

March 6, 2024

Attorney General Merrick Garland
U.S. Department of Justice
950 Pennsylvania Ave, N.W.
Washington, DC 20530-0001

Secretary Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528-0525

Re: TPS Designations for Gender-Based Violence and Climate Change

Dear Attorney General Garland and Secretary Mayorkas,

Lawyers for Civil Rights (LCR) respectfully writes to urge the federal government to provide Temporary Protected Status (TPS) relief to migrants from countries experiencing an epidemic of gender-based violence and the ravages of climate change.

TPS provides humanitarian protection and relief based on the designation of countries with conditions that prevent the safe return of its nationals.¹ As such, it is well within the federal government's power and authority to expand TPS by designating countries facing crises of gender-based violence and climate change. In fact, a close examination of historical TPS designations amply demonstrates that – across Republican and Democratic administrations – gender-based violence and climate catastrophes have been highly relevant factors for making such designations. Building on this powerful precedent, we urge the federal government to conduct a comprehensive review of countries experiencing these conditions and to designate additional countries for TPS accordingly.

Gender-Based Violence

The federal government must deepen and expand TPS designations for countries where women and girls experience life-threatening violence. **We urge the federal government to affirmatively assess the prevalence of gender-based violence in Latin America, Africa, and Asia to identify additional countries that may be appropriate for TPS designation.**

TPS designations have long recognized that the pernicious effects of domestic violence and gender-based violence create conditions that make TPS designation essential.

¹ INA § 244(b)(1) (8 U.S.C. § 1254(b)(1)).

Because the federal government has recognized the prevalence of gender-based violence when granting TPS, there is ample precedent that such protections are not only permissible but necessary. For example:

- **El Salvador**'s 2023 TPS redesignation stresses the staggering levels of violence, especially the pervasive and high levels of gender-based violence.² As the redesignation notes: El Salvador's law enforcement and security apparatus play a key part in the violence, often perpetrating human rights violations and abuses, including sexual assaults.³
- TPS notices for **Somalia**⁴ from 2013, 2015, and 2021 highlighted the prevalence of gender-based violence, which disproportionately impacts internally displaced persons (IDPs).⁵ Somalia's 2023 TPS extension emphasizes that Somali women and girls are disproportionately exposed to high levels of conflict-related sexual violence,⁶ and notes that widespread gender-based violence in IDP camps may be underreported.⁷ Child marriages and forced marriages are also common forms of gender-based violence in Somalia.⁸ Federal designations for TPS for Somalia have continuously relied on these gruesome facts along gender lines.⁹
- Turning to **Sudan**, decades of civil war have led to continuous TPS designations for Sudan since 1997 and the creation of the new nation of **South Sudan**, which has received numerous TPS designation since its inception in 2011.¹⁰ South Sudan's first TPS designation in 2011 specifically cited patterns of violence with clear targeting of women.¹¹ In 2017, South Sudan's TPS designation identified that women have been particularly affected by the conflict.¹² The federal designation noted that sexual and gender-based violence is widespread, with the

² Reconsideration and Rescission of Termination of the Designation of El Salvador for Temporary Protected Status; Extension of the Temporary Protected Status Designation for El Salvador, 88 Fed. Reg. 40282, 40827 (Sept. 10, 2023).

³ *Id.*

⁴ Jill H. Wilson, Congressional Research Service, *Temporary Protected Status and Deferred Enforced Departure*, 18 (Dec. 11, 2023).

⁵ See Extension of the Designation of Somalia for Temporary Protected Status, 78 Fed. Reg. 65690 (Nov. 1, 2013); Extension of the Designation of Somalia for Temporary Protected Status, 80 Fed. Reg. 31056 (June 1, 2015); Extension and Redesignation of Somalia for Temporary Protected Status, 86 Fed. Reg. 38744 (July 22, 2021).

⁶ Extension and Redesignation of Somalia for Temporary Protected Status, 88 Fed. Reg. 15434, 15437 (Mar. 13, 2023).

⁷ *Id.* at 15438.

⁸ *Id.*

⁹ See Extension of the Designation of Somalia for Temporary Protected Status, 78 Fed. Reg. 65690 (Nov. 1, 2013); Extension of the Designation of Somalia for Temporary Protected Status, 80 Fed. Reg. 31056 (June 1, 2015); Extension and Redesignation of Somalia for Temporary Protected Status, 86 Fed. Reg. 38744 (July 22, 2021); Extension and Redesignation of Somalia for Temporary Protected Status, 88 Fed. Reg. 15434 (Mar. 13, 2023).

¹⁰ Jill H. Wilson, Congressional Research Service, *Temporary Protected Status and Deferred Enforced Departure*, 19–20 (Dec. 11, 2023).

¹¹ Designation of Republic of South Sudan for Temporary Protected Status, 76 Fed. Reg. 63629, 63630 (Oct. 11, 2011).

¹² Extension of South Sudan for Temporary Protected Status, 82 Fed. Reg. 44205, 44206 (Sept. 21, 2017).

United Nations Human Rights Council reporting a 61% increase in the number of incidents of sexual or gender-based violence reported between 2015 and 2016.¹³ South Sudan's 2019 extension continued to identify nearly 2,300 reported cases of gender-based violence.¹⁴ Sudan's 2023 TPS redesignation refers to numerous reports of gender-based violence, including sexual violence.¹⁵

- In **Haiti**, a country that has been racked with violence, the January 2010 earthquake left hundreds of thousands of people homeless, and resulted in a TPS designation that remains in effect through August 4, 2024.¹⁶ TPS extensions issued between 2011 and 2017 repeatedly identified gender-based violence as a serious concern for those living in IDP camps.¹⁷ In 2014, the TPS extension notice categorically noted that the 2010 earthquake exacerbated gender-based violence and domestic violence.¹⁸
- In **Ethiopia**, conflict has resulted in large-scale displacement and humanitarian crises.¹⁹ Accordingly, Ethiopia received a TPS designation in 2022.²⁰ Ethiopia's TPS designation describes human rights abuses, including gender-based violence.²¹
- In **Syria**, armed conflict has resulted in continuous TPS designation since 2011.²² Syria's 2013 TPS extension cited incidents of women being subjected to sexual and gender-based violence at road checkpoints and during house searches.²³

As these examples amply demonstrate, gender-based violence triggers TPS designation. The federal government – regardless of the political party in power – has consistently prioritized protecting women and girls from human rights abuses and

¹³ *Id.*

¹⁴ Extension of the Designation of South Sudan for Temporary Protected Status, 84 Fed. Reg. 13688, 13690 (April 5, 2019).

¹⁵ Extension and Redesignation of Sudan for Temporary Protected Status, 88 Fed. Reg. 56864, 56867 (Aug. 21, 2023).

¹⁶ Jill H. Wilson, Congressional Research Service, *Temporary Protected Status and Deferred Enforced Departure*, 13–15 (Dec. 11, 2023).

¹⁷ See Extension and Redesignation of Haiti for Temporary Protected Status, 76 Fed. Reg. 29000 (May 19, 2011); Extension of the Designation of Haiti for Temporary Protected Status, 77 Fed. Reg. 59943 (Oct. 1, 2012); Extension of the Designation of Haiti for Temporary Protected Status, 79 Fed. Reg. 11808 (Mar. 3, 2014); Extension of the Designation of Haiti for Temporary Protected Status, 80 Fed. Reg. 51582 (Aug. 25, 2015); Extension of the Designation of Haiti for Temporary Protected Status, 82 Fed. Reg. 23830 (May 24, 2017).

¹⁸ Extension of the Designation of Haiti for Temporary Protected Status, 79 Fed. Reg. 11808, 11810 (Mar. 3, 2014).

¹⁹ Jill H. Wilson, Congressional Research Service, *Temporary Protected Status and Deferred Enforced Departure*, 13 (Dec. 11, 2023).

²⁰ Designation of Ethiopia for Temporary Protected Status, 87 Fed. Reg. 76074 (Dec. 12, 2022).

²¹ *Id.* at 76076.

²² Jill H. Wilson, Congressional Research Service, *Temporary Protected Status and Deferred Enforced Departure*, 20 (Dec. 11, 2023).

