

“Poverty, underdevelopment, the lack of opportunities – the legacies of empire everywhere – may force people to migrate, bringing about the scattering: the dispersal” (Hall 2017:208).

Legible Displacement: Temporary Protected Status and the Production of Legal Vulnerability, 1984-2026

Introduction

Public discourse around immigration in the United States imagines a binary of migrant and non-migrant, where one is either in legitimate status, or lacking status entirely. Scholars have examined how the empirical reality is far more complicated, with a plethora of in-between, temporary, and liminal status programs being a robust part of U.S. immigration policy (Hallett 2014; Menjívar 2006; Joseph 2025). These programs are especially common in the realm of “humanitarian” relief, often protecting immigrants from deportation and granting work authorization, but lacking a pathway to citizenship (Abrego and Lakhani 2015). Hence, rather than a binary, legal status is best conceptualized as a spectrum of vulnerability (Joseph 2025), where different pathways lead to differing rights, social membership, and belonging. Sociologists have also long recognized how the mechanisms of refugee resettlement and asylum provide legal protection for a minuscule fraction of the world’s “displaced” migrants. While resettlement only captures less than 1% of the world’s displaced (Fitzgerald 2019), asylum is limited through its codification of a narrow standard of individualized suffering and persecution, excluding economic marginalization entirely. These dual realities mean that many groups popularly imagined as “refugees,” such as Afghans who immigrated to the U.S. after the U.S. withdrawal from Kabul in 2021, actually lack the durable protections of legal refugee status. In recent months, the Trump administration has functionally paused asylum processing and continued to gut refugee resettlement, only increasing the rarity of these mechanisms. In this context, where durable forms of protection are increasingly scarce, how are alternative mechanisms of legal integration produced and administered? Who is determined worthy of them, and why? In other words, how are precarious regimes of mobility developed and expanded, and what are the political consequences of these processes?

Building on scholars who urge for the interrogation of legal categories rather than their naturalization (Hamlin 2021; Menjívar 2023; Menjívar 2024; quisumbing king 2022; quisumbing king 2024), in this paper, I use the case of temporary protected status (TPS) to chart the production and administration of a key alternative pathway in U.S. humanitarian immigration law. Drawing from approaches which conceptualize citizenship as a “process of claims-making” (Bloemraad 2018), I focus on the work of understudied yet critical institutional actors who hold the power to shape immigration policy: civil society advocates and bureaucratic & political state actors. Using semi-structured interviews with 60+ advocates and state actors, archival and contemporary records, and ethnographic observations across advocacy meetings and events, I trace how contradictory interpretations of “temporary” are deployed strategically by actors, shaping the granting of TPS designations by the state and subsequent processes of claims-making for the expansion of rights for TPS holders by civil society advocates. Specifically, I identify the abstract, imagined futures of migrants – that is, the speculative longevity with which they would remain in the United States – as an important political force. Through examining the meaning-making work of key institutional actors in the arena of immigration politics, I find that differing ideas around temporarily and deservingness can shape the production and administration of precarious forms of immigration relief.

This case study further illuminates how binary distinctions, such as “forced” and “voluntary” migrants, are far from naturally occurring. Rather than self-evident or inherently clarifying, the production of new legal categories can create spaces for political contestation and negotiation, shaping claims-making strategies and future political opportunities alike. Legal categories are political tools that can be deployed to justify worthiness or perpetuate exclusion when embedded within processes of negotiation between state and civil society actors. As such, the rights and resources available to displaced people are shaped not only by the categories themselves, but by the ongoing political work of advocates and state actors who contest their meaning, scope, and application.

Case Background

TPS, first created through the Immigration Act of 1990, has long been understood as a status of “liminal legality” (Menjívar 2006). Though “ostensibly race-neutral” in the law, TPS functions as a racialized legal status, “disproportionately [impacting] racial/ethnic minority groups” (Asad and Clair 2018:20). A country-specific policy, the Department of Homeland Security (DHS) designates TPS eligibility on the basis of “temporary” conditions of violence and instability, with over 1,000,000 individuals under the status. TPS

codifies limited protections for displaced migrants fleeing from generalized conditions of violence. TPS designations do not provide a pathway for people to immigrate to the U.S., rather, provide protections for people already in the U.S. at the time of designation. TPS also provides immigrants with work authorization and protection from deportation, with TPS holders faring better than undocumented immigrants with regards to employment, educational attainment, insured status, and home ownership (Menjívar 2020). Despite this, pathways to citizenship for TPS-holders are limited, as SCOTUS ruled in 2021 that TPS holders are ineligible to individually adjust status into lawful permanent residency.

While not undocumented, immigrants with TPS remain vulnerable to similar challenges, experiencing economic, political, and social precarity. TPS must be renewed regularly, limits housing and employment opportunities, and depends on executive authority, leaving immigrants vulnerable under the advent of a hostile executive branch. The first and current Trump administration have attempted to terminate TPS designations. In 2017, DHS revoked TPS eligibility for immigrants from Sudan, Nicaragua, Haiti, El Salvador, Nepal, and Honduras (Wilson 2023). While this was challenged in court – in part on the basis of racial discrimination – the cases either became moot or were settled under the Biden administration. Since January 2025, the Trump administration has terminated nearly every TPS designation up for consideration. While litigation remains ongoing, tens of thousands of TPS holders have lost their status, illustrating the precarity of their condition.

Methods

While data collection remains ongoing, this paper draws from a range of data including 60+ interviews with civil society advocates and state actors, archival records from the Moakley Archive and the Center for Legislative Archives, and ethnographic observations across advocacy events and meetings from July 2025-present. I take inspiration from “historically embedded ethnography” (Lara-Millan 2021; de Souza Leão 2022) through combining historical and contemporary sources of data to chart within-case change over time. I followed my interviewees across space and time, ranging from 1:1 interviews, court hearings, organizational meetings, and even the halls of Congress. Since immigration policy is made “behind closed doors,” combining this data allows for a comprehensive understanding of both the frontstage and backstage of TPS advocacy. Combining data also allows for the triangulation of what interviewees “say” versus what they “do” (Jerolmack and Khan 2014), while increasing empirical exposure, heterogeneity and palpability, and allowing me to understand change and evolution over time (Small and Calarco 2022). Interviews lasted an average of 1:15 hours, but were sometimes nearly three hours. Follow-up interviews were conducted with some respondents. Interviews were conducted in-person in Washington, D.C., New York City, and Boston and virtually, deferring to my respondent’s availability and preference. For respondents I interviewed virtually, it was not uncommon to meet them in person later on at an advocacy event, meeting, or federal court hearing related to TPS.

Findings & Discussion

I chart three distinct interpretations that have shaped the production and administration of TPS: (1) temporariness as a political compromise, (2) temporariness as a tool for projects of documentation, and (3) temporariness as a tool facilitating de-documentation. The D.C. lobbyists who negotiated the TPS statute in the late 1980s-1990 understood it as a pragmatic political compromise. Over time, immigration advocates and sympathetic state actors came to understand TPS as a tool in a “broken system” and operationalized it for what I call “projects of documentation.” Projects of documentation aim to provide immigrants with legal protections, ranging from protection from deportation, legal authorization to work, and the freedom to travel. Since its creation, immigration restrictionists and ambivalent (or hostile state actors) have constructed the lawful long-term presence of TPS holders as a grievance, laying the groundwork for what I call “projects of de-documentation,” or the stripping of protections previously provided on a group-basis. Throughout these interpretations, temporality, which here, refers to the condition of “temporariness,” is contested at multiple levels of TPS advocacy policymaking, ranging from the granting of country-designations to claims for pathways to lawful permanent residency. Building on existing scholarship which situates cultural processes of meaning-making as central to the reproduction of inequality (Lamont et. al 2014) and the “production of consent” and trust towards the state (Rodriguez-Muniz 2017), I argue that differential conceptualizations of “temporary” shape the allocation of TPS protections and the strategies of advocates alike. Rather than

viewing legal categories as static, I focus on the work of advocates and state actors to examine the processes of negotiation and contestation that shape their production and allocation over time.

