorans with TPS are well integrated into the US financially. Seventy-eight percent have a bank account in the U.S., compared to 40% of undocumented migrants. Eighty percent hold liquid savings of over US\$5,000 and 36% have a home mortgage.⁶ They are neither a burden nor financially vulnerable.⁷

TABLE 1: COMPARISON OF SALVADORANS WITH TPS AND US CITIZENS

CHARACTERISTICS	SALVADORANS WITH TPS (2015)	US CITIZENS*
Labor force participation (%)	88%	63%
Personal household income	\$24,500	\$31,000
Median household income	\$50,000	\$59,000
Percent above poverty	83%	86%
Percent self-employed	10%	10%
Percent with mortgages	34%	64%
Federal tax contributions	14%	14%
With health insurance	56%	56%*
With a bank account	78%	90%
Unemployed	5%	5%**

* Employer-based insurance; **2015

Moreover, available data suggests that Salvadorans under TPS contribute upwards of half a billion dollars a year just in Medicare and social security taxes—or about \$4000 per working individual.⁸

An American Family Unit

Family obligations are also important to consider, since more than five in ten Salvadorans under TPS have children in the U.S.⁹ This means that Salvadorans with TPS are parents to nearly 200,000 US-born young people, the majority of whom are under 21 year of age.¹⁰ At this age, these young people very much need their parents to be physically present in their lives.

As they started families in the United States, Salvadorans with TPS have become engaged in the school system and health care system. While children are attending schools and colleges, their parents have participated in various community-based activities navigating between English and Spanish, offering volunteer time in philanthropic organizations including children's hospitals.¹¹

Fully Integrated Into American Society

After 18 years of TPS, Salvadorans have set down roots and are contributing to US society. One of the most powerful reasons to provide permanent residency is the simple fact that they have become a fully integrated part of the communities and economies where they live.

Do No Harm

The end of TPS will have negative impacts for the United States, for El Salvador, and certainly for migrant families. In the US, the decision will be felt especially strongly in cities with large Salvadoran populations, such as Los Angeles and Washington, DC. Fifty-six percent of Salvadorans are concentrated in five metropolitan areas, and the rest are scattered across the continental United States. Their departure would affect the local economy and communities nationwide.

An Adverse Effect on Labor, Revenue and Profits

As the US economy continues to show steady growth, with unemployment at 4%, the disruption caused by

a loss of 195,000 workers in the labor force would be significant. Given the fact that Salvadoran TPS beneficiaries work in economic sectors different than those of native-born US citizens, the loss of jobs will affect performance in construction and other services.

But even if you take out and discount the huge loss of labor, of \$3.1 billion in US income, the turn over cost to businesses, which is estimated at over US\$600 million,¹² or the effect on government revenue¹³ and only consider the social effects to the US and this population, letting them go does not make sense.

For one, the decision to return TPS holders may also increase the number of unauthorized Salvadorans in the U.S., as many would rather stay without legal status than return to El Salvador, a situation that would work against efforts to contain unauthorized migration.

Irreparable Harm to Families

For many Salvadorans with TPS, the prospect of separating from their US-born children is not even an option. Though their children are generally US citizens, the majority are not adults. These young people are in a very difficult situation: in addition to still being young enough to need their parents to be physically present in their lives, they are not old enough to formally petition for their parents to stay in the United States as permanent residents. Separating children from their parents is a situation that causes irreparable harm under any normal circumstance.

A Major Blow to El Salvador's Economy

Salvadorans with TPS have become formidable players in promoting US interests abroad, demonstrating American values such as democracy, family, responsibility and compassion. Many of them work in hometown associations in efforts to promote local development back in El Salvador. Roughly 10% work as entrepreneurs in the nostalgic trade and related companies, serving as distributors, investors or producers, and supplying US retail stores with over one billion dollars in merchandise for consumption in the US market.

