

TECHNICAL REPORT

A PERMANENT SOLUTION TO A TEMPORARY POLICY



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Applied Policy Project Disclaimer

The author conducted this study as part of the program of professional education at the Frank Batten School of Leadership and Public Policy, University of Virginia. This paper is submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgements and conclusions are solely those of the author, and are not necessarily endorsed by the Batten School, by the University of Virginia, or by any other agency.

University of Virginia Honor Statement

On my honor as a student, I pledge that I have neither given nor received unauthorized aid on this assignment.



Madison Cohen
April 5, 2024



FRANK BATTEN SCHOOL
of LEADERSHIP *and* PUBLIC POLICY

Acknowledgements and Dedication

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Lastly, to my family, none of this would have been possible without you. Thank you for encouraging me to chase my dreams and supporting me through every step of the process. I am only me because of the three of you.

I dedicate this assignment to all TPS recipients. I hope to continue fighting for a pathway to citizenship.



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Terms and Abbreviations

CAP: Center for American Progress

DHS: Department of Homeland Security

ETPV: Estatuto Temporal de Protección de Migrantes Venezolanos (Temporary Protected Status for Venezuelan migrants in Colombia)

EU: European Union

LPR: Lawful Permanent Residence

LTR: Long-Term Residents status

Nonrefoulement: Asserts that refugees should not be returned to a country where they face serious threats to their life or freedom. This is considered customary international law (The 1951 Refugee Convention and Key International Conventions, n.d.)

Policy Window: The alignment of political conditions, a specific problem at hand, and the existence of a policy idea that could provide an effective solution to the problem from which an opportunity to create change arises (Mintrom & True, 2022).

PRM: US Department of State Bureau of Population, Refugees, and Migration

SUTP: Syrians Under Temporary Protection

TPD: Temporary Protection Directive

TPS: Temporary Protected Status

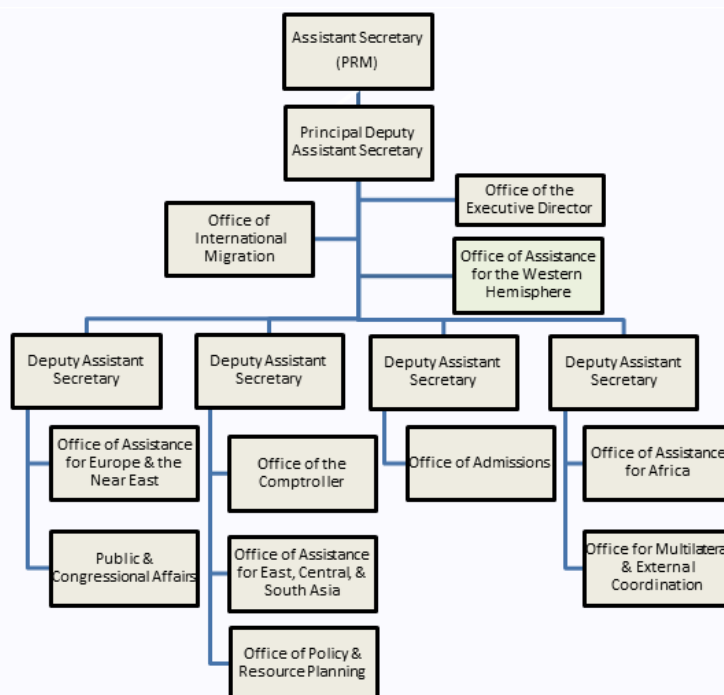
USCIS: United States Citizenship and Immigration Services

Client Overview

The Bureau of Population, Refugees, and Migration (PRM) is the humanitarian bureau of the U.S. Department of State. The mission of PRM is to “promote US interests by providing protection, easing suffering, and resolving the plight of persecuted and forcibly displaced people around the world (“About Us – Bureau of Population, Refugees, and Migration,” n.d.). Within PRM, the Office of International Migration (OIM) coordinates international migration policy formulation (1 Fam 520 Bureau of Population, Refugees, and Migration (PRM), 2023). OIM and PRM more broadly work closely with intergovernmental organizations such as the Department of Homeland Security (DHS), the U.S. Agency for International Development (USAID), and nongovernmental organizations (1 Fam 520 Bureau of Population, Refugees, and Migration (PRM), 2023).

OIM serves as PRM’s secretariat for Temporary Protected Status (TPS). Therefore, they consult the United States Citizenship and Immigration Services (USCIS), who is the authority that researches a country prior to designation and implements TPS. However, PRM does not have authority to change the legal statute of TPS, nor can it propose new policies through Congress to alter TPS. Their interest in collaborating with this project is to information gather to help consult relevant stakeholders on the current context of TPS and what potential alternatives to TPS could look like.

Figure 1: Structure of PRM



Source: (1 Fam 520 Bureau of Population, Refugees, and Migration (PRM), 2023)

Executive Summary

The following report, in partnership with the United States Department of State Bureau of Population, Refugees, and Migration (PRM), explores Temporary Protected Status (TPS). TPS is a United States immigration policy that provides temporary protection from deportation and work permits to individuals whose home countries are unsafe to return to. Currently, the US offers approximately 697,530 immigrants this protection. More than 80% of TPS beneficiaries have resided in the United States for over 20 years, fully integrating into society by pursuing jobs, starting families, and significantly contributing to the economy (Aho, 2023). ***However, TPS does not provide its recipients a pathway to citizenship, leaving individuals without a permanent means of remaining in the United States. The lack of access to permanent status thus threatens the livelihoods and families they have established.*** This project examines the implications of the lack of a pathway to citizenship by highlighting the voices and perspectives of those directly impacted by this policy. It also proposes a long-term solution to provide permanent legal status for current and potentially future TPS recipients.

This project utilizes case studies of temporary protection programs in the European Union, Turkey (Türkiye), Mexico, and Colombia to provide frameworks for changes that the United States could make to TPS. Mexico and Colombia in particular provide strong case studies for identifying ways that the United States could amend TPS, as both countries have mechanisms in place to provide permanent legal status to individuals whose countries are unsafe to return to.

This report proposes three potential policy alternatives that PRM could advocate for:

1. Amend the definition of a refugee to allow more TPS beneficiaries to fall under this categorization;
2. Allow for the adjustment of status for recipients of TPS to permanent legal status; *and*
3. Create a complementary protection program to complement TPS.

The first two alternatives work within existing policy frameworks, while the third alternative begins to explore what a potential new policy could look like and provides questions that PRM should explore. These alternatives have been evaluated on their protection of the longest-term beneficiaries, political feasibility, sustainability, and program costs. After a thorough analysis of each alternative, **this report recommends PRM advocate for the adjustment of status for the longest-receiving TPS beneficiaries.** This alternative provides long-term legal protection to the greatest number of beneficiaries relative to the other alternatives and proves to be less costly.

This report recommends PRM build coalitions with relevant stakeholders such as members of Congress, the United States Citizenship and Immigration Services (USCIS), and immigration NGOs such as the TPS and DED Administrative Advocacy Coalition. Though PRM does not have direct authority to implement this policy change, collaborating with these stakeholders may help to raise Congressional awareness of this policy, potentially get it passed into law and implement it effectively.

Problem Statement

Displacement around the world has reached unprecedented levels. The United Nations High Commissioner on Refugees (UNHCR) estimates that there are approximately 281 million people living outside of their country of origin, which makes up a staggering 3.6% of the world's population ("OHCHR and Migration"). As of September 2023, the United States is granting temporary protection to 697,530 immigrants experiencing extreme circumstances through Temporary Protected Status (TPS) and numbers are anticipated to increase with the effects of ongoing conflict, climate change, and political instability (Wilson, 2023). **However, TPS does not provide its recipients with a pathway to citizenship, leaving individuals without a permanent means of remaining in the United States, thereby threatening the livelihoods and families they have established.**

The United States government created Temporary Protected Status (TPS) in 1990 as a means of providing temporary humanitarian assistance to those fleeing their countries (Roy & Klobucista, 2023). It was established in alignment with the principle of *nonrefoulement*, determined by the United Nations Protocol Relating to the Status of Refugees, by which a person should not be returned to a country that is deemed unsafe for their life and freedom ("Temporary Protected Status: Overview and Current Issues," 2018).

However, TPS does not provide a pathway to legal citizenship under the current statute, leaving recipients without opportunity for adjustment to a permanent status. More than 80% of TPS recipients have lived in the United States for over 20 years (Aho, 2023). Without qualifying for another pathway to permanent legal status, beneficiaries who have resided in the United States and established families and livelihoods have no opportunity to remain in the United States if TPS were to end. This leaves families vulnerable to separation and causes fear that their livelihoods may be taken away at any moment (Aho, 2023). Without a pathway to citizenship, hundreds of thousands of individuals with TPS would very likely be unable to fully integrate into American society.

