



Temporary Protected Status for South Sudan

The current 18-month grant of Temporary Protected Status, or TPS, for South Sudan will expire on May 2, 2019 unless extended by the Secretary of the Department of Homeland Security, or DHS.¹ By statute, the DHS Secretary must decide whether to extend and/or redesignate or terminate TPS for South Sudan by March 3, 2019.²

What is TPS?

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

disease or death.⁴ Under the law, the Secretary of the Department of Homeland Security, or DHS, may designate a country for TPS in three scenarios:⁵

1. Ongoing armed conflict (such as a civil war) that would pose serious threat to the personal safety of nationals;⁶
2. An environmental disaster (such as earthquake or hurricane), or an epidemic;⁷ or
3. Other extraordinary and temporary conditions that prevents nationals from the country from safely returning home⁸

TPS may be designated or extended in six, 12 or 18-month increments.⁹ At least 60 days before the

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 82 Fed. Reg. 44205 (Sept. 21, 2017), www.federalregister.gov/documents/2017/09/21/2017-20174/extension-of-south-sudan-for-temporary-protected-status.

2 INA § 244; 82 Fed. Reg. 44205 (Sept. 21, 2017), www.federalregister.gov/documents/2017/09/21/2017-20174/extension-of-south-sudan-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/homesec/RS20844.pdf>.

5 INA §244 (b).

6 INA §244 (b)(1)(A).

7 INA §244 (b)(1)(B).

8 INA §244 (b)(1)(C).

9 INA §244 (b)(2)(B).

end of a designation period, the Secretary of the Department 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 United States.¹⁵ TPS does not provide a path to lawful permanent resident status or citizenship.

Why was South Sudan originally designated for TPS?

South Sudan was designated for TPS for ongoing armed conflict and extraordinary and temporary conditions in November 2011.¹⁶ Earlier that same year, the country had become a free and independent nation from Sudan, ending an interim peace

agreement, but new waves of violence were breaking out.¹⁷

In the Federal Register Notice designating TPS for South Sudan, the then-Department of Homeland Security Secretary described an illegitimate election process and related human rights abuses in 2010.¹⁸ The civil unrest was compounded by violence involving both governmental and non-governmental warring factions.¹⁹ Tactics included specific targeting of civilians, leading to massive internal displacement as well as a regional refugee crisis.²⁰ 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 (UNHCR) estimates.²¹ In general, UNHCR documented a "radical shift in patterns of violence that points to clear targeting of women and children."²² Frequent attacks were reported on isolated and vulnerable communities, with "indiscriminate killing, abduction, rape, mutilation, looting, and destruction of property."²³ 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.²⁴ Mass graves were discovered.²⁵ The use of child soldiers was also documented.²⁶

Food and water insecurity, related to both the conflict and displacement, as well as environmental factors

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 76 Fed. Reg. 63629 (Oct. 13, 2011), www.federalregister.gov/documents/2011/10/13/2011-26537/designation-of-republic-of-south-sudan-for-temporary-protected-status.

17 *Id.*

18 *Id.*

19 *Id.*

20 *Id.*

21 *Id.*

22 *Id.*

23 *Id.*

24 *Id.*

25 *Id.*

26 *Id.*

was also of major concern to DHS.²⁷ 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.²⁸ The Federal Register Notice also described more than 50 percent of the population living below the poverty line on less than one dollar a day.²⁹ Eighty percent did not have access to adequate sanitation.³⁰ 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 washout during the rainy season.³¹

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 in order to protect people from the country's ongoing armed conflict and massive humanitarian crisis which both continue to widen and deepen. The U.S. State Department travel advisory states that all parts of the country, including the capital city, Juba, are extremely dangerous due to crime and armed conflict.³² According to the advisory, "violent crime, such as carjackings, shootings, ambushes, assaults, robberies, and kidnappings is common throughout South Sudan, including Juba. Foreign nationals have been the victims of rape, sexual

assault, armed robberies, and other violent crimes."³³ Furthermore, the State Department recommends that people who decide to travel to South Sudan should first draft a will.³⁴

According to a Sept. 2018 study by the London School of Hygiene & Tropical Medicine, approximately 400,000 people in South Sudan have lost their lives since 2013 – half from the conflict itself and half from disease, starvation and other reasons related to protracted war.³⁵ During that same amount of time, at least 4 million people have been displaced.³⁶ The horrors of the conflict led the United Nations Security Council to make the rare move of authorizing UN peacekeepers and other UN security personnel to use force in order to protect civilian lives.³⁷ Although a new peace agreement was signed in 2018, experts believe that like the past failed peace deals, it is flawed and unlikely to stop the violence and human suffering.³⁸

The use of sexual- and gender-based violence (SGBV) is a well-known tool of war in the South Sudan conflict.³⁹ Doctors Without Borders reports abhorrent attacks occurring in recent months at the end of 2018, post peace-deal.⁴⁰ In an incident in Nov. 2018, 125 women and girls as young as ten years old were raped, whipped and clubbed over a period of ten days while they were trying to seek food aid.⁴¹ In addition to this incident, there have been widespread reports of violations of the peace deal and continued

27 *Id.*

28 *Id.*

29 *Id.*

30 *Id.*

31 *Id.*

32 *South Sudan Travel Advisory*, STATE DEPARTMENT, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/south-sudan-travel-advisory.html>.