The remittances they send are central to the wellbeing of those in the country and even their country's economy overall. These flows have represented between 4% and 2% of the country's GDP. That contribution has helped Salvadorans and the Salvadoran economy to cope with

adverse conditions, and to mitigate further challenges that have emerged in the course of two decades.¹⁴

A decline in remittances would affect the country's prevailing weak economic performance, to the extent that the economy would not grow at all. Today, Salvadorans with TPS are transnational players, and about 80% send money to relatives. They send 6% more money to families than undocumented workers and their transfers range in the amount of over US\$620 million a year.

Finally, the return of Salvadorans with TPS would have dramatic impacts on the labor market of a country that is already economically fragile. El Salvador is a small country, with an estimated 4 million people in the labor market, and the return of some 230,000 workers amounts to nearly 6% of the labor force. Whether Salvadorans with TPS will be able to find jobs upon their return, or whether the jobs they find will displace other workers, remain troubling questions.

Protection From Harm

The reasons that various US administrations have cited for extending TPS for Salvadorans from 2001 to 2016 are still true today, and will still be true in 18 months.¹⁵ These reasons are at odds with the latest statement that "the substantial disruption of living conditions caused by the earthquake no longer exist."¹⁶

Moreover, those who were to return, or to be returned, will be going to a society that today is more violent in many respects than it was 20 years ago. They will be exposed to the risk of being robbed, extorted, or even killed. (See Appendix for more detail).

Politics, the Law and Compassion

Many members of Congress understand the significance of an adjustment of status for people currently under TPS into legal permanent residence. Members are aware that one valuable consequence of TPS extensions was that recipients set down roots in the US. In the past, the US has adjusted the status of a number of groups with TPS, providing a pathway to permanent residency for prior Chinese, Nicaraguan, Cuban, Guatemalan, Salvadoran, Soviet, and Haitian migrant groups.

Today, several members of Congress have introduced

proposals to provide permanent residency for Salvadorans with TPS. These efforts recognize that establishing roots is important when considering immigration policy. They also acknowledge the contributions of Salvadorans in the US and recognize that the conditions in El Salvador have not changed for the better, and are mindful of the support among various members of civil society toward an adjustment.¹⁷ Finally, they recognize that ending TPS without providing options for legal permanent residency may harm the United States, migrants themselves, and the country of El Salvador. The table on the following page provides an overview of proposed legislation of adjustment of status among migrants on TPS.

Moreover, the justice system has also provided important input. A Ninth Circuit Court of Appeals decision, *Ramirez v. Brown*, offers an opportunity for certain Salvadorans with Temporary Protected Status (TPS) to apply to adjust their status into permanent residency.

In this case, Jesus Ramirez challenged the United States Citizenship and Immigration Service's decision that he was ineligible to apply for permanent residency on the ground that because he entered the United States under TPS he was not "inspected and admitted or paroled," a requisite according to US immigration law. As the Court notes in its decision, "the parties dispute whether being a TPS designee provides a pathway for Ramirez to obtain lawful permanent resident status under the adjustment statute."¹⁸

US immigration law lists specific steps and requisites for adjusting one's status and applying to become a permanent resident. Specifically, "the status of an alien who was inspected and admitted or paroled into the United States... may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if 1) The alien makes an application for such adjustment, 2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and 3) an immigrant visa is immediately available to him at the time his application is filed."¹⁹

In Ramirez' case, he was neither "inspected" nor "paroled" into the United States. However, the 2017 court ruling found that Ramirez was able to adjust his status to legal permanent residence from TPS, because having received TPS counted as having been "admitted."

The implications of the ruling are mixed. While it does make it easier for certain TPS recipients to apply for legal permanent residency, a number of other requirements must

also be met. For example, the TPS recipient would need to have an immediate family member in the United States who is a citizen or permanent resident. In this case, Jesus Ramirez was married to a United States citizen. Prior to this decision, someone in Ramirez’ position would hypothetically have had to leave the United States and re-enter in order to meet the “inspected and admitted or paroled” requirement, or they would not have been eligible for re-adjustment. The ruling, however, provides the opportunity for an adjustment of status to occur while remaining in the United States, without the need to leave and re-enter the country.