It is important to center the voices of these individuals at the heart of the work around TPS, as each of these 697,530 have their own stories and experiences. Woven throughout the background section are quotes from TPS recipients and their family members to remind readers of the people behind these statistics.

Background on Temporary Protected Status

Congress created Temporary Protected Status (TPS) as part of the Immigration Act of 1990 to provide temporary protection to immigrants from countries that face dangerous circumstances. TPS was created to provide temporary humanitarian assistance for those from countries experiencing natural disasters, political unrest, or conflict (Roy & Klobucista, 2023). The first country to receive TPS protection was El Salvador due to the Civil War in the 1990s (Roy & Klobucista, 2023). Since its origin, TPS has been widely used to provide millions of individuals protection from circumstances that make it unsafe to return home 1990s (*Fact Sheet*, 2023; Roy & Klobucista, 2023). In theory, TPS intends to protect recipients until they are able to safely return home. However, history shows that temporariness is hard to enforce, as some individuals have received “temporary” protection for over 20 years. Therefore, the broader question of what to do for long-term beneficiaries arises.

A country can be designated Temporary Protected Status if:

1

“(A)... there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety;

2

(B)...(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected, (ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and (iii) the foreign state officially has requested designation under this subparagraph; or

3

(C) there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States” (8 USC 1254a(b)(1). Emphasis added).¹

¹Aliens and Nationality, Title 8 U.S.C. § 1254a. (1990) <https://www.govinfo.gov/content/pkg/USCODE-2022-title8/pdf/USCODE-2022-title8-chap12-subchapII-partV-sec1254.pdf>

How Individuals Receive TPS

To be eligible for TPS, an individual must:

- *“Be a national of a country designated for TPS, or a person without nationality who last habitually resided in the designated country;*
- *File during the open initial registration or re-registration period, or you meet the requirements for late initial filing during any extension of your country’s TPS designation; and*
- *Have been continuous physically present (CPP) in the United States since the effective date of the most recent redesignation of your country; and*
- *Have been continuously residing (CR) in the United States since the date specified for your country” (“Temporary Protected Status| USCIS”).*

TPS provides individuals with a work permit, travel authorization, and protection from deportation for up to 18 months (*Fact Sheet*, 2023). However, individuals must be physically present in the United States by a specified date to receive protection. When a country receives TPS designation, individuals are not automatically granted status; rather, they are required to register during a specified timeframe and pay hundreds of U.S. dollars in registration fees. Individuals must prove that they have continuously resided in the United States before a specific date and meet criminal record requirements for applications to be accepted (Moslimani, 2023). Applicants must not have been convicted of a felony, two or more misdemeanors, or an act of terrorism while in the United States to qualify (Moslimani, 2023). Once TPS expires, recipients revert to the immigration status they held before protection, and for many, this means living undocumented and facing the threat of deportation (Roy & Klobucista, 2023).

Current TPS Designations and Durations

Temporary Protected Status designations have been issued 33 times since its inception, both by Republican and Democratic presidential administrations (*FWD.US*, 2024). As of December 2023, there are 16 countries with Temporary Protected Status designation. The largest number of TPS recipients are from Venezuela and El Salvador (Bush-Joseph, 2023). Five countries, El Salvador, Honduras, Nicaragua, Sudan, and Somalia have been TPS recipients for over 20 years. Somalia is the longest consecutive TPS recipient, having held designation since 1991 (Bergeron & Messick, 2014). The Biden Administration has significantly expanded the program over their term, adding Afghanistan, Cameroon, Myanmar, Ukraine, and Venezuela to the list of eligible countries (Moslimani, 2023). Additionally, the Biden administration has renewed protection for hundreds of thousands of TPS recipients through the redesignation process (Moslimani, n.d.). *Table 1* below provides an overview of all countries with

current TPS protection and their duration. See *Appendix Figure 1* for the list of countries whose status was terminated.

Table 1: Countries with TPS and Their Duration

Country	Current Duration
Afghanistan	2022-Present
Burma (Myanmar)	2021-Present
Cameroon	2022-Present
El Salvador	1991-1992; 2001-Present
Ethiopia	2022-Present
Haiti	2023-Present
Honduras	1999-Present
Nepal	2015-Present
Nicaragua	1999-Present
Syria	2012-Present
Somalia	1991-Present
Sudan	1997-Present
South Sudan	2011-Present
Ukraine	2022-Present
Venezuela	2021-Present
Yemen	2015-Present

Source USCIS <https://www.uscis.gov/humanitarian/temporary-protected-status>

*Highlighted countries have received status for over 20 years

Who Are TPS Beneficiaries?

TPS beneficiaries are neighbors, family members, coworkers, friends, and community members. They are deeply ingrained within American society, filling important gaps in the labor market, contributing to the economy, and establishing families in the United States. As of September 2023, there are approximately 697,530 TPS recipients residing in the United States (Wilson, 2023). Additionally, there are an estimated 380,000 TPS-eligible individuals who have either not yet applied or have TPS applications processing (FWD.US, 2024). El Salvador, Haiti, and Venezuela make up the largest numbers of TPS recipients in the country (*Fact Sheet*, 2017). The largest populations of TPS beneficiaries reside in Florida, Texas, California, New York, and Virginia (*Fact Sheet*, 2023). On average, TPS holders have lived in the United States for 14 years, building their lives and livelihoods in the country (*TPS Protects Families and Boosts the U.S. Economy*, 2023).

"[TPS beneficiaries] have built lives, built businesses, raised families, had children who are American citizens. They've sort of woven themselves into the fabric of the United States"

*-Azam Ahmed, The New York Times
(Barbaro, 2018)*

"There is no reason to kick my dad out of the U.S. He has been here for 20 years and done everything right. I feel sad, mad, and frustrated at the thought that my father could be deported at any moment when he has done nothing wrong"

-Aurora, daughter of a TPS recipient from Honduras (Lives in the Balance: Dreamers and TPS Holders Share Their Stories, 2023)

Socially, TPS beneficiaries have forged lives for themselves in the United States. Nearly two-thirds of all TPS recipients have at least one U.S.-born child, indicating the of beneficiaries who have established families in the States (Menjívar, 2020). Further, an estimated 800,000 U.S. citizens live in households with at least one TPS recipient (TPS Protects Families and Boosts the U.S. Economy, 2023). These statistics illustrate the significant number of families established as a result of TPS protection.

The termination of TPS status would result in the separation of these families, as TPS beneficiaries would not be able to legally remain in the United States, whereas their U.S.-born children and family members would. In 2021, the Supreme Court ruled that TPS does not count as legal inspection, which is required for the adjustment of status (*Sanchez v. Mayorkas*, 2021). Therefore, if a family member wanted to sponsor an individual who entered the country unlawfully, the individual would need to leave the United States and apply through a consulate. This proves difficult because if an individual has spent more than one consecutive year living unlawfully, they are barred from re-entering the country for five years and are often barred up to 10 years (Petts 2023). Therefore, the process of adjustment through a family sponsor is often not possible for many recipients.

"I think they [Sophia's parents] would choose for us to stay here because there is a lot of violence in El Salvador. There's a lot of stuff going on that's not good for kids"

-Sophia, daughter of a TPS recipient from El (Children of Immigrants Fear Parents May Be Sent Away, 2019)

"TPS holders, we are Americans. We work so hard for our families, our community. All we want is a change to do so here, safely... All I know is the United States. My children are here, my research is here, my community is here."

-Roxana, TPS recipient from El Salvador who has been in the United States for 32 years (Permanently Protect Dreamers, TPS Holders, and DED Recipients, n.d.)

The impending family separation is a significant source of stress, fear, and trauma for many recipients and their families, particularly because TPS status could be terminated every 18 months (Schochet, 2017). The fear of termination and ultimately deportation has detrimental impacts on children specifically. Hugo, the son of two TPS holders explains, "The mental health aspect impacts you. You don't know if you'll wake up next week and TPS is eliminated for sure...it plays with your mind a lot. It's affected us quite a lot" ("Dreamer Story").

Studies show that children who experience persistent levels of high stress experience challenges making friends, physical health, and learning to regulate their emotions in the long term (Schochet, 2017). The termination of TPS would have detrimental impacts on both TPS beneficiaries and their families, as the threat of termination has long-term implications.