33 *Id.*

34 *Id.*

35 Francesco Checchi, *Estimates of crisis-attributable mortality in South Sudan, December 2013–April 2018: A statistical analysis*, LONDON SCHOOL OF HYGIENE AND TROPICAL MEDICINE (Sept. 2018), <https://crises.lshtm.ac.uk/2018/09/26/south-sudan-2/>.

36 *Id.*

37 *Civil War in South Sudan: Global Conflict Tracker*, COUNCIL ON FOREIGN RELATIONS (updated Jan. 18, 2019), www.cfr.org/interactives/global-conflict-tracker#!/conflict/civil-war-in-south-sudan.

38 Megan Specia, *383,000: Estimated Death Toll in South Sudan's War*, THE NEW YORK TIMES (Sept. 26, 2018), www.nytimes.com/2018/09/26/world/africa/south-sudan-civil-war-deaths.html.

39 Associated Press, *125 Women and Girls Seeking Food Were Raped and Whipped in South Sudan*, THE NEW YORK TIMES (Dec. 2, 2018), www.nytimes.com/2018/12/02/world/africa/south-sudan-women-girls-raped-whipped.html.

40 *Id.*

41 *Id.*

conflict, with the first reports coming within a matter of hours after the peace deal was signed.⁴² In Sept. and Oct. 2018, Human Rights Watch documented rebel and governmental attacks, including a rebel attack on a military convoy escorting approximately 200 internally displaced persons.⁴³ In Dec. 2018, new outbreaks of violence were reported including an attack against ceasefire monitors themselves.⁴⁴

Since the onset of the war, children have suffered particular harm.⁴⁵ An estimated 100,000 children have been recruited as child soldiers, abused and exploited; tens of thousands have been left orphaned or separated from their families.⁴⁶

In addition to armed conflict in South Sudan, an 18-month extension and re-designation of TPS is needed to protect people from the ongoing humanitarian crisis. The people of South Sudan continue to suffer severe food shortages.⁴⁷ In Sept. 2018, 59 percent of the population, over 6 million people were facing crisis level food shortage or worse, including 1.7 million facing emergency and nearly 50,000 facing catastrophe or famine, according to the Famine Early Warning System Network.⁴⁸ Although conditions are expected to improve following the 2018 harvest, “extreme levels of acute food security are

expected to continue throughout the projection period [through May 2019] and some households will likely be in Catastrophe” or famine.⁴⁹

Water, sanitation and hygiene also continues to be a major issue in South Sudan. According to the 2018 South Sudan Humanitarian Needs Overview from the UN Office for the Coordination of Humanitarian Affairs, approximately 32 percent of the population does not have access to clean water and is drinking from contaminated sources.⁵⁰ Ninety percent of the population does not have access to adequate sanitation.⁵¹ In addition to massive displacement, water and sanitation infrastructure is deliberately targeted in conflict, exacerbating the problem.⁵² These issues have contributed to the spread of waterborne diseases including cholera, which led to approximately 20,000 people being infected and nearly 500 deaths in 2016 and 2017.⁵³ Although this outbreak is now contained, risk for a new outbreak persists.⁵⁴ Lack of access to health care compounds these issues – over 5 million people are in need of health assistance in the South Sudan.⁵⁵ Aid to alleviate these problems as well as the food crisis remains a challenge as the South Sudan has been named the most dangerous country in the world for aid workers for the past three years.⁵⁶

42 *South Sudan ceasefire violated hours after taking effect*, AL JAZEERA (June 30, 2018), www.aljazeera.com/news/2018/06/south-sudan-ceasefire-violated-hours-effect-180630110701463.html.

43 *South Sudan: Soldiers Attack Civilians in Western Region*, HUMAN RIGHTS WATCH (Oct. 24, 2018), www.hrw.org/news/2018/10/24/south-sudan-soldiers-attack-civilians-western-region.

44 *IGAD Council of Ministers statement on violation of the revitalized agreement of resolution of the conflict on South Sudan R-ARCSS at Lure Training Center*, INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (Dec. 2018), <https://igad.int/programs/115-south-sudan-office/2021-igad-council-of-ministers-statement-on-violation-of-the-revitalized-agreement-of-resolution-of-the-conflict-on-south-sudan-r-arcss-at-lure-training-center>.

45 *2018 South Sudan Humanitarian Needs Overview*, UN OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (Dec. 5, 2017), <https://reliefweb.int/report/south-sudan/2018-south-sudan-humanitarian-needs-overview>.

46 *Id.*

47 *South Sudan Food Security Outlook, October 2018 to May 2019*, FAMINE EARLY WARNING SYSTEM NETWORