



TEMPORARY PROTECTED STATUS FOR SOUTH SUDAN

The current 18-month grant of Temporary Protected Status, or TPS, South Sudan will expire on Nov. 2, 2020, unless extended by the Secretary of Homeland Security.¹ By statute, the DHS Secretary must decide whether to extend and/or redesignate or terminate TPS for South Sudan by Sept. 3, 2020.²

I. WHAT IS TEMPORARY PROTECTED STATUS?

Temporary Protected Status, or TPS, was established by Congress through the Immigration Act of 1990.³ TPS is intended to protect foreign nations in the United States from being returned to their home country if it became unsafe during the time they were in the United States and would put them at risk of violence, disease or death.⁴ Under the law, the secretary of Homeland Security may designate a foreign country for TPS in three scenarios⁵:

- A. Ongoing armed conflict (such as a civil war) that would pose serious threat to the personal safety of nationals of the affected country⁶;
- B. An environmental disaster (such as an earthquake or hurricane) or an epidemic and the foreign state is temporarily unable to adequately handle the return of its citizens and the foreign government has requested TPS for its nationals⁷; or
- C. Other extraordinary and temporary conditions that prevent people from the country from safely returning home as long as it is not against the national interest of the United States to 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 redesignated for a country simultaneously with an extension or independently.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 United States.¹⁵

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

II. WHY WAS SOUTH SUDAN DESIGNATED FOR TPS?

South Sudan was designated for TPS for ongoing armed conflict and extraordinary and temporary conditions in November 2011.¹⁷ Earlier that same year, the country had become an independent nation from Sudan, ending an interim peace agreement, but new waves of violence were breaking out.¹⁸

In the Federal Register Notice designating TPS for South Sudan, the then-Department of Homeland Security, or DHS, secretary described an illegitimate election process and related human rights abuses in 2010.¹⁹ The civil unrest was compounded by violence involving both governmental and non-governmental warring factions.²⁰ Tactics included specific targeting of civilians, leading to massive internal displacement, as well as a regional refugee crisis.²¹ One faction, the Lord's Resistance Army, displaced approximately 600,000 people in an 18-month span across 2010 and 2011 — in addition to those already displaced — according to United Nations High Commissioner for Refugees estimates.²² In general, UNHCR documented a “radical shift in patterns of violence that points to clear targeting of women and children.”²³ Frequent attacks were reported on isolated and vulnerable communities, with “indiscriminate killing, abduction, rape, mutilation, looting, and destruction of property.”²⁴ Conflict between other factions, such as the Sudan Armed Forces and Sudan People's Liberation Movement/Army, was also reported — including airstrikes and artillery shelling.²⁵ Mass graves were discovered.²⁶ The use of child soldiers was also documented.²⁷

Food and water insecurity, related to both the conflict and displacement, as well as environmental factors was also of major concern to DHS.²⁸ At the time of designation, estimates showed that 35.7 percent of the population needed food assistance and 50 percent did not have access to drinking water.²⁹ The Federal Register Notice also documented more than 50 percent of the population living below the poverty line on less than one dollar a day.³⁰ Eighty percent did not have access to adequate sanitation.³¹ Humanitarian issues were exacerbated by the number of returnees from Sudan in need of aid, as well as the difficulty in delivering aid to the country due to both security and logistical reasons, including significant road washouts during the rainy season.³²

III. WHY MUST TPS FOR SOUTH SUDAN BE EXTENDED FOR 18 MONTHS AND REDESIGNATED?

TPS for South Sudan must be extended for 18 months and redesignated as ongoing armed conflict and extraordinary conditions making safe return impossible continue and in some cases, have deteriorated. Since civil war broke out in 2013, at least 400,000 lives have been lost.³³ The latest in a string of peace deals was brokered in February 2020 between South Sudanese President Salva Kiir and rebel leader Riek Machar.³⁴ As has been the pattern, this agreement has failed; violence and displacement continue across the young nation.³⁵ According to the United Nations, one of the contributing factors to the downfall of this latest peace agreement was the failure to quickly appoint governors to address regional and intercommunal clashes.³⁶ Additionally, though Machar's forces began the process of slowly integrating with the national army, other militias — drawn across ethnic lines — have been excluded from the efforts.³⁷ The International Crisis Group notes that even if a peace deal were to hold between Kiir and Machar, without broader efforts to address other factions, peace will be all but impossible in South Sudan.³⁸