Conclusion: Towards a Constructive Solution

A constructive solution for Salvadorans currently protected by TPS includes a pathway to permanent residence in the United States. The results of such a pathway would be significant. Of course, they will also need to be accompanied by commitments and strategies aimed at reducing migration as well as improving reintegration programs in El Salvador.

TABLE 2: PROPOSED LEGISLATION

TITLE OF PROPOSED LEGISLATION	SPONSORS	CO-SPONSORS	ACTIONS PROPOSED	NATIONALITIES BENEFITING
ESPERER Act of 2017 (H.R. 4184)	Rep. Carlos Curbelo (R-FL-26)	12	<ul style="list-style-type: none"> Adjustment of status to lawfully admitted for permanent residence (LPR) Spouse, or unmarried minor or adult child of successful applicant may also adjust status to lawfully admitted for permanent residence subject to certain conditions 	Haiti, Nicaragua, El Salvador or Honduras
American Promise Act of 2017 (H.R. 4253)	Rep. Nydia Velazquez (D-NY-7)	70	<ul style="list-style-type: none"> Adjustment of status to lawfully admitted for permanent residence (LPR) Spouse, parent, or unmarried minor or adult child of successful applicant may also adjust status subject to certain conditions 	All 13 countries that were designated for TPS or Deferred Enforced Departure (DED) as of January 1, 2017.
ASPIRE TPS Act 2017 (H.R. 4384)	Rep. Yvette Clarke (D-NY-9)	14	<ul style="list-style-type: none"> Adjustment of status to renewable 6+ year protected status. Adjustment to lawfully admitted for permanent residence (LPR) in cases of extreme hardship Adjustment of family members only through current law mechanisms. 	All 13 countries that were designated for TPS or Deferred Enforced Departure (DED) as of January 1, 2017.
SECURE Act (S. 2144)	Sen. Chris Van Hollen (D-MD)	17	<ul style="list-style-type: none"> Adjustment of status to lawfully admitted for permanent residence (LPR). Spouse, domestic partner, parent, or unmarried minor or adult child of successful applicant may also adjust status subject to certain conditions 	All 13 countries that have been designated for TPS, or that are designated in the future.

Appendix: Is El Salvador Better Today?

For the most part, all TPS renewals since 2002 have been consistent in explaining the challenges El Salvador has faced in light of severe and adverse problems that constrained the original reconstruction effort.

The effect of the earthquake in 2001 had a compounded and long-term impact on El Salvador. It set back established goals on infrastructure, housing, healthcare, economic growth, and institutional development. El Salvador not only had to redirect its economic strategy, but it was confronted by a continued set of natural disasters and criminal activity.

2001 was a turning point in El Salvador’s economic path to greater growth as it had chosen to dollarize its economy in order to increase its economic competitiveness. However, the economic recovery after the earthquake made it difficult for the country to continue on this path. Instead, resources and policy were redirected into housing, infrastructure, and relief to nearly 30,000 damaged microenterprises. The effort reduced the

chances of growing above 2% into productive sectors.

With hundreds of thousands of houses destroyed, 18 hospitals to repair and rebuild, 1200 destroyed public buildings, the task of competing in the globally economy became more daunting.

Moreover, recovery was immediately constrained by a continued chain of natural disasters that continue affecting the country and its economy today. Natural disasters in El Salvador have become a major strain for the country, and limit human and economic change.

Disasters and reconstruction have consumed government efforts, making it difficult to contain the spread of criminal organizations, which also took advantage of the disruption to increase their presence.