Exploring the economic contributions of TPS recipients provides further evidence of their deep integration into society. According to Fwd.US (2023), TPS beneficiaries contribute approximately \$12.8 billion to the U.S. economy annually and work over 600,000 jobs, demonstrating their role as active participants in the United States' economy. They occupy roles in essential industries such as healthcare, food, transportation, and automotives. During the COVID-19 pandemic, approximately 131,300 TPS beneficiaries operated roles deemed as essential workers that were needed to maintain daily operations in the United States (Prchal Svajlenka & Jawetz, 2020).



In 2021 alone, recipients of TPS paid \$1.3 billion in federal taxes and an additional \$966.5 million in state taxes (*The Contributions of Temporary Protected Status Holders to the U.S. Economy*, 2023). These statistics demonstrate the necessity of these individuals in the workforce and the US economy more broadly. According to a 2017 report by the Immigrant Legal Resource Center, the termination of TPS for Salvadorans, Hondurans, and Haitians would result in the loss of approximately \$45.2 billion in GDP over one decade (Baran et al., 2017). Though 2024 estimates are difficult to measure, it is likely that the impact of TPS recipients to the economy would be even more drastic given the twofold increase in TPS beneficiaries since 2017. These figures provide a strong economic case for the allowance of permanent legal status for long-term TPS beneficiaries given the significant impact they continue to have to the United States economy.

TPS Process Overview



Under the Immigration Act of 1990, the Secretary of the Department of Homeland Security was granted the power to make decisions on TPS status. A TPS designation must be granted for no less than 6 months, and no more than 16 months (Paoletti, 2023). An extension can be granted for 6-, 12-, and 18-month periods (Paoletti, 2023). Within the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) is tasked with the research, administration, and implementation of TPS. USCIS is responsible for creating TPS drafts for the Federal Register, conducting country reports, and writing memos to brief the Secretary of DHS.

The process by which TPS status is designated is complex.² To start the process, when an event occurs in a country, one of three processes can occur: (1) The Secretary of DHS requests that USCIS look into a country, (2) USCIS starts the research on a country themselves, or (3) stakeholder groups bring a case to DHS through advocacy letters and listening groups. These stakeholder groups include TPS advocacy groups, advocacy groups, and political leaders from all levels of government.

The second step of the process involves informal information gathering by USCIS Office of Humanitarian Affairs. USCIS examines local news reports, international databases, and other confidential sources to help build a potential case for TPS. They also informally consult The Department of State's Bureau of Population, Refugees, and Migration (PRM) and USCIS's research unit for initial impressions.

With this information, the USCIS policy team consults its leadership, and if they receive approval, the Office moves forward with a formal request for information from other government agencies. These agencies include PRM, the Department of Justice's Executive Office for Immigration Review, and the Executive Office's National Security Council. This policy team then drafts a full recommendation which is sent to the Secretary of DHS for decision.

² The process by which a country receives TPS designation is informed by informal interviews with employees of USCIS and PRM. This information is not readily available online.

After USCIS drafts a full report to the Secretary of DHS, it is up to their discretion to decide the status of a country. There is not much information that exists on how the Secretary makes their decision, though through anecdotal evidence,³ it is known to be influenced by geopolitical concerns. If a country is granted TPS, the Secretary must consider how the decision may influence the United States' relationship with other countries. The Secretary has complete discretion over the decision, making the process of the final decision quite opaque. They have the authority to designate a new country through this process, extend a current designation, redesignate, or terminate the protection of a country.

The decision to extend or redesignate TPS are very different mechanisms for protection. Extending TPS allows for those who have already received TPS protection to continue receiving protection for the next 18-month period. By extending TPS, the Secretary of DHS determines that the sending country is not safe to return to for those already granted this protection. In contrast, redesignating TPS allows for continued protection for those already receiving TPS, as well as for those who have arrived after the original designation until a specified period. This signals that the country is not safe to return to for current beneficiaries and new arrivals. It is not clear how the decision is made by the Secretary to either extend or redesignate, though anecdotal evidence has described this decision as one driven by politics.

To make any changes to Temporary Protected Status, Congress must reach a three-fifths majority on any decision. This mechanism was put in place during the drafting of the Immigration Act of 1990 as a means of maintaining TPS' temporary nature. This intentionally makes it incredibly difficult to alter the statute in any way, particularly under a divided Congress.



Source: Martin Macias Jr/ CNS: "No Ongoing Risks for Migrants with Temporary Protected Status, Federal Judge Says." Retrieved April 4, 2024 (<https://www.courthousenews.com/no-ongoing-risks-for-migrants-with-temporary-protected-status-federal-judge-says/>).

³ Information was gathered through informal interviews with employees from USCIS and PRM

Case Studies on Temporary Protection

Though Temporary Protected Status is a U.S. immigration policy, other countries have similar temporary protection programs that are helpful to reference. While most policies parallel TPS in that they are temporary in nature, some countries have found ways to extend this to include longer-term support and integration. Exploring the temporary policies of other countries can help inform approaches that the United States could take in allowing for permanent legal status for beneficiaries. Because academic literature on long-term protection through TPS is limited, this project relies heavily on the policies of other countries as models for what could be done in the United States.

Temporary Protection Directive (European Union)

Temporary Protection Directive provides Ukrainians a number of rights in the EU for up to three years. The European Commission is currently in negotiations to allow for TPD beneficiaries to access permanent legal status in the EU.

The Temporary Protection Directive (TPD) was adopted for the first time in March of 2022 in response to the Russian invasion of Ukraine to provide temporary protection for the large number of displaced Ukrainians (*Temporary Protection - European Commission*, n.d.). The European Council, the European Union (EU) institution that defines the general political direction of the EU, paid €3.5 billion to member states to help manage the influx of Ukrainians and provide services (Bird & Amaglobeli, 2022). The Directive provides immediate and temporary protection in the event of a large influx of, or anticipated large influx of displaced individuals from outside of the European Union that cannot return to their country of origin (*Temporary Protection*, n.d.). In contrast to TPS, the Temporary Protection Directive guarantees its beneficiaries specified rights which includes:

- A residence permit for the entire duration of protection (1-3 years),
- Appropriate information on temporary protection,
- Access to employment,
- Access to social welfare or means of subsistence if necessary,
- Access to medical care,
- Opportunities for families to reunite, *and*
- A guaranteed access to the asylum procedure (*Temporary Protection, European Commission*).

Likewise, enrollment in TPD is automatic upon entry, immediately offering protections to beneficiaries (Bird & Amaglobeli, 2022). Currently, over five million Ukrainians across Europe are protected under TPD (Ineli-iger, 2023).

After one year of the Directive, the status may be automatically extended by six months for a maximum of one extended year if conditions in countries of origin persist (*Temporary Protection*, n.d.). Under the current statute, there is no future plan in place for the nearly five million Ukrainians protected by the Directive if the war does not end by March 2025 (Ineli-Ciger, 2023). Once the duration of the Directive ends, EU Member states can only require the return of a recipient if “the person is not eligible to be legally admitted to the country for some other reason and the situation in the country of origin permits the safe and durable return” (Ineli-Ciger, 2023). If conditions are unsafe for displaced Ukrainians to return after March of 2025, recipients will be left in a legal limbo status much like TPS beneficiaries.

The EU’s policy regarding Long Term Residents status (LTR) establishes that individuals who live in the EU for five consecutive years and have stable, regular sources of income, along with compliance of laws, can obtain permanent residence and equal treatment as nationals in the EU (*Long-Term Residents - European Commission*). Under the current statute, Long Term Residents status does not apply to foreign nationals receiving status under the Temporary Protection Directive, and the time spent under TPD does not count toward the five-year period for LTR (Ineli-Ciger, 2023). The European Commission has adopted a proposal for a directive that would allow for beneficiaries of TPD who fulfill the requirements to access long-term residence under LTR (Ineli-Ciger, 2023). This proposal is currently in interinstitutional negotiations and could potentially provide permanent legal status for this group of beneficiaries.

Temporary Protection in Turkey (Türkiye)

Similar to TPS, Temporary Protection for Syrians living in Turkey does not provide long-term pathways to citizenship, though it does guarantee access to basic rights. Turkey provides an interesting comparison to TPS because it allows for naturalization through marriage, but otherwise does not offer a pathway to citizenship.

Turkey (Türkiye) established a comparable temporary protection program, referred to as Syrians Under Temporary Protection (SUTP) or Temporary Protection (TP), for displaced Syrians in response to the Syrian Civil War. The Turkish Government provides temporary protection for Syrian nationals, refugees, and stateless persons seeking protection due to the Civil War after April 28, 2022 (*Temporary Protection in Türkiye*, n.d.). According to the World Bank, over two million Syrians are receiving SUTP in Turkey (*Turkey’s Response to the Syrian Refugee Crisis and the Road Ahead*, n.d.). SUTP provides beneficiaries the right to stay in Turkey until there is a permanent solution and guarantees fundamental rights protection for them for an unlimited period of time.