²³ Extension and Redesignation of Syria for Temporary Protected Status, 78 Fed. Reg. 36223, 36226 (June 17, 2013).

gender-based violence. This is a fundamental feature of humanitarian protection and relief. **We urge the federal government to continue these efforts by systematically assessing the prevalence of gender-based violence in Latin America, Africa, and Asia to identify additional countries that may be appropriate for TPS designation.**

Climate Change

Since its inception, TPS has also protected migrants facing environmental disasters. Currently, the world faces a growing and escalating climate crisis. The prevalence and severity of environmental disasters are increasing at alarming rates with no end in sight.²⁴ Accordingly, the federal government must expand its use of TPS to guarantee safe haven for migrants bearing the brunt of the devastation from the climate crisis.

TPS designations for Honduras²⁵ and Nicaragua²⁶ set important precedents for granting TPS based on climate disasters:

- Due to the devastation caused by Hurricane Mitch, **Honduras** received TPS designation in 1999.²⁷ Continuous re-designations reflect the critical support TPS provides amidst the unrelenting effects of the climate crisis. For example, in 2002, the Attorney General extended TPS for twelve months, noting that

²⁴ Core Writing Team, H. Lee and J. Romero, Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report Summary for Policymakers*, 4–7 (2023).

²⁵ See Designation of Honduras Under Temporary Protected Status, 64 Fed. Reg. 524 (Jan. 5, 1999); Extension of Designation of Honduras Under Temporary Protected Status Program, 65 Fed. Reg. 30438 (2000); Extension of the Designation of Honduras Under the Temporary Protected Status Program, 66 Fed. Reg. 23269 (May 8, 2001); Extension of the Designation of Honduras Under the Temporary Protected Status Program, 67 Fed. Reg. 22451 (May 3, 2002); Extension of the Designation of Honduras Under Temporary Protected Status Program, 68 Fed. Reg. 23744 (May 5, 2003); Extension of Honduras for Temporary Protected Status; Correction, 69 Fed. Reg. 67361 (Nov. 17, 2004); Extension of Honduras for Temporary Protected Status, 73 Fed. Reg. 57133 (Oct. 1, 2008); Extension of the Designation of Honduras for Temporary Protected Status and Automatic Extension of Employment Authorization Documentation, 75 Fed. Reg. 24734 (May 5, 2010); Extension of the Designation of Honduras for Temporary Protected Status and Automatic Extension of Employment Authorization Documentation for Honduran TPS Beneficiaries, 76 Fed. Reg. 68488 (Nov. 4, 2011); Extension of the Designation of Honduras for Temporary Protected Status, 79 Fed. Reg. 62710 (Oct. 16, 2014); Reconsideration and Rescission of Termination of the Designation of Honduras for Temporary Protected Status; Extension of the Temporary Protected Status Designation for Honduras, 88 Fed. Reg. 40304 (June 21, 2023).

²⁶ See Designation of Nicaragua Under Temporary Protected Status, 64 Fed. Reg. 526 (Jan. 5, 1999); Extension of the Designation of Nicaragua Under the Temporary Protected Status Program, 67 Fed. Reg. 22454 (May 3, 2002); Extension of the Designation of Nicaragua for the Temporary Protected Status, 72 Fed. Reg. 29453 (May 29, 2007); Extension of the Designation of Nicaragua for Temporary Protected Status, 73 Fed. Reg. 57138 (Oct. 1, 2008); Extension of the Designation of Nicaragua for Temporary Protected Status, 76 Fed. Reg. 68493 (Nov. 4, 2011); Extension of the Designation of Nicaragua for Temporary Protected Status, 78 Fed. Reg. 20128 (Apr. 3, 2013); Extension of the Designation of Nicaragua for Temporary Protected Status, 79 Fed. Reg. 62716 (Oct. 16, 2014); Reconsideration and Rescission of Termination of the Designation of Nicaragua for Temporary Protected Status; Extension of the Temporary Protected Status Designation for Nicaragua, 88 Fed. Reg. 40294 (Jun. 21, 2023).

