

FINDINGS AND RECOMMENDATIONS

PRINCIPAL FINDINGS

- **2020 Election Considerations Were Injected into the Decision to End TPS for El Salvador, Honduras, and Haiti.** Trump administration political appointees in the State Department Office of Policy Planning sought to accelerate ending TPS to avoid hundreds of thousands of TPS recipients losing their status during the height of the 2020 election. Secretary of State Rex Tillerson’s staff thus put political concerns above the adverse effects on U.S. national security and the personal safety of nearly 400,000 TPS recipients and their estimated 273,000 American children.¹⁸⁰
- **The Trump Administration Intentionally Ignored Risks to U.S. National Security Priorities.** The Trump administration sought to terminate TPS for El Salvador, Honduras, and Haiti, despite the repeated warnings of senior State Department officials that ending TPS could endanger long-standing U.S. foreign policy objectives in the three countries, including combatting drug trafficking, countering violent criminal gangs, such as MS-13, strengthening the rule of law, and tackling obstacles to economic development. Advancing these foreign policy priorities is essential to addressing the underlying factors driving irregular migration to the United States.
- **Trump Administration Officials Knew that Ending TPS Would Jeopardize U.S. Counternarcotics Cooperation and Strengthen Criminal Gangs, Like MS-13.** Secretary Tillerson recommended terminating TPS despite acknowledging that the “[t]ermination of TPS will also likely generate a backlash from the governments [...], particularly the Honduran and Salvadoran governments” and that “[t]hey may take retaliatory actions counter to our long-standing national security and economic interests like withdrawing their counternarcotics and anti-gang cooperation.”¹⁸¹ The State Department also documented that returning TPS recipients to El Salvador would leave them and their accompanying American children vulnerable to recruitment by transnational criminal organiza-

¹⁸⁰ The number of TPS recipients comes from data provided by USCIS to the Congressional Research Service. CRS, *Temporary Protected Status: Overview and Current Issues*, at 5, Table I. The number of TPS recipients’ children comes from Warren & Kerwin, *A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti*, at 581.

¹⁸¹ Tillerson Letter at 1.

tions and that it would fuel “the growth of MS-13 and similar gangs.”¹⁸² The Trump administration ignored these warnings.

- **The Trump Administration Was Aware that Ending TPS Would Put the Personal Safety of nearly 400,000 TPS Recipients at Risk.** In 2017, the U.S. Embassies in El Salvador, Honduras, and Haiti cautioned senior Trump administration officials at the National Security Council, State Department, and DHS that the three governments would be unable to guarantee the safety of repatriated TPS recipients. In El Salvador and Honduras, senior diplomats alerted the Trump administration that TPS recipients would be subject to alarming levels of criminal violence and would fall prey to drug traffickers and criminal gangs, such as MS-13. Disturbingly, the Trump administration ignored these risks.
- **The Trump Administration Knew its Decision Would Expose Thousands of American Children to Crime and Violence.** A State Department assessment of the country conditions in Honduras warned that a large number of deported TPS beneficiaries would be accompanied by their American children, “many of whom would be vulnerable to recruitment by gangs.”¹⁸³ Recognizing that levels of violence in El Salvador are among the highest outside a war zone, the U.S. Embassy in San Salvador cautioned that U.S.-citizen children would be pushed “into the gangs or other illicit employment.”¹⁸⁴ Despite these risks to the safety of an estimated 273,000 American citizen children, the Trump administration still sought to end the three TPS designations.¹⁸⁵
- **Terminating TPS for the Three Countries Would Lead to an Unprecedented Wave of De Facto Forced Family Separation.** Given the widespread violence, crime, and precarious social conditions present in the three countries, hundreds of thousands of TPS recipients would confront the decision of leaving their American citizen children in the United States rather than taking them to countries with dangerous security conditions and limited economic and educational opportunities. An estimated 273,000 U.S. citizen children could face separation from one of their parents as a result of the Trump administration’s decision to end the TPS designations for El Salvador, Honduras and Haiti.
- **The Trump Administration Intentionally Made a Decision that Could Accelerate Irregular Migration to the United States.** Diplomatic cables from the U.S. Embassies in San Salvador, Tegucigalpa, and Port-au-Prince and the formal country assessments prepared by the State Department for DHS explicitly and repeatedly warned that deporting hundreds of thousands of TPS beneficiaries to countries that were unable

¹⁸² Country Conditions Report for El Salvador, Attachment to Henshaw Memorandum (Tab 5), at 7.

¹⁸³ Country Conditions Report for Honduras, Attachment to Henshaw Memorandum (Tab 7), at 4.

¹⁸⁴ San Salvador Cable at 21.

¹⁸⁵ The number of TPS recipients’ children comes from Warren & Kerwin, *A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti*, at 581.

to handle the influx of returns would incentivize a new wave of unauthorized immigration to the United States. Additionally, senior diplomats warned in writing that TPS recipients would likely be unable to find economic opportunities upon arriving in El Salvador, Honduras and Haiti, and would likely seek to return to the United States. Additionally, in his letter to DHS, Secretary Tillerson warned that ending TPS for El Salvador and Honduras could lead both governments to take retaliatory actions, including “refraining from efforts to control illegal immigration.”¹⁸⁶

- **Ending TPS Would Lead to a Deportation Campaign of a Potentially Unprecedented Scale.** The Trump administration’s move to end the TPS designations for El Salvador, Haiti, and Honduras will strip humanitarian protections and legal status from 388,368 foreign nationals currently residing lawfully in the United States—251,526 Salvadorans, 80,633 Hondurans, and 56,209 Hondurans.¹⁸⁷ Deporting nearly 400,000 people would constitute one of the largest forced removals of foreign nationals in the history of the United States. Former Undersecretary of State Thomas Shannon publicly expressed this concern after he resigned from the State Department. The State Department’s Bureau of Population, Refugees, and Migration (PRM) warned in writing that the magnitude of these deportations “would destabilize the region.”¹⁸⁸

RECOMMENDATIONS

1. **The Trump Administration Must Immediately Extend or Re-designate El Salvador, Honduras, and Haiti for TPS:** Although the Trump administration’s attempts to end the three TPS designations have been temporarily suspended by the courts, DHS has the authority to immediately provide a new 18-month extension to the TPS designations for El Salvador, Honduras, and Haiti or to re-designate the three countries for TPS due to the temporary and extraordinary conditions present in each. It is imperative that the Trump administration and DHS take immediate action.¹⁸⁹
2. **The Senate Must Pass the SECURE Act (S.879):** Introduced in March 2019, the Safe Environment from Countries Under Repression and Emergency Act (SECURE Act) would allow TPS recipients to apply for lawful permanent resident status to obtain a green card if they meet certain criteria, including passing all applicable criminal and national security checks. The bill would protect TPS recipients and TPS eligible individuals from El Salvador, Honduras, and Haiti, as well as

¹⁸⁶ Tillerson Letter at 2.

¹⁸⁷ The number of TPS recipients comes from data provided by USCIS to the Congressional Research Service. CRS, *Temporary Protected Status: Overview and Current Issues*, at 5, Table I.

¹⁸⁸ Henshaw Memorandum at 3.

¹⁸⁹ On October 28, 2019, the Trump Administration extended the work permits for Salvadoran TPS recipients until January 4, 2021 and one year beyond the end of current litigation related to the TPS designation for El Salvador. The Trump Administration made a similar announcement for Haiti, Honduras, Nepal, Nicaragua, and Sudan in early November 2019. The extension of work permits for TPS recipients confers legal residence in the United States during this period. It is not an extension of the TPS designation. See Chapter One.

Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria and Yemen. It would also protect eligible individuals from Guinea, Liberia, and Sierra Leone who were previously designated for TPS or Deferred Enforced Departure. The Senate should take up and pass this legislation, and end the legal limbo and uncertainty of TPS recipients.

3. **Congress Must Reform Existing TPS Statute:** The investigation conducted by Senate Foreign Relations Committee Democratic Staff revealed how Trump administration officials were able to deliberately discard the input of senior foreign policy practitioners at the State Department and the on-the-ground assessments of U.S. Embassies in El Salvador, Honduras, and Haiti. Congress must reform the existing statutory framework for TPS to ensure future decisions reflect objective analysis of existing country conditions as documented by U.S. Embassies abroad. Reform must incorporate and elevate considerations related to U.S. foreign policy and national security equities.
4. **The State Department OIG Should Investigate the Department's Decision to End TPS:** The State Department's Office of the Inspector General (OIG) should examine all the factors in the decision to end TPS for El Salvador, Honduras, and Haiti, including an assessment of the role electoral considerations played, and State Department's communications with the White House.
5. **The Trump Administration Must Fully Restore Foreign Assistance for Central America:** President Trump's March 2019 decision to cut and reprogram U.S. foreign assistance funding approved by Congress for El Salvador, Guatemala, and Honduras had severe consequences for U.S. national security interests and foreign policy objectives. U.S. foreign assistance to these countries helps to address the underlying factors driving irregular migration to the United States and to strengthen the countries' capacity to safely repatriate and reintegrate their citizens—objectives that would benefit the future return of TPS recipients and any of their American citizen children that accompany them. The Trump administration must immediately reverse its misguided decision and fully restore U.S. foreign assistance to Central America.¹⁹⁰
6. **Congress Must Pass Comprehensive Legislation on U.S. Policy Towards Central America:** The erratic nature of President Trump's decisions regarding U.S. foreign assistance for El Salvador, Guatemala, and Honduras, as well as his administration's inconsistent policies towards Central America, make it essential for Congress to authorize a long-term ap-

¹⁹⁰ On October 16, 2019, Secretary of State Mike Pompeo announced that the U.S. was restarting "targeted U.S. foreign assistance" for El Salvador, Guatemala, and Honduras. Media reports indicated that the funding covered by the announcement totals \$143 million, a small percentage of the approximately \$400 million in foreign assistance funding for Central America that the Trump Administration cut and reprogrammed in 2019. Press Statement, Secretary of State Mike Pompeo, Department of State, "United States Resumes Targeted U.S. Foreign Assistance for El Salvador, Guatemala, and Honduras," Oct. 16, 2019, *available at* <https://www.state.gov/united-states-resumes-targeted-u-s-foreign-assistance-for-el-salvador-guatemala-and-honduras/>; Nick Miroff, "President Trump says he will unfreeze security aid to Central American countries," *The Washington Post*, Oct. 16, 2019; *see also* Chapter 3.

proach to Central America. This legislation must establish key foreign policy priorities to address security, the rule of law, democratic governance, and economic development challenges; provide multi-year funding; require progress by Central American governments; and identify benchmarks to ensure the effectiveness of U.S. foreign assistance.

7. **Congress Must Pass Legislation to Strengthen Asylum and Migrations Systems in Latin America and the Caribbean:** Irregular migration has emerged as a major risk to stability across Latin American and the Caribbean, and a challenge for U.S. foreign policy. Given the Trump administration's irresponsible approach to the migration issues, Congress must pass legislation that establishes key policy priorities, ensures ongoing technical assistance to partner countries and multilateral institutions, and provides multi-year funding. Such an approach would also ensure greater support for TPS recipients that return to their countries of origin.
8. **GAO Must Fully Examine Politicization of the TPS Decision-Making Process:** The Government Accountability Office (GAO) is currently reviewing the process that led to the Trump administration's decision to terminate the TPS designations for El Salvador, Honduras, and Haiti. This review must fully account for efforts by political appointees in the White House, State Department, and DHS to politicize the decision-making processes related to the three TPS programs.
9. **The Senate Judiciary Committee and Senate Homeland Security and Governmental Affairs Committee Should Investigate Politicization of the TPS Process at DHS:** As the investigation of the Senate Foreign Relations Committee Democratic Staff exclusively focused on politicization of the TPS decision-making process at the State Department, the appropriate committees of jurisdiction—including the Senate Judiciary Committee and Senate Homeland Security and Government Affairs Committee—should review internal DHS deliberations for inappropriate partisan influence as the Trump administration sought to end the TPS designations for El Salvador, Honduras, and Haiti.