The protections granted under SUTP are similar to TPD, such as access to education, health, social support, and the labor market. The World Bank and the EU have implemented the Employment Support Project for Syrians Under Temporary Protection

and Turkish Citizens, which provides employment support. Over 20,000 Syrians have received skills and language training to make them more employable (*10 Years On, Turkey Continues Its Support for an Ever-Growing Number of Syrian Refugees*, 2021). A similar program implemented in the United States has the potential to equip TPS beneficiaries for higher-skill employment opportunities that offers employment visa sponsorship.

Similar to TPS, SUTP neither provides its recipients with legal permanent residence in Turkey, nor does it offer opportunities for adjustment of status. Naturalization for beneficiaries can be granted through marriage to a Turkish citizen or the exceptional circumstances procedure (“Naturalisation,” 2023). Access to citizenship through five consecutive years of residence is not accessible for Syrian recipients, because the years spent residing in Turkey under SUTP do not count towards the five years (Kaya, 2023). Unlike TPS, children born in Turkey to SUTP beneficiaries do not receive citizenship, leaving thousands of children completely stateless (SCF, 2021).

Complementary Protection Practice in Mexico

Mexico provides several protection pathways, including an expanded definition of a refugee and Complementary Protection, which allow for permanent legal status. One of the largest takeaways from this case study is the necessity of capacity-building alongside policy change to provide protection for as many people as people.

Mexico provides an interesting case study for the United States, as has several mechanisms in place to protect individuals whose countries are unsafe to return to. The Cartagena Declaration, established in November of 1984 proposed a more expanded definition of a refugee that recognizes the refugee situation in Central American has changed over the years (*Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico, and Panama*, n.d.). The Mexican Government expanded the definition of a refugee in 2011 under the Law on Refugees, Complementary Protection, and Political Asylum. In alignment with the Cartagena Declaration, recognizing a refugee as a person who:

- “Are afraid of being persecuted for reasons of race, religion, nationality, gender, membership of a particular social group, or political opinion;
- Are outside of their country of nationality and do not have the protection of their country;
- Have fled their country because their life, security, or liberties have been threatened by widespread violence, foreign aggression, internal conflicts, massive break of human rights, or other circumstances that have severely disrupted the public order” (Johns et al., 2023).

Since the adoption of this policy, Mexico has experienced exponential growth in their refugee and asylum applications (Johns et al., 2023). At the end of 2022, Mexico hosted approximately 84,594 refugees (Johns et al., 2023). One of the most significant challenges of the policy change has been the limited funding for authorities that reduces

the capacity of the Mexican government to process applications in the time stipulated by law (Johns et al., 2023). When Mexico experience surges of new arrivals, the processing system is overwhelmed, and limits the ability of individuals to access services necessary to integrate fully into society (Johns et al., 2023). These are important considerations for a similar policy in the United States.

Additionally, Mexican legislation provides a Complementary Protection program, protecting individuals who have not been designated as a refugee, but cannot safely return to their country due to threat of their lives and livelihoods (Frelick, 2020). This program is applied on a case-by-case basis to protect individuals from life-threatening circumstances. Complementary Protection provides many of the same benefits as refugee status would, excluding family reunification. Complementary protection provides recipients permanent legal status in Mexico but does not offer a pathway to naturalization. According to the United Nations High Commissioner for Refugees, complementary protection has had a significant positive impact for individuals who do not fall under refugee status but require legal protection. From 2013-2021, the Mexican Commission for Refugee Assistance (COMAR) has granted 7,787 people protection (UNHCR).

Given that the scale of the Complementary Protection program is much smaller than TPS, it is difficult to draw direct lessons for a complementary program in the United States; however, Mexico could be used as a model to explore the potential expansion of the refugee definition in the United States and the creation of a complementary protection program. The broader impacts of such policy should be further explored to help shape similar action in the U.S.

Temporary Protected Status in Colombia

Colombia provides an important framework for the United States in highlighting that access to adjustment to permanent legal status through temporary protection is possible and has proved successful at protecting a large group of vulnerable individuals.

Colombia is the primary destination for displaced Venezuelans, with approximately three million Venezuelans living in this country (Guerrero Ble, 2023). In February 2021, the Colombian government implemented a temporary protected statute, the *Estatuto Temporal de Protección de Migrantes Venezolanos* (ETPV) in response to the significant population of Venezuelans who had fled to this country. Individuals must either present a temporary permit, an application for refugee protection, or evidence that they had entered Colombia prior to January 31, 2023, to receive status (Guerrero Ble, 2023).

ETPV allows eligible Venezuelans access to a temporary protection permit, which grants them regular migration status for ten years through 2031, access to services such as the

national health system and the labor market, and an opportunity to adjust to residency (Global Compact on Refugees). Unlike temporary policies like TPS, TPD, and SUTP, ETPV allows the time spent under this status to count towards the five-year requirement to apply for a residency visa (A Step Forward, 2023). As of October 2023, approximately 1.7 million Venezuelans have been granted a temporary protection permit, which is a significant number of the current population living in Colombia (A Step Forward, 2023). This is an important case study for the United States, as the temporary program provides access to long-term pathways to citizenship, which is what this project advocates for.

Definition of Criteria

This project will utilize several criteria to evaluate these alternatives to develop a recommendation that provides a long-term solution to TPS. The criteria utilized must align with PRM's interests of providing protection, easing suffering, and seeking durable solutions for immigration. These criteria are protection of the longest-term beneficiaries, political feasibility, sustainability, and program cost. The use of these criteria will help to develop a final recommendation for PRM to advocate for within the federal government as a means of providing a pathway to permanent status in the United States.

Protection of the Longest-Term Beneficiaries

Definition: To analyze how equitable each alternative is, this criterion draws on the definition of equity as the “moral and political commitment to fairness and to ameliorating the conditions of an increasingly unequal” society (Brand, 2015). Addressing groups that have been historically marginalized by the institutions in power is an important part of evaluating the equity of this policy because beneficiaries are often unable to fully integrate into society.

Measurement: To measure equity, this analysis examines whether each alternative provides protection for the longest term TPS beneficiaries. This dimension will be evaluated by probing questions such as: Does the policy target countries that have the longest TPS designations? Does this policy target TPS beneficiaries who have lived in the United States for over 14 years? The scale utilized for this criterion is high/medium/low. These thresholds were selected based on the percentage of beneficiaries who have been in the United States for over 20 years that would receive protection. It is difficult to determine the exact number of beneficiaries residing in the US for over 20 years, though 2017 estimates calculate ~175,000 individuals from El Salvador, Honduras, and Haiti were living in the United States for this period (*Fact Sheet*, 2017). Projecting this number out 7 years, it is likely that we would see an increase to at least 250,000 individuals (approximately 5-6% each year) because designations have continued to be extended, meaning people will have lived continuously in the US for this period.

Rating	Definition
Low	Protects fewer than 50,000 individuals (~20%)
Medium	Protects 50,000-100,000 individuals (15-40%)
High	Protects more than 250,000 individuals (>40%)

Political Feasibility

Definition: All alternatives are weighed based on their political feasibility. A politically feasible alternative can garner political support and be passed into law given the current political climate and the historical precedent.

Measurement: To measure political feasibility, the historical landscape of similar policies is examined to determine if actions have been taken in the past and how they were received. This analysis studies past legislative history, executive orders, and other actions. Additionally, this analysis examines the current political context, particularly the perspectives of current members of Congress, the presidential administration, and other political leaders to determine whether it is likely for the alternative to occur. This alternative is evaluated using a Likert scale ranging from very infeasible to very feasible.

Ranking	Definition
Very infeasible	Given the current political context, including Congressional makeup and historical actions, this policy would face significant pushback and would not be implemented
Feasible	Given the current political context, including Congressional makeup and historical actions, this policy would experience some pushback but could be implemented
Very Feasible	Given the current political context, including Congressional makeup and historical actions, this policy would experience pushback but would be implemented

Sustainability

Definition: The sustainability criteria is a measure of the potential longevity of a policy recommendation. This is a measure of the ability of an alternative to sustain over time, as well as across different administrations.

Measurement: It is difficult to project how sustainable a policy may be given future uncertainties. To measure sustainability, the method by which the policy is brought about is examined. For example, a law is much more difficult to overturn than an executive order; therefore, a policy codified in law will be more sustainable across time. Sustainability is measured by a likely/unlikely ranking, determined by whether or not the policy has the potential to be sustainable based on the mode of implementation.