Making Suffering “Pragmatically” Legible

How did negotiations stemming from systematic asylum denials lead to a temporary, precarious status subject to executive discretion? The answer lies, in part, through a political compromise. In between the War in Vietnam and the War in Afghanistan, U.S. intervention in El Salvador took the form of regime funding rather than “boots on the ground” war-making. But the consequences for human mobility were similar, as millions fled El Salvador between 1970-1990 (Gammage 2007; Knapp 2026), and nearly 400,000 came to the United States (Gammage 2007). A coalition of advocates, ranging from Salvadoran community organizers to D.C. based lobbyists began negotiating for alternative mechanisms of legal protection in the early 1980s, as Salvadoran and Guatemalan immigrants were facing asylum denial rates upwards of 99% (Library of Congress 2026) and calls for the Reagan administration to extend an existing mechanism of temporary protection, named extended voluntary departure (EVD), went nowhere. In this political and institutional context, D.C. based advocates and sympathetic state actors, such as Congressman Joe Moakley, understood “temporary” protection as the most pragmatic and viable formulation of protection in a landscape where restrictionist legislators who held power in crucial Senate and House committees were active “roadblocks” to expanding immigration rights. The “temporary” nature of protections was not only a pragmatic goal, but a narrative strategy. Advocates and sympathetic legislators *assured* the temporariness and deportability of immigrants as a way to “make the case” for any protections at all. Joseph, an immigration advocate details the framings advocates utilized in negotiating with legislators:

We were all making the argument, ‘yeah, people want to go home... it's just a matter of when the war is over.’ I started to believe this. I remember I was saying this to some Salvadorans at a gathering...

They were looking at me saying, ‘go back to what? Go back to what? The country's destroyed.

There's no opportunity there. They're making a life here. They can't make a life back there.’ And that

turned out to be true... but we would have said anything to get it passed. — *Joseph, immigration advocate*

Joseph was arguing a fictitious version of reality so much that he started to believe it himself. Though the likelihood of Salvadoran immigrants returning back home was slim, this narrative structured claims-making strategies. Beyond moving the needle in individual conversations, the idea of a rigid temporariness, with built-in mechanisms for easily identifying and removing migrants, served as a narrative persuasion tool amongst members of Congress. The “temporary” nature of protections was highlighted in state records, such as Dear Colleague letters and talking points intended to increase support for the provisions, as seen below:

II. Registration requirement ensures that status will be temporary.

-- S. 458's requirement that eligibility for temporary protected status is contingent on registering with INS ensures that, upon termination of temporary protected status, INS will have a record of covered persons and be able to locate and deport those who do not voluntarily return. Further, work authorization will expire upon termination of status and enforcement of IRCA's employer sanctions will prevent unauthorized aliens from working thereby providing additional safeguard that Salvadorans and Nicaraguans will return to their home countries.

Talking Points R.E: S. 458 for Senator DeConcini, Congressman John Joseph Moakley Papers, MS 100.03.04, Legislative Assistant Files, Jim McGovern, Box 4

Wielding Limited Protection

Despite the institutionalization of rigid “temporariness” in the law, contemporary advocates continue to interpret the legacy of the program in creative ways, and have increasingly come to view it as a mechanism to provide documentation to otherwise vulnerable populations. Both advocates and sympathetic state actors reflected this view, speaking about immigration policy as a “broken” arena and referring to TPS as a “tool” in

their limited toolkit. In their administrative advocacy, advocates often described how designation-level advocacy was catalyzed by an event of mass devastation that fit statutory definitions of suffering, such as an earthquake or armed conflict, but also, through considerations of how many undocumented immigrants from a particular country would benefit from the designation. Bureaucrats recalled how *exceptionally* catastrophic events, such as the 2010 earthquake in Haiti, could help “push the needle” on countries where there was hesitation about designation. Zara, an immigration advocate, describes the process of lobbying for the initial TPS designation for Nepal following a devastating earthquake in 2015:

“For us, it was on our mind that not only is it a way to think about not to have people return back in this moment, but we knew there was a large undocumented Nepali-speaking worker community... if we can get them status, this was a good opportunity to do that” – *Zara, immigration advocate*

Despite the original conceptualization of TPS as a limited, temporary form of protection, civil society advocates understand “temporary” as a failure of reform that can be transformed through the political process. This structures their approach to legislative advocacy, where advocates argue that “temporary” does not mean “temporarily” in the United States, citing the empirical reality that many TPS holders, especially from countries that were originally designated decades ago, have stayed in the United States for decades on TPS. Rather, the “temporary” in TPS indicates that the *status* is temporary, not the individuals who inhabit it. Advocates understand the program as a mechanism that can be used to give people who otherwise would not have any legal status some limited protections. Advocates and bureaucrats also described contestation over interpreting the length of “temporary” country conditions in the process of granting designations. Carrie, a “revolving door” advocate (Li 2025) with experience in the Department of Homeland Security and immigration advocacy organizations, described how she “made the case” for TPS designations and extensions for El Salvador:

The sad truth is, though, that those country conditions do remain; they're not poor because of Hurricane Mitch anymore, but they're poor because of the, you know, 9 other hurricanes that have happened since then. So, it was often just relying on what remained to be persistently unfavorable conditions for people to be returned. And then, you know, you bolster that with, we know who they are, they're paying taxes, they're renewing, they're paying their fees... – *Carrie, former bureaucrat and immigration advocate*

Time is Up

The same statutory language that advocates and sympathetic state actors use to try to expand TPS protections serves as the basis for ambivalent and hostile state and civil society actors to embark on projects of “de-documentation,” or the stripping of legal status. Building on Menjivar and Abrego’s (2012) concept of “legal violence,” I identify de-documentation as an acute form of legal violence that transforms previously documented people into those without status, subjecting them to the state-sanctioned violence of deportation. While the Trump administration’s current attempts at revoking TPS protections face ongoing litigation, even career civil servants identified the paradox within a seemingly “temporary” protection turning quasi-permanent. Cori, a former career civil servant at the State Department, described:

“And the idea that conditions haven't improved in 30 years... but as you know, the Salvadorans that came then are so well integrated into the United States, it would be pretty cruel to send them back. But I can see that happening under the current administration... That people could come for a few months during rebuilding, which was how it was originally meant to be. It was meant to be temporary. It wasn't meant to be, how long have the Salvadorians been here, 30 years, you know? Because it's... it's very hard to take a benefit away from someone once you've given it to them.” – *Cori, former bureaucrat*

Advocates also described this paradox when reflecting on why legislative advocacy, aimed at providing TPS holders a pathway to lawful permanent residency, has continuously failed. Respondents would often note how “temporary” is in the name of the provision, which makes it narratively difficult to lobby for the “permanent” belonging of TPS holders. Kaya explains this discursive terrain, sharing:

“It’s a temporary status. Why should we make them permanent?” I feel like there is a divide between trying to get more support by telling people why people who’ve been here for so long, although on a temporary status should be given [a] pathway, versus people who are willing to support it just because it’s a temporary status.” – Kaya, immigration advocate

Here, she echoes Joseph’s reflection from earlier. The D.C. based lobbyists who negotiated the language around TPS and key legislators and their staffers recognized that they could galvanize support for a temporary status precisely because it was temporary, which is the same place that contemporary advocates find themselves in today.

Conclusion

Sociologists are increasingly drawing attention to alternative forms of legal integration for immigrants beyond asylum and refugee resettlement, as the vast majority of the world’s “displaced” lack access to either pathway. In the U.S., temporary protections are increasingly common. While scholars have long documented the consequences of liminal legality for individuals, families, and communities (Menjívar 2006; Menjívar and Abrego 2012; Abrego and Lakhani 2015), less scholarly attention has been paid to the production and administration of these categories. In this paper, I use interview, archival, ethnographic, and document-based data to examine the production and allocation of temporary protected status (TPS). By foregrounding the meaning-making work of institutional actors, this paper shows how categories that appear natural or legally settled are in fact sites of ongoing contestation. The meaning attributed to categories can shape the distribution of protections and possibilities for reform alike.

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