²⁷ Designation of Honduras Under Temporary Protected Status, 64 Fed. Reg. 524 (Jan. 5, 1999); See Reconsideration and Rescission of Termination of the Designation of Honduras for Temporary Protected Status; Extension of the Temporary Protected Status Designation for Honduras 88 Fed. Reg. 40,304 (Jun. 21, 2023). Honduras TPS designation was also terminated in 2018 by DHS, which led to litigation and a preliminary injunction against the termination by a federal court in 2019. *Id.*

Hurricane Mitch recovery efforts were delayed due to droughts and flooding from Hurricane Michelle in 2001.²⁸ Further, after years of various tropical storms, flooding, earthquakes, and droughts, TPS was extended for eighteen months in 2014, with the extension notice observing that Honduras “suffer[ed] a series of environmental effects that have significantly impeded economic development and recovery,” including a 2014 drought and a climate-related rust affecting coffee crops in 2013.²⁹ Most recently, DHS extended TPS in 2023, noting persistent drought, increased forest fires, damage caused by Hurricanes Eta and Iota in November 2020, and the impact of Tropical Storm Julia in October 2022.³⁰

- **Nicaragua’s** TPS designations parallel that of Honduras with its first designation granted after Hurricane Mitch in 1999.³¹ The 2011 TPS extension noted that recovery from Hurricane Mitch was “incomplete,” with further damages caused by Hurricane Ida in 2009, and Tropical Storm Matthew in 2010.³² In 2013, the TPS designation noted that other natural disasters have impeded reconstruction efforts, with Tropical Depression 12E in October 2011 causing additional damage.³³ Nicaragua’s 2023 extension demonstrates the myriad and overlapping climate crises faced by the country in a short span of time including heavy rains in 2016; Hurricane Otto in November 2016 followed by a prolonged drought; Hurricanes Eta and Iota in November 2020; Tropical Storm Bonnie on July 1, 2022; and Tropical Storm Julia on October 9, 2022.³⁴

Similar climate-related conditions have also been noted in TPS designations for El Salvador³⁵ and Haiti.³⁶

As these examples demonstrate, TPS is a crucial safeguard for climate change migrants. The increasing frequency and intensity of future environmental disasters will

²⁸ Extension of the Designation of Honduras Under the Temporary Protected Status Program, 67 Fed. Reg. 22451 (May 3, 2002). The same rationale was given by DHS in its 2003 Notice, which extended TPS for an additional eighteen months. See Extension of the Designation of Honduras Under Temporary Protected Status Program, 68 Fed. Reg. 23744 (May 5, 2003).

²⁹ Extension of the Designation of Honduras for Temporary Protected Status, 79 Fed. Reg. 62710 (Oct. 16, 2014).

³⁰ Reconsideration and Rescission of Termination of the Designation of Honduras for Temporary Protected Status; Extension of the Temporary Protected Status Designation for Honduras 88 Fed. Reg. 40304 (Jun. 21, 2023).

³¹ Designation of Nicaragua Under Temporary Protected Status, 64 Fed. Reg. 526 (Jan. 5, 1999).

³² Extension of the Designation of Nicaragua for Temporary Protected Status, 76 Fed. Reg. 68493 (Nov. 4, 2011).

³³ Extension of the Designation of Nicaragua for Temporary Protected Status, 78 Fed. Reg. 20128 (Apr. 3, 2013).

³⁴ Reconsideration and Rescission of Termination of the Designation of Nicaragua for Temporary Protected Status; Extension of the Temporary Protected Status Designation for Nicaragua, 88 Fed. Reg. 40294 (Jun. 21, 2023).

³⁵ See Extension of the Designation of Temporary Protected Status for El Salvador, 71 Fed. Reg. 34637 (June 15, 2006); Extension of the Designation of El Salvador for Temporary Protected Status, 78 Fed. Reg. 32418 (May 30, 2013); Extension of the Designation of El Salvador for Temporary Protected Status, 80 Fed. Reg. 893 (Jan. 7, 2015); Extension of the Designation of El Salvador for Temporary Protected Status, 81 Fed. Reg. 44645 (July 8, 2016); Reconsideration and Rescission of Termination of the Designation of El Salvador for Temporary Protected Status, 88 Fed. Reg. 40282 (June 21, 2023).

³⁶ Extension of the Designation of Haiti for Temporary Protected Status, 82 Fed. Reg. 23830 (May 24, 2017); Extension and Redesignation of Haiti for Temporary Protected Status, 88 Fed. Reg. 5022 (Jan. 26, 2023).

lead to climate displacement. **The federal government should assess countries currently facing climate crises for TPS designation and remain vigilant as future climate disasters occur for TPS relief.**

Conclusion

We urge the federal government to conduct a systematic review of countries facing widespread gender-based violence and the devastating impacts of climate change to extend TPS protection to additional countries. Thank you for considering this urgent request.

Respectfully submitted,

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