Ranking	Definition
Likely	Given the mode of implementation, this policy is likely to be sustainable
Unlikely	Given the mode of implementation, this policy is not likely to be sustainable

Program Cost

Definition: This analysis incorporates the evaluation of the upfront cost of implementation in USD. Program cost only includes the initial cost to pass and implement the policy and does not take into consideration economic or social costs.

Measurement: These alternatives are assessed based on the potential program cost each policy change is projected to require. These will include measures such as the costs of hiring additional asylum officers, increasing the capacity of immigration courts, and providing additional refugee assistance. Costs specifically measure the required USD at the initial passage of the policy.

Policy Alternatives

It is important to note that at the present moment, creating and implementing immigration policy change is challenging. The last comprehensive immigration reform, the Immigration Reform and Control Act of 1986, was passed nearly four decades ago, with all major attempts since failing (Galston, 2024). As noted in a recent Brookings Institution commentary (2024), the growing polarization in Congress has significantly hindered the ability to create immigration reform (Galston, 2024). One of the key pillars for the Trump Administration was cracking down on immigration. The former administration attempted to terminate TPS for six countries, as well as end the program in its entirety, which ultimately failed (Hoeppepner & MacLean, 2022). Many Republican policymakers have fought to oppose legislation, including the recent Emergency National Security Supplemental Appropriations Act of 2024, that would have provided significant reform (Bolter, 2021; Galston, 2024).

These alternatives are developed with the understanding that they will not be immediately actionable given the context, but rather are developed to be acted on when the opportunity arises. This opportunity is best defined as a policy window which is where an “alignment can be perceived between political conditions, a specific problem at hand, and the existence of a policy idea that could provide an effective solution to that problem” (Mintrom & True, 2022). Thus, these alternatives are intended for implementation when a policy window for immigration reform opens.

The following alternatives explore two different approaches to policy change. The first two alternatives, amending the definition of a refugee and allowing for the adjustment of status follow an incremental approach to policy change. Incrementalism notes that policy change is more likely to build support when proposals build upon existing structures, frameworks, and policies (Mintrom & True, 2022). These proposed alternatives build upon existing refugee policies and TPS statute to allow for longer term pathways to citizenship for recipients. The third alternative, creating a Complementary Pathway program, is built upon the theory of radical policy change, which calls for change that moves past current practices and establishes new policies that better suit the current environment (Schroedel, 2019). Because the third alternative is in the scenario-planning phase, only the first two alternatives will be evaluated. The third alternative will provide an outline of what this policy may look like, along with questions that must be explored to make it feasible.

Alternative One: Amend the Definition of a Refugee

Overview

Congress could amend the definition of a refugee to include those fleeing political violence or an environmental disaster to provide TPS recipients a pathway to permanent status (Bergeron, 2014; Martin et al., 1998). By broadening the definition of a refugee, scholars note that TPS recipients could qualify for asylum status, which does provide a pathway to permanent status in the United States. Under this qualification, U.S. law prevents sending refugee seekers back to countries where they will face persecution, requiring a permanent pathway to remain in the country. This will allow U.S. immigration courts to make decisions on applications for refugee status on an individual basis, as is the status quo under refugee policies.

Mexico's refugee law may serve as a template for this amendment. The 1984 Cartagena Declaration on Refugees defines refugees as:

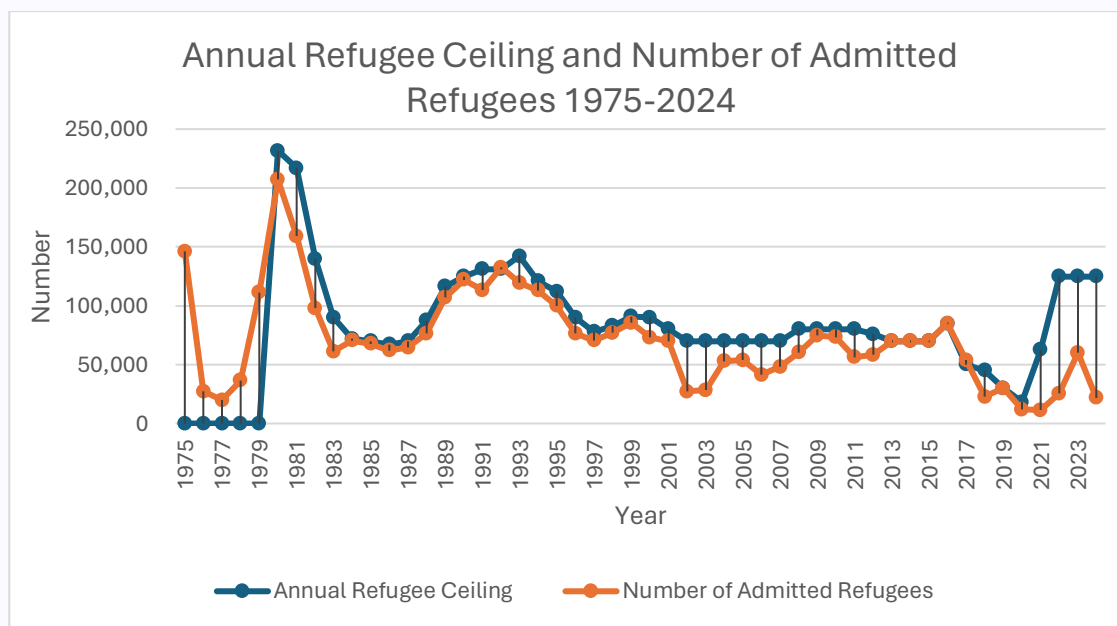
“Persons who have fled their country because their lives, safety, or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violations of human rights, or circumstances which have seriously destroyed public order” (Frelick, 2020)

This alternative proposes using similar wording as a framework for an amendment to the current law. To alter the definition of a refugee in the United States, Congress must propose and pass an amendment to the Refugee Act of 1980. Additionally, this would require an increase in the annual quota for refugee admissions, which is set by the President through consultation with Congress (Mathema & Carratala, 2020). The cap must be set at a minimum of 50,000 annual admissions. This number is derived from the Department of State's proposal to admit between 35,000 and 50,000 refugees from Latin American for FY2024 (Alvarez, 2023). Though President Biden reallocated 30,000-50,000 admissions slots for the region, he did not increase the refugee cap at all from FY2023, highlighting an overall need to increase admissions (Alvarez, 2023). There would need to be a significant increase in funding through Congress for the reception and placement of this new class of refugees. Funding would also be required to hire additional refugee officers within DHS and State to vet and process the increasing number of applications (Mathema & Carratala, 2020). Though difficult to pass, adjusting the definition of who qualifies for refugee status would provide a permanent pathway to citizenship for a greater number of TPS beneficiaries.

Protection of Longest-Receiving Beneficiaries

This alternative requires the raising of the refugee admissions cap to allow for the additional individuals who are eligible for refugee status from this policy change. The FY 2023 and FY 2024 refugee admissions ceilings were set at 125,000 total admissions (Batalova, 2023). Given that the number of TPS beneficiaries far exceeds the allowed admissions, the refugee ceiling must be raised to at least 150,000. Under current conditions, there is a significant gap in the refugee admissions ceiling and the number of admits per year (See Figure 1). This discrepancy is in part due to the significant backlogs that the current system is facing. According to MPI data (2023), over 1.3 million asylum applications were waiting to be processed, 750,000 of which are pending status in immigration courts. The average processing time for asylum cases in immigration courts is 4.2 years (Batalova and Ward, 2023). Given these constraints, it is very unlikely that those previously receiving TPS status for over 14 years, like Venezuelans and Nicaraguans, would receive asylum status in large numbers. Relative to the other alternatives, this alternative is less likely to provide protection for the longest-term TPS recipients, scoring **low** overall.

Figure 2: Annual Refugee Ceiling and Number of Admitted Refugees



Source: Migration Policy Institute (MPI) Data Hub <https://www.migrationpolicy.org/programs/migration-data-hub>

Political Feasibility

Political feasibility for this alternative is evaluated based on the assumption that the current administration remains in office after the 2024 election cycle. The Biden Administration has reaffirmed their commitment to welcoming refugees by maintaining a decades-high cap for

FY2024. In addition to the refugee cap increase, the amount of admitted refugees under the Biden Administration has continued to increase, doubling acceptances from FY2022 to FY2023 (“Report to Congress on Proposed Refugee Admissions for Fiscal Year 2024,” n.d.). It is likely that President Biden would support this amendment.

Though there has been significant support from the Administration to provide greater protection to refugees, most of the comprehensive immigration policies proposed in the recent decades have been blocked in Congress. The last significant immigration bill passed was the 1986 Immigration Control and Reform Act, which signals the difficulty in getting legislation passed (Karmarck & Stenglein, 2019).