Human rights abuses, war crimes and crimes against humanity continue in South Sudan. At least 4.8 million people are currently in need of protection.³⁹ In the most recent comprehensive data available from the U.N. mission in South Sudan, nearly 700 civilian deaths, more than 450 injuries and 600 abductions were reported in the first quarter of 2020 alone.⁴⁰ The use of child soldiers is also ongoing in the conflict, with UNICEF identifying at least 19,000 as of 2019.⁴¹ Clashes among ethnic groups persist, and in late May 2020, hundreds of civilians were killed when a group entered a village with machine guns.⁴² Three aid workers from Doctors Without Borders and the U.N. were killed in the attack.⁴³ Civilian deaths at the hands of government forces were recorded in the capital city, Juba, in June 2020.⁴⁴ In July 2020, USAID reported ongoing conflict and displacement throughout the entire country.⁴⁵ The report documented at least 46,000 newly displaced people across several regions.⁴⁶

Rape and sexual violence continue to be used as weapons of war in South Sudan. In 2019, there were 224 documented cases of conflict-related sexual violence affecting 133 women, 66 girls, 19 men and 6 boys.⁴⁷ 65 cases were recorded in the first quarter of 2020 alone.⁴⁸ Underreporting cases is persistent.⁴⁹ In its “Do Not Travel” to South Sudan advisory, the State Department lists that, “foreign nationals have been the victims of rape, sexual assault, armed robberies and other violent crimes.”⁵⁰

In addition to armed conflict in South Sudan, an 18 month extension and redesignation of TPS is needed to protect people from the deepening humanitarian crisis. At least 7.5 million people are in need of humanitarian assistance in South Sudan⁵¹, up from 7.1 million in 2019.⁵² At least 1.6 million are internally displaced from conflict and other factors.⁵³ South Sudan is hosting approximately 300,000 refugees from neighboring countries as well as 600,000 spontaneous returnees.⁵⁴ 2.3 million South Sudanese people have been driven over the border, an increase from the previous year, living as refugees in surrounding countries.⁵⁵

The Famine Early Warning System Network, or FEWS, predicts food security will worsen over 2020 due to conflict, complete depletion of cereal stocks from the previous harvest (which was affected by climate extremes among other factors), desert locust damage to crops and COVID-19.⁵⁶ FEWS predicts more than 6.5 million people will need emergency food assistance by September 2020.⁵⁷ More than 50 percent of the population is facing crisis level food shortages and if movement becomes more restricted in the country due to COVID-19, widespread famine is possible.⁵⁸ The number of children in South Sudan facing acute malnutrition rose from 13 percent in 2018 to 16 percent in 2019.⁵⁹ More than 1.3 million children under the age of five are projected to be acutely malnourished in 2020.⁶⁰ 80 percent of South Sudanese are living below the absolute poverty line, greatly contributing to the food and other humanitarian crises.⁶¹ Ongoing extreme cycles of drought and flooding are a major issue, destroying food sources and affecting delivery of aid.⁶²

Access to clean water and sanitation remains limited in South Sudan, with more than 5.5 million people in need of assistance.⁶³ Only 60 percent of nondisplaced people and 45 percent of displaced people have access to clean water and sanitation.⁶⁴ Nearly three quarters of households report family members suffering from waterborne or vectorborne illnesses.⁶⁵

South Sudan has little health care infrastructure due to ongoing conflict and economic collapse, making both extension and redesignation even more dire during the COVID-19 pandemic.⁶⁶ At least 3.6 million people are currently need of health care services.⁶⁷ Fewer than half of South Sudan’s healthcare facilities are fully functioning.⁶⁸ The country only has 24 ICU beds and four ventilators for a population of 11.7 million people.⁶⁹ There is only one laboratory to do coronavirus testing and only one permanent infectious disease unit in the entire country.⁷⁰ As of late June, there were 2,000 known cases of COVID-19 and 35 deaths.⁷¹ While monitoring along South Sudan’s shared border with the Democratic Republic of Congo has so far prevented the spread of that country’s Ebola outbreak, risks remain.⁷² A new Ebola outbreak was announced in DRC in June 2020.⁷³ Outbreaks of other infectious diseases continue across the country including hepatitis E, yellow fever, malaria, acute respiratory infection and acute watery diarrhea.⁷⁴

South Sudan continues to face lack of infrastructure and safe housing both for displaced and non-displaced people. Land and housing grabs and occupation are ongoing, particularly affecting more vulnerable populations including women, children and elderly-headed households.⁷⁵ Landmines and other explosives litter certain areas, making attempts to return to housing unsafe. At least 1.07 million people are living in unsecured, spontaneous settlements across the country.⁷⁶

