



Temporary Protected Status for Nepal

The current 18-month grant of Temporary Protected Status, or TPS, for approximately 9,000 Nepali TPS holders will expire on June 24, 2018 unless extended by the secretary of Homeland Security.¹ By statute, the DHS secretary must decide whether to extend, terminate or redesignate TPS for Nepal by April 25, 2018.²

What is TPS?

Temporary Protected Status was established by Congress through the Immigration Act of 1990.³ TPS is intended to protect foreign nationals in the United States from being returned to their home country if it became unsafe while they were in the U.S., and if going back would put them at risk of violence, disease

or death.⁴ Under the law, the DHS secretary may designate a country for TPS under three scenarios:⁵

- A. Ongoing armed conflict (such as a civil war) that would pose serious threat to the personal safety of nationals;⁶
- B. An environmental disaster (such as an earthquake or hurricane) or an epidemic, when the country is temporarily unable to adequately handle the return of its citizens and its government has requested TPS for its nationals;⁷ or
- C. Other extraordinary and temporary conditions that prevent people from safely returning home to the country as long as it is not against the national interest of the United States to

1 Estimates of the current number of Nepali TPS holders vary. For the purposes of this resource, CLINIC relies on information provided in the most recent Federal Register Notice. See 81 Fed. Reg. 74470 (Oct. 26, 2016), www.federalregister.gov/documents/2016/10/26/2016-25907/extension-of-the-designation-of-nepal-for-temporary-protected-status. A Congressional Research Service report of January 2018, says there are 14,791 Nepalis with TPS. See Jill H. Wilson, *Temporary Protect Status: Overview and Current Issues*, CONGRESSIONAL RESEARCH SERVICE (Jan. 17, 2018), <https://fas.org/sgp/crs/homesecc/RS20844.pdf>.

2 INA § 244; 81 Fed. Reg. 74470 (Oct. 26, 2016), www.federalregister.gov/documents/2016/10/26/2016-25907/extension-of-the-designation-of-nepal-for-temporary-protected-status.

3 INA § 244.

4 Carla Argueta, *Temporary Protected Status: Current Immigration Policies and Issues*, CONGRESSIONAL RESEARCH SERVICE (Jan. 17, 2017), <https://fas.org/sgp/crs/homesecc/RS20844.pdf>.

5 INA §244 (b).

6 INA §244 (b)(1)(A).

7 INA §244 (b)(1)(B).

allow them to remain.⁸

TPS may be designated or extended in six, 12- or 18-month increments.⁹ At least 60 days before the end of a designation period, the secretary of Homeland Security must review country conditions in consultation with appropriate agencies of the government, for example the State Department, and determine whether conditions warrant extension.¹⁰ The decision must be published on a timely basis in the Federal Register.¹¹ Under the law, TPS may be extended as many times as necessary, as long as the dangerous country conditions continue.¹² TPS can also be re-designated for a country if necessary.¹³

Nationals of a TPS-designated country and people without nationality who last lived in a TPS-designated country, and who were physically in the United States when the designation was made and meet certain requirements, may be eligible for TPS.¹⁴ If granted, recipients are temporarily protected from deportation and may receive work authorization to support themselves while they remain in the U.S.¹⁵

TPS does not provide a path to lawful permanent resident status or citizenship.¹⁶

Why was Nepal designated for TPS?

Nepal was designated for TPS on June 24, 2015 after the country was struck by a 7.8 magnitude

earthquake on April 25, 2015, followed by a series of significant aftershocks.¹⁷ The devastating earthquakes immediately affected more than 8 million people, more than a quarter of Nepal's total population.¹⁸ About 9,000 people died as a result of the earthquake, and 22,000 people were injured.¹⁹ The earthquake caused significant damage or destruction to more than 755,000 homes.²⁰

In the most recent extension of TPS for Nepal (Dec. 26, 2016 through June 24, 2018), the U.S. government determined that an extension of TPS for Nepal was warranted because most homes, schools, health centers and other buildings had yet to be reconstructed.²¹ In addition to the recentness of the natural disaster, the U.S. government evaluated and cited serious intervening factors slowing down rebuilding progress, including bureaucratic issues in dispersing aid, civil unrest and blockades preventing necessary materials from entering the country.²²

As a result of the lack of reconstruction, a dire humanitarian situation remains, especially for those residing in the districts that had been most devastated by the earthquake and/or those in rural, hard-to-access areas.²³ Destroyed roads and other infrastructure prevents huge portions of the population from accessing adequate food, clean water, medicine and other basic needs.²⁴ In its decision, the U.S. government noted that large-scale reconstruction would likely not be feasible *to begin* until 2017.²⁵

8 INA §244 (b)(1)(C).

9 INA §244 (b)(2)(B).

10 INA §244 (b)(3)(A).

11 *Id.*

12 *See generally* INA §244.

13 *Id.*

14 INA §244 (a)(1)

15 INA §244 (a)(1)(A); INA §244 (a)(1)(B)

16 *See generally* INA §244

17 81 Fed. Reg. 74470 (Oct. 26, 2016), www.federalregister.gov/documents/2016/10/26/2016-25907/extension-of-the-designation-of-nepal-for-temporary-protected-status.

18 *Id.*

19 *Id.*

20 *Id.*

21 *Id.*

22 *Id.*

23 *Id.*

24 *Id.*

25 *Id.*

Why should TPS for Nepal be extended?

Nepal remains unable to welcome the safe return of nearly 9,000 TPS holders, due to the massive size of the catastrophe. Between the earthquake itself having occurred quite recently and other intervening factors, recovery has been slow. Following the 2015 earthquake and its massive aftershocks, rebuilding was paralyzed for months by political conflicts.²⁶ Blockades along the southern border deprived the Nepali people of critical resources such as food, oil, supplies to rebuild adequate shelter, and other aid, putting many at risk of starvation, including three million children under age 5.²⁷

In late 2017, a new natural disaster further impeded reconstruction efforts and humanitarian recovery.²⁸ From June 2017 to September 2017, devastating floods and landslides affected a third of the country's population, more than 1.7 million people.²⁹ Several districts recorded the heaviest rainfall in 60 years.³⁰ More than 80 percent of land in the southern Terai region—the breadbasket of Nepal—was inundated by floodwaters, affecting the transportation of food and other resources to the rest of the country.³¹ The floods delayed ongoing rebuilding efforts and damaged vital infrastructure, including 65,000 homes.³² Furthermore, 80 schools across 28 districts were destroyed and 710 others were damaged.³³ Ten health

centers were destroyed and 64 were damaged.³⁴ Today 2.6 million of the 2.8 million people originally displaced by the earthquake are still thought to be displaced and living in temporary shelters, unprotected from Nepal's harsh seasons.³⁵ Reconstruction in the public sector, such as in cultural heritage sites, schools, hospitals and public buildings, has still barely started.³⁶ The International Labour Organization estimates that the earthquake cost Nepal \$7 billion in losses and damages.³⁷ Furthermore, according to the International Labour Organization, the earthquake directly resulted in 700,000 Nepalis falling into poverty.³⁸

What will the impact be if TPS for Nepal is not extended?

The conditions for which TPS for Nepal was extended in 2016 remain today. Numerous setbacks in recovery prevent Nepali TPS holders from returning safely. Ending TPS for Nepalis living in the United States and forcing them to return to Nepal would be inconsistent with the statute, which compels extensions when conditions remain unsafe.³⁹ Failure to extend TPS would put approximately 9,000 TPS holders and their families at tremendous risk of housing, food and water insecurity, as well as facing a lack of access to health care, education, employment and other services.

26 Valerie Plesch, *Crisis on Nepal-India border as blockade continues*, AL JAZEERA (Dec. 24, 2015), www.aljazeera.com/indepth/inpictures/2015/12/crisis-nepal-india-border-blockade-continues-151223082533785.html.

27 *Id.*

28 Nepal Development Update, THE WORLD BANK (September 2017), <http://documents.worldbank.org/curated/en/764611505401428300/pdf/119723-WP-PUBLIC-SEPT-17-38p-Nepal-Development-Update-Sept-2017.pdf>.

29 *Id.*

30 *Id.*

31 *Id.*

32 *Id.*

33 *Id.*

34 *Id.*

35 Internal Displacement Monitoring Centre, GLOBAL REPORT ON INTERNAL DISPLACEMENT (May 2017), www.internal-displacement.org/global-report/grid2017/pdfs/2017-GRID.pdf.

36 Nepal Labour Market Update, INTERNATIONAL LABOUR ORGANIZATION (Jan. 2017), www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_543497.pdf www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_543497.pdf.

37 2018 Index of Economic Freedom (2018), www.heritage.org/index/country/nepal.

38 Nepal Labour Market Update, INTERNATIONAL LABOUR ORGANIZATION (January 2017), www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_543497.pdf.

39 *See generally* INA §244.

Nepal needs time to implement its housing reconstruction program to provide housing and other fundamental public infrastructure. There is far from enough adequate housing in Nepal to support the return of 9,000 TPS holders.⁴⁰ As of February 2018, the Nepali government reported that only 100,000 houses had been rebuilt.⁴¹ In 2016 (prior to the flooding in 2017) Nepal's Reconstruction Authority had just set a five-year goal to rebuild significant portions of the country's hospitals, schools, and roads.⁴² Sufficient recovery remains far off.

If TPS is not extended, Nepal and the region will be further destabilized by the loss of remittances (money sent home from abroad), on which the country is heavily dependent. Close to 50 percent of Nepalis rely on financial help from relatives abroad to survive.⁴³ Nepal receives almost 30 percent of its overall GDP from remittances—making it one of five nations most dependent upon remittances.⁴⁴ In a 2017 study, fifteen percent of earthquake survivors in the most impacted regions reported that remittances are their main source of income.⁴⁵

Why is TPS for Nepal in line with our shared values?

The United States has a long history of providing relief to victims of catastrophic events, war, violence and natural disasters. TPS reflects our country's values, codified in the statute, by protecting people from unsafe conditions outside of their control.

Americans hold themselves to high standards when it comes to the humane treatment of people. U.S. immigration law, including TPS, reflects respect for the lives of people who, without protection, would be returned to hazardous, if not deadly, circumstances. American interfaith values demand that the United States extend TPS to protect the lives and dignity of Nepali TPS recipients. Continued TPS for Nepal satisfies our moral and international obligations until greater progress is made to ensure innocent people are not returned to dangerous conditions.

40 Housing Recovery and Reconstruction Platform Nepal (Jan. 29, 2018), www.hrrpnepal.org/resource-detail/view/hrrp-weekly-bulletin-january-29th180129pdf.

41 National Reconstruction Authority Report (Feb. 11, 2018), https://reliefweb.int/sites/reliefweb.int/files/resources/NATIONAL%20RECONSTRUCTION%20AUTHORITY_4.pdf.

42 81 Fed. Reg. 74470 (Oct. 26, 2016), www.federalregister.gov/documents/2016/10/26/2016-25907/extension-of-the-designation-of-nepal-for-temporary-protected-status.

43 Nepal Labour Market Update, INTERNATIONAL LABOUR ORGANIZATION (January 2017), www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_543497.pdf.

44 *Id.*

45 *Aid and Recovery in Post-Earthquake Nepal Independent Impacts and Recovery Monitoring Phase 4 Quantitative Survey: April 2017*, THE ASIA FOUNDATION (APRIL 2017), <https://asiafoundation.org/wp-content/uploads/2017/10/Aid-and-Recovery-in-Post-Earthquake-Nepal-Quantitative-Survey-April-2017.pdf>.

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