The \$118 billion Bipartisan Border Security Bill introduced in February 2024 is a prime example of the Congressional gridlock that will make this alternative highly unlikely to come to fruition. Though the content of the bill is outside of the scope of this analysis, the response can help to predict future responses. This immigration policy was met with significant right-wing opposition. House of Representatives Speaker Mike Johnson asserted that the bill would be “dead on arrival” if it reaches the House (Cowan & Pitas, 2024). House Majority Leader Steve Scalise attacked the bill, claiming that it would be a magnet for more unauthorized immigration (Cowan & Pitas, 2024). Ultimately, after former President Trump openly spoke out against the bill, it lost Republican support and failed to pass Congress (Garritty, 2024). Given recent opposition by Republican leaders, it is highly unlikely that this alternative would be politically feasible. However, because of the current Administration’s commitment, this alternative is **feasible**.

Sustainability

If this alternative were to be enacted, it would require an amendment to the Refugee Act of 1980. Though difficult to pass, creating this amendment would enshrine the definition of refugees in law, making this alternative likely to have a long-term impact. It is difficult to overturn a law, particularly in such a divided Congress. Therefore, it is **likely** that amending the definition of a refugee would provide long-term protection.

Program Cost

Though it is difficult to calculate the economic cost required for this alternative, the framework of the Emergency National Security Supplemental Appropriations Act of 2024 can be used to estimate parameters. The bill proposed \$3.995 billion to United States Citizenship and Immigration Services for the hiring of 4,338 additional asylum officers and other personnel (National Immigration Forum, 2024). It also provided \$440 million to the Department of Justice to hire additional immigration judge teams to expand the capacity of immigration courts (National Immigration Forum, 2024). Lastly, current estimates of refugee resettlement assistance indicate that each arrival receives \$2,275 for their direct support and resettlement (Bruno, 2023). The 2024 Act proposed an additional \$2.334 billion in funding for refugee assistance, funding various social

services for newly arrived individuals (National Immigration Forum, 2024). See Appendix C for full cost calculation. Though the full \$2.334 billion may not be required for this alternative, it helps to create an upper bound for the economic cost. Assuming these are the only costs necessary, this program would require approximately **\$6.725 billion** in funding, making this alternative high in cost.

Alternative Two: Allow for the Adjustment of Status

Overview

Allowing for the adjustment of status for a certain class of TPS beneficiaries can be an effective way of allowing for permanent residence in the United States. Current immigration literature explores the practice of allowing for the automatic adjustment of status to Lawful Permanent Residence (LPR) if the federal government does not find a country safe to return to after a particular date (Bergeron, 2014; Frelick, 2020; Martin et al., 1998). LPR status, often referred to as a “green card,” allows individuals to permanently work and reside in the United States, as well as be protected by all United States laws (USCIS, 2015). Under LPR status, recipients have the ability to become naturalized citizens after five years. Thus, this approach would provide a long-term pathway to citizenship for TPS beneficiaries who would have otherwise had no mechanism of adjustment. This approach uses Colombia’s ETPV policy as a framework for the provision of adjustment to permanent legal status through the use of a temporary protection.

Under current law, TPS holders who otherwise entered the country unlawfully are not eligible for the adjustment of status. The Immigration and Nationality Act of 1952⁴ provides that to qualify for LPR, individuals must be inspected and paroled into the United States (USCIS). In the 2021 Supreme Court case, *Sanchez v. Mayorkas*, the Court upheld that TPS does not constitute admissions that allow for adjustment (Hillel, 2022).

Given this precedent, this alternative would require Congress to pass a new law that authorizes a certain group of TPS recipients to apply for the adjustment of status to LPR. Under this law, TPS recipients from the countries with the longest TPS protection, El Salvador, Honduras, Nicaragua, Somalia, and Sudan, that have been in the United States by the specified date for receiving TPS, would be automatically eligible for LPR status. These countries would receive a special cancellation of removal, allowing individuals from these countries to permanently remain in the country. Individuals must have been continuously present in the United States for at least three years, have been granted TPS, demonstrate good moral character, and must be able to pass applicable background checks to qualify for adjustment.

This law would be modeled after similar actions taken by Congress such as the Cuban Adjustment Act of 1966⁵ and the Nicaraguan Adjustment and Central American Relief

⁴ The Immigration and Nationality Act of 1952 organizes the structure of immigration law in the United States.

⁵ The Cuban Adjustment Act of 1966 allows Cuban citizens who were inspected and paroled after January 1, 1959, and have lived in the United States for at least one year after filing Form I-485 to receive LPR status. This has granted over 1 million Cubans permanent status (Bergeron, 2014).

Act.⁶ Though outside the scope of this project, these acts suspended deportation and allowed for the adjustment to permanent status for these groups that have established deep roots in the country (Congressional Research Service, 1998). The proposed law would follow this precedent.

After the law is passed, each application would pass through the United States Citizenship and Immigration Services (USCIS) Application Support Centers for processing and interviewing. Ultimately, USCIS will have the authority to approve or deny applications. For this law to be effective, there must be increased funding by Congress to hire more immigration judges, asylum officers, and other personnel support within the federal government. This would ensure faster processing of applications, as well as an increased capacity for reviewing applications and interviewing individuals.

This policy change does not provide a long-term solution for all TPS beneficiaries but does provide protection for the longest-receiving individuals. If this policy change proves successful at allowing large numbers of TPS beneficiaries who have resided in the United States for over 20 years, Congress may consider offering the adjustment to a wider range of TPS beneficiaries. This alternative proves promising at providing adjustment for groups that have received TPS the longest.

Protection of Longest Receiving Beneficiaries

This alternative would require Congress to pass a law that allows for the longest receiving countries to adjust to LPR. These countries are El Salvador, Honduras, Nicaragua, Somalia, and Sudan, all of which have received TPS status for at least 20 years. Of the approximately 700,000 current TPS beneficiaries, this would provide around 300,000 individuals a path to permanent residence, which is nearly half of all TPS recipients (Roy & Klobucista, 2023). Though not all recipients would have access to long-term status, those who have been in the United States the longest and have established their livelihoods will be the ability to adjust their legal status. Therefore, this alternative ranks **high** on the protection of the longest-receiving beneficiaries.

Political Feasibility

Altering the TPS statute in any way is incredibly difficult. To amend the 1990 Immigration Act which established TPS, a three-fifths super majority in the Senate is required (Bergeron, 2014). Given the challenges of a highly polarized Congress, it is unlikely to garner the support needed. Therefore, establishing a new law that allows for the adjustment of a smaller group of beneficiaries through Congressional action may prove more feasible than amending TPS entirely, given that it would not require the adjustment of TPS statute.

⁶ The Nicaraguan Adjustment and Central American Relief Act allows Salvadorans who entered the United States before September 19, 1990, and received TPS status to apply for a special cancellation of removal, which granted them access to permanent residence (Bergeron, 2014).

With that being said, this alternative is politically challenging to implement due to the highly contentious nature of immigration policy. According to Gallup (2023), 41% of Americans believe that immigration to the United States should be decreased, which follows an upward trend over the last four years. As noted previously, there has not been significant immigration reform passed since 1986, which makes it challenging to pass this alternative.

Additionally, recent legislation regarding TPS has failed to pass through Congress. A key example is the TPS and DED Protection Act of 2021⁷. This bill would have provided a pathway to citizenship through LPR status for those who had or were eligible for TPS (Actions-H.R. 2064, 2021). This bill was referred to the House Subcommittee on Immigration and Citizenship, where it died. Additionally, in 2023 a coalition of Democratic senators introduced the Safe Environment from Countries Under Repression and in Emergency (Secure) Act, which would have allowed qualified TPS recipients to apply for LPR status (*U.S. Senator Ed Markey of Massachusetts*, 2023). Again, this bill failed to pass through its committee. Given the highly politicized nature of immigration policy and the failure to pass similar legislation in the past, this alternative is **very infeasible** relative to the first alternative proposed.

Sustainability

This alternative would require Congressional action to pass a new law to allow for the adjustment of long-term TPS recipients to LPR status. The president could veto the bill, but given the Biden Administration's commitment to immigration reform, it is unlikely. Given that this protection would be enshrined in law, it would be difficult to overturn. Therefore, it is **likely** that this alternative would provide sustainable across administrations.

Program Cost

It is difficult to estimate the true economic cost required to implement this policy. Therefore, the proposed costs of the Emergency National Security Supplemental Appropriations Act of 2024 will be evaluated to produce an upper bound estimate of the program cost. This alternative would require the hiring of additional immigration judges and personnel to process additional applications. The 2024 Act allocated \$440 million to the Department of Justice for increasing the capacity of immigration courts, which is necessary for this alternative (National Immigration Forum, 2024). Additionally, \$3.995

⁷ The TPS and DED Protection Act of 2021 would have provided a path to permanent resident status for qualifying individuals. They must have been present for at least three years before the bill was passed to qualify. This bill would have allowed the parents, spouse, or unmarried child of the individual also be admitted for permanent residence (Actions-H.R.2064, 2021).

billion to the United States Citizenship and Immigration Services is important to increase operational capacity and process applications in a timely manner (National Immigration Forum, 2024). Though there may be other costs associated with creating this bill, these estimates are difficult to acquire so they are not factored into this evaluation. These costs would need to be further explored should this policy be implemented. See Appendix C for full cost calculation. In total, an upper bound estimate of the cost for allowing for the adjustment of status is approximately **\$4.435 billion**. This alternative is less expensive than amending the definition of a refugee because it does not require increased funding for refugee assistance.

Alternative Three: Create a Complementary Pathway Program

Overview

This alternative provides a scenario-planning outline utilizing frameworks from other countries to present a picture of what complementary protection could look like. This alternative is still in the planning and information-gathering stage and cannot yet be evaluated. Instead, this section provides ideas about what elements could be included, as well as questions to be explored further by PRM. Mexico's complementary protection program provides a strong framework that PRM could use to build off of for the U.S. context, as the program provides permanent residence.

This alternative creates a complementary program that can be utilized alongside TPS. This program would allow for individual protection from deportation that would eventually facilitate permanent residence in the United States for a large group of TPS beneficiaries. This proposal builds onto the framework established by the EU, subsidiary protection⁸, to cover individuals who would otherwise receive TPS. EU member states, except Ireland and the United Kingdom, are required under the Qualification Directive of 2011 to grant third-country nationals subsidiary protection (*European Commission, 2019*). This protection offers individuals a residence permit, travel documents, access to employment and social welfare, and the ability to extend protection to family members (*Subsidiary Protection, UNHCR*).

This alternative requires the creation of a new form of legal status based on the European Union's adoption of subsidiary protection:

“A form of international protection granted in some countries to persons found not to meet the Convention definition of a refugee but who face real risk of serious harm in their country of origin or country of former habitual residence. This includes the death penalty or execution, torture or inhumane or degrading treatment, or serious and individual threat to their life or person by reason of indiscriminate violence in situations of armed conflict” (*UNHCR, n.d.*).

In addition to this definition, those who experience environmental disasters (such as earthquakes or hurricanes) will also be included, using the same definition of environmental disaster as TPS (*Temporary Protected Status | USCIS, 2024*). This policy

⁸ The EU Qualification Directive defines Subsidiary Protection as the “protection given to a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to their country of origin, or in the case of a stateless person to their country of former habitual residence, would face a real risk of suffering serious harm defined in Art. 15 of [Directive 2011/95/EU \(Recast Qualification Directive\)](#), and to whom Art. 17(1) and (2) of this Directive do not apply, and is unable or, owing to such risk, unwilling to avail themselves of the protection of that country” (*Subsidiary Protection, UNHCR*).

would provide legal protection to those who do not qualify as refugees but who are unable to return to their countries due to harm faced. This program would align with the United Nations principle of non-refoulement as defined previously (*The 1951 Refugee Convention*, n.d.).

Elements of Complementary Protection

Complementary protection is distinct from TPS because it is offered on an individual basis rather than as a blanket program. The priority of complementary protection is to keep families together and allow for long-term residence in the country. Complementary protection is less durable than LPR status because it provides renewable residence permits for one-year periods but provides a wider range of options for adjustment status (Bergeron, 2014; Frelick, 2020). In alignment with Subsidiary Protection, complementary protection will allow for the adjustment to LPR status after a period of five years. Like Subsidiary Protection, recipients of complementary protection may not be eligible for LPR status if the circumstances in their country have improved so protection is no longer necessary (Bergeron, 2014). The five-year period before authorization of LPR status will allow DHS, PRM, government bureaus to monitor the conditions that caused the individual to leave their country to determine if permanent status is necessary (Bergeron, 2014; Frelick, 2020).

TPS will continue to be utilized for mass influxes of people as a response to a temporary circumstance⁹, whereas complementary protection will offer individuals facing longer-term threats a permanent means of status (Bergeron, 2014; Frelick, 2020). This new status creates a sense of psychological safety amongst beneficiaries because it relieves the imminent threat of deportation that TPS provides every 18 months when the Secretary of DHS must decide on the status of TPS.

Complementary protection would be granted on an individual basis through an application similar to that used for asylum status that must occur within the United States. This program would allow individuals to receive residence and work permits for five years and would offer the ability to apply for LPR status afterward if all LPR criteria are met (Bergeron, 2014; Frelick, 2020). Complementary protection would provide its recipients the same protections afforded to asylees, including an employment authorization, medical assistance, and other refugee support services (*Refugees | USCIS*, 2022).

Similarly to the conditions outlined in the Emergency National Security Supplemental Appropriations Act of 2024, this policy could include a process by which the secretary of DHS can utilize emergency authority to pause applications, should they exceed a particular number in a calendar week to avoid overloading the system. This draws upon

⁹ For example, in the European Union In 2022, after experiencing an influx of Ukrainians fleeing the war with Russia, the EU rolled out the Temporary Protection Directive (TPD). TPD provides temporary protection from deportation, a work authorization, and social services to over 5 million Ukrainians and will end protection when the war terminates (Ineli-iger, 2023).

lessons learned through Mexico's case study, which illuminated the need for sufficient capacity in order to effectively implement protection (National Immigration Forum, 2024). PRM should coordinate with USCIS, the agency that will process these applications, to determine the capacity limit.

Questions To Be Explored



What should the elements of complementary protection look like to differentiate it from TPS further?

- Information gathered from informal interviews with former policymakers suggest that this status could gain political support if there are exceptions that are tied to business-related professions that may help increase the workforce.
- Could complementary protection include forms of social and economic supports, similar to those described in the above case studies in the EU and Turkey to improve ease of integration?



What would the application process look like for each of the steps of complementary protection?

- Allowing for automatic adjustment to LPR status after the five-year period would require less oversight for USCIS officials and help reduce the cost, as they would not have to conduct in-depth interviews again for adjustment. This idea was suggested through an informational interview with a former immigration policymaker who explained that fewer touches with USCIS officers throughout each step of the process makes the program less expensive and more efficient.



How could PRM work to include current beneficiaries of TPS into this new status?

- Conversations with a former immigration lawyer indicate the possibility of allowing those who have been in the US for over five years under TPS to automatically adjust to LPR status, given that they meet the five-year requirement for adjustment required under complementary protection.

Findings Matrix

Table 2: Findings Matrix

	Criteria One: Protection for the longest-term recipients	Criteria Two: Political Feasibility	Criteria Three: Sustainability	Criteria Four: Program Cost
Alternative One: Amend the definition of a refugee	Low: ~25,000	High	Likely	\$6.73 billion
Alternative Two: Allow for the adjustment of status	High: ~300,000 beneficiaries	Low	Likely	\$4.44 billion

**Yellow highlight indicates the better score for each criterion*

Recommendation

Given the evaluation of both alternatives, allowing for the adjustment of status is the most effective alternative. This alternative is significantly less expensive than amending the definition of a refugee, which would make the alternative more feasible to be passed into law when the policy window does open. This alternative is also sustainable given that it will be enshrined in a law, which is difficult to reverse. Allowing for the adjustment of status for people who have received TPS protection the longest provides long-term protection for about 50% of the TPS beneficiaries. Although this alternative is less feasible politically, it ranks higher on all other criteria, solidifying its position as the stronger alternative for providing long-term status to the longest-receiving TPS recipients. This analysis operates under the assumption that the alternatives will not be actionable until Congress and the Executive Office are ready to engage in immigration reform. Therefore, allowing for the adjustment will be an effective means for permanent legal protection in the United States for a significant number of TPS recipients.

Implementation Plan

Coalition-Building with Relevant Stakeholders

As noted above, PRM does not have direct authority over TPS, nor does it have the agency to create laws. Thus, PRM must advocate for the passage of this new law to allow for the adjustment for status for the five longest-receiving TPS countries (El Salvador, Honduras, Nicaragua, Somalia, and Sudan). To do so, PRM should build a coalition of stakeholders that can help push for the passage of this policy and implement it. Public policy analysts such as Michael Mintrom, director of Better Governance and Policy at Monash University, have explained that there are important steps to take in developing policy before a bill ever goes before Congress. This work includes building coalitions, utilizing policy networks, collecting evidence, and sharing knowledge with different stakeholders to prepare for change (Mintrom & True, 2022). PRM should take steps to develop the policy that will allow for the adjustment of status in alignment with the work Mintrom and other policy analysts recommend.