In addition to lack of housing, South Sudan continues to face other infrastructure issues, including having among the most underdeveloped roads in the world.⁷⁷ Due to protracted war, approximately half of schools are partially damaged and 13 percent have been leveled.⁷⁸ An estimated 2.2 million children are unable to attend school and thousands more are at risk of more dropping out over the course of 2020.⁷⁹

IV. WHAT WILL THE IMPACT BE IF TPS FOR SOUTH SUDAN IS NOT EXTENDED AND REDESIGNATED?

According to the most recent Federal Register Notice, approximately 84 people in the United States are protected from the ongoing conflict and humanitarian emergency in South Sudan through TPS.⁸⁰ Without TPS, people returning to South Sudan would be at risk of violence, hunger, disease, human rights violations and lack of access to water. TPS holders with U.S. citizen children would be forced to make impossible decisions — bring their children into harm's way or tear families apart.

Redesignation is the Secretary of the Department of Homeland Security's authority to extend TPS protection to people who arrived in the United States after the original TPS designation.⁸¹ TPS for South Sudan has not been redesignated since January 2016⁸², meaning that the secretary has the option to extend protection to people who have arrived in the years since. People who arrived in the United States more recently need protection from the humanitarian catastrophe in South Sudan just as much as current TPS holders.

V. WHY IS EXTENDING AND REDESIGNATING TPS FOR SOUTH SUDAN IN LINE WITH AMERICAN VALUES AND INTERESTS?

Congress established TPS to provide life-saving protection to people who, if deported, would be at risk of harm or death.⁸³ It is a statutory embodiment of the international principle of *nonrefoulement*, a commitment that the United States will not return people to countries where their lives or freedom would be threatened.⁸⁴ This commitment, stemming from the aftermath of World War II, also underpins U.S. refugee and asylum laws.⁸⁵

By protecting people's lives and granting work authorization, TPS serves key national and regional security interests, advances moral and strategic U.S. engagement within the international community and provides other benefits to the United States. The United States has made commitments to help restore stability in South Sudan and to assist those that have been impacted by the protracted violence.⁸⁶ TPS is a piece of that commitment.

In general, TPS holders make great contributions to the U.S. economy, working in key industries such as construction and home health care and paying into the U.S. GDP, Social Security and Medicare.⁸⁷ Many TPS holders are essential workers, serving on the frontlines of the COVID-19 crisis.⁸⁸ TPS holders also send vital remittances to family and friends in countries of origin, providing unofficial foreign aid that allows people to meet their basic needs and helps stabilize countries and regions.⁸⁹ In South Sudan, remittances make up 34 percent of the country's GDP.⁹⁰ Remittances to African nations are expected to plummet by 25 percent this year, due to COVID-19.⁹¹ Extension and redesignation of TPS for South Sudan would help keep life-saving financial support flowing into the country.

Our commitment as a nation and a people to protect and welcome those in need is why Congress created TPS, and why we must use it now.

ENDNOTES

- ¹ Estimates of the current number of South Sudanese TPS holders vary. For the purposes of this resource, CLINIC relies on information provided in the most recent Federal Register Notice. See 84 Fed. Reg. 13688 (April 5, 2019), www.federalregister.gov/documents/2019/04/05/2019-06746/extension-of-the-designation-of-south-sudan-for-temporary-protected-status.
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- ⁵ INA § 244(b).
- ⁶ INA §244 (b)(1)(A).
- ⁷ INA §244 (b)(1)(B).
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- ⁹ INA §244 (b)(2)(B).
- ¹⁰ INA §244 (b)(3)(A).
- ¹¹ *Id.*
- ¹² See generally INA §244.
- ¹³ *Id.*
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- ¹⁵ INA §244 (a)(1)(A); INA §244 (a)(1)(B).
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- ³³ Max Bearak, *Hundreds killed, villages destroyed in massacres undermining South Sudan's peace deal*, THE WASHINGTON POST (May 28, 2020), www.washingtonpost.com/world/africa/south-sudan-violence-peace-deal/2020/05/27/3b28491a-9f8a-11ea-be06-af5514ee0385_story.html.
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- ³⁹ *Humanitarian Needs Overview: South Sudan, Humanitarian Program Cycle 2020*, UN OFFICE FOR THE COORDINATION OF HUMAN AFFAIRS (Nov. 2019), <https://reliefweb.int/report/south-sudan/south-sudan-humanitarian-needs-overview-2020-november-2019>.
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