In fact, youth gang operations grew in strength and expanded their objectives after the earthquake, taking advantage of disruptions in schools to recruit members and augmenting the scale of violence. In 2001, El Salvador had 6 homicides a day, but by 2005 the number had nearly doubled to 11, and in 2016 it had reached 14.²⁰

TABLE A.1: THE IMPACT OF THE EARTHQUAKES OF 2001

	January 13th	February 13th	Total
Deaths	944	315	1,259
Victims of mudslides	193	92	285
Injured	5,565	3,399	8,964
People affected	1,364,160	252,622	1,616,782
Damaged homes	169,692	15,706	185,398
Destroyed homes	108,949	41,302	150,251
Damaged hospitals	19	5	24
Damaged health units	75	36	111
Damaged public buildings	1,155	82	1,237
Damaged churches	405	73	478

Source: National Emergency Committee of El Salvador (COEN)

FIGURE 1: TIMELINE OF NATURAL DISASTERS AND OTHER EMERGENCIES IN EL SALVADOR, 1999-PRESENT

Source: EM-DAT: The Emergency Events Database - Université catholique de Louvain (UCL), retrieved on January, 2018. The mosquito epidemics have caused a minimum of 5,000 deaths.

ENDNOTES

1. The author wishes to thank Maria Eugenia Brizuela and Peter Hakim for comments made to previous drafts.
2. Jill H. Wilson, "Temporary Protected Status: Overview and Current Issues, Congressional Research Service, January 17, 2018. Available at: <https://fas.org/sgp/crs/homesecc/RS20844.pdf>
3. Robert Warren and Donald Kervin, "A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti," *Journal on Migration and Human Security*, V. 5, n.3 (2017), p.582.
4. Orrenius and Zavodny, "The Impact of Temporary Protected Status on Immigrants' Labor Market Outcomes," IZA DP, N.8744, 2015.
5. They have a total economic contribution of US\$3.1 billion each year, estimates show. See Amanda Baran, Jose Magana-Salgado and Tom K. Wong, "Economic Contributions by Salvadoran, Honduran and Haitian TPS Holders," ILRC Policy Report, April 2017. p.5
6. Warren and Kervin, p.582.
7. Manuel Orozco, "Economic Status and Remittance Behavior among Latin American and Caribbean Migrants in the Post-Recession Period" *Inter-American Dialogue*, 2014.
8. Baran, Magana-Salgado and Wong, 2017.
9. Cecilia Menjivar, "Temporary Protected Status in The United States: The Experiences of Honduran and Salvadoran Immigrants," 2017. Available at: https://www.wola.org/wp-content/uploads/2017/06/TPS_REPORT_FINAL.pdf
10. Menjivar, 2017.
11. Menjivar, 2017. Menjivar points out that "20% of TPS holders participate in community service, such as volunteering in nonprofit organizations or in other service activities like children's hospitals."
12. See for example, ILRC's estimates of the cost of deportation. Baran, Magana-Salgado and Wong, 2017
13. Baran, Magana-Salgado and Wong, 2017
14. Central Bank of El Salvador statistics.
15. See, for example, the reasons stated by DHS on each extension, in *Extending Temporary Protected Status for El Salvador Country Conditions and US Legal Requirements*, CLALS Working Paper Series No. 17, p.7
16. DHS., Announcement on TPS for El Salvador, <https://www.dhs.gov/news/2018/01/08/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected>
17. For example, delegations of various Christian denominations have stressed the importance of adjusting the status and concern for their removal. The U.S. Conference of Catholic Bishops, among many other groups, have shared the sense that those under TPS are "very integrated into their communities."
18. For more detail, see <https://cdn.ca9.uscourts.gov/datastore/opinions/2017/03/31/14-35633.pdf>
19. For more detail, see <https://cdn.ca9.uscourts.gov/datastore/opinions/2017/03/31/14-35633.pdf>
20. <http://www.contrapunto.com.sv/archivo2016/opinion/columnistas/las-cifras-de-homicidios-1994-2014>

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