PRM must build a coalition with Congressional members that can help propose and push the bill forward. Some of the most significant current Congressional stakeholders include Senators Catherine Cortez Mendoza (D-NV), Richard Durbin (D-IL), Ben Ray Lujan (D-NM), and Alex Padilla (D-CA), who have all submitted written testimony to request the cancellation of removal for TPS beneficiaries (Cortez Masto et al., 2023). Garnering bipartisan support on this bill will increase the likelihood of passage, thus targeting Republican Congresspeople is necessary for success. Senators Mitt Romney (R-UT), Susan Collins (R-ME), and James Lankford (R-OK) all supported the Emergency National Security Supplemental Appropriations Act of 2024, which proposed significant changes to the immigration policy structure, thus it is likely they would back this policy change. Republican leaders are needed to help build party support for immigration reform and ensure the bill is passed. These individuals are the necessary force to translate the research that PRM has on TPS into legislative action.

PRM must also **collaborate with the United States Citizenship and Immigration Services (USCIS)** to ensure the success of this policy change. USCIS would be responsible for the implementation of the adjustment of status for beneficiaries; therefore, they must be involved in the development of this policy. One of anticipated critiques of this policy will be USCIS' current capacity to process applications. As noted in the alternatives section, there are significant backlogs for asylum and LPR applications, and additional applications would further constrain the ability to process cases in a timely manner. To address this concern, USCIS must be consulted to determine the necessary infrastructure needed to implement this policy change. This infrastructure should include new technologies and personnel to process cases. Additionally, when the bill is proposed by the members of Congress, USCIS can provide written or verbal testimony on the necessity of passing this bill. Given the already-established relationship of PRM and

USCIS, noted through informational interviews with employees of both agencies, the cross collaboration on this policy will help ensure that the longest-receiving beneficiaries have the ability to adjust to a permanent legal status.

It is also important that **PRM include relevant immigration advocacy organizations** such as FWD.US, the TPS-DED Administrative Advocacy Coalition, United We Dream, and the National TPS Alliance, all of whom would be supportive of granting pathways to citizenship for long-term TPS beneficiaries. These nonprofits can help to build public support for the new policy because they have an expansive reach and are often the ones working on the ground to ensure the take-up of immigration policies. Additionally, because these organizations are deeply connected to populations with TPS, this collaboration can help to ensure that the needs and perspectives of TPS beneficiaries are being represented in the policy making process. This is an important step as it ensures those most directly impacted by the new policy will be consulted in the process. Finally, along with USCIS, these organizations can provide written and verbal testimony to help persuade legislators to push the bill forward. This coalition building is a necessary step towards both the passage and implementation of the policy.



Source: <https://unitedwedream.org/>; <https://www.tpsdedaac.org/>; <https://www.nationaltpsalliance.org/>; <https://www.fwd.us/>

Anticipated Challenges

It is likely that the proposal will be met with *significant* pushback from Conservative stakeholders who fear that the policy change will draw more people to migrate. These concerns have already been expressed through informal interviews conducted with various stakeholders. In order to counter these arguments, PRM should provide a strong evidence base to disprove the idea that TPS will be a pull factor for immigration. There are several studies, including one from the Center for American Progress (CAP), that disproves the theory that TPS draws people to migrate to the United States out of the hopes of receiving permanent citizenship (Leblang et al., 2018; Wong et al., 2021). PRM should work with this coalition **to make this research widespread and accessible to the public through infographics.**

Literature on perceptions of immigration including a study from VoxEU (2017), finds promising results that the dissemination of true information on immigration, including

unemployment rates and rates of English speaking among immigrants, helps to improve their opinions about immigrants and motivates people to act at higher rates (Roth et al., 2017). Therefore, it is likely that by sharing data on the true impacts of TPS, public support for pathways to citizenship will increase. Utilizing the already-established research by CAP and other research institutions, PRM should create these infographics and employ this coalition to disseminate the information in order to build widespread support for immigration reform. This strategy will help to counter fears about this policy and generate greater bipartisan support.

Conclusion

Advocating for the adjustment of status for the longest-receiving beneficiaries, El Salvador, Honduras, Nicaragua, Somalia, and Sudan, allows for the protection of families and livelihoods established by these groups. Though it does not provide permanent legal status for all TPS beneficiaries, it is a step towards granting all beneficiaries long-term protection. As PRM advocates for this policy change, it is important to center the needs of TPS beneficiaries at the heart of the work that is done. This means continuing to highlight the voices, stories, and needs of TPS recipients so that policy changes best reflect and represent this group.



Source: (Madeo. 2018. "Why We Must Defend Temporary Protected Status for Immigrants." American Friends Service Committee. Retrieved April 4, 2024 (<https://afsc.org/news/why-we-must-defend-temporary-protected-status-immigrants>).

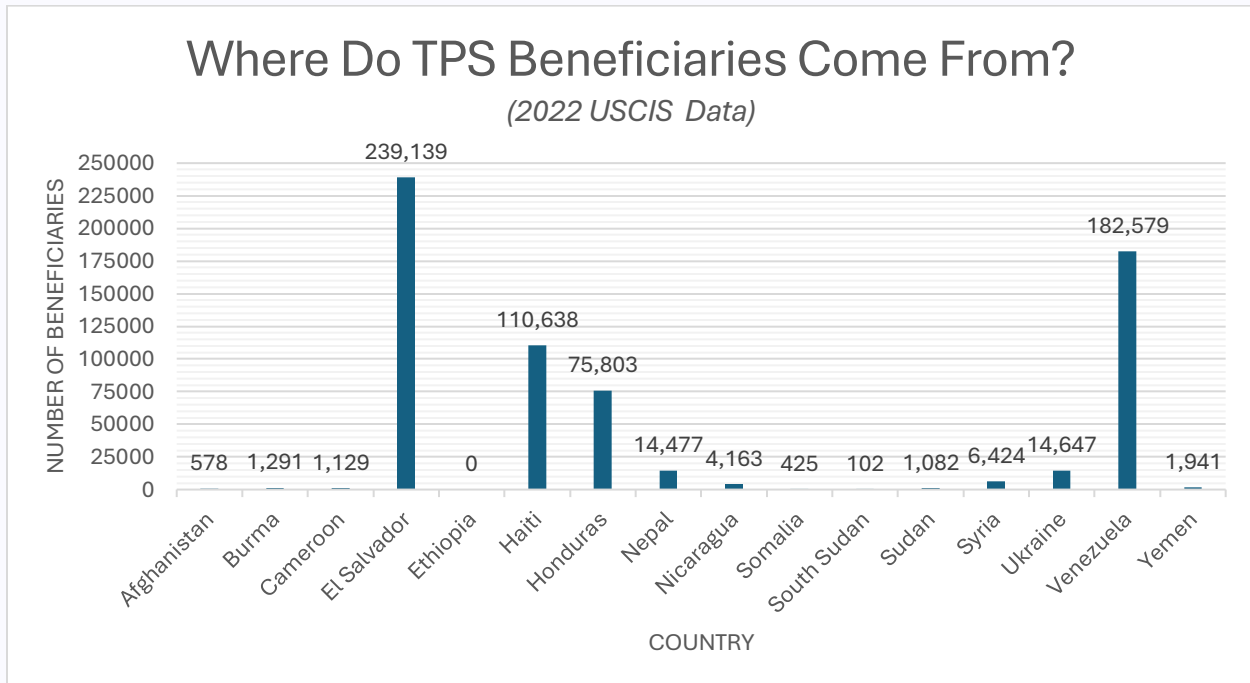
Appendix

Appendix A: TPS Terminated Countries

Countries Whose TPS Designation Was Terminated	
Angola	2000-2003
Bosnia-Herzegovina	1995-2000
Burundi	1997-2007
Guinea	2014-206
Guinea-Bissau	1999-2000
Kuwait	1991-1992
Lebanon	1991-1993
Liberia	1991-2018
Montserrat	1997-2004
Province of Kosovo	1998-2000
Rwanda	1996-1997
Sierra Leone	1997-2016

Source: (Executive Office for Immigration Review | Temporary Protected Status (TPS), 2015)

Appendix B: Where Do TPS Beneficiaries Come From?



Source (Temporary Protected Status: Calendar Year 2022 Annual Report, 2023)

Appendix C: Cost Calculation

Alternative One:

$$\$3,995,000,000 + \$440,000,000 + \$2,334,000,000 = \$6,725,000,000$$

Alternative Two:

$$\$3,995,000,000 + \$440,000,000 = \$4,435,000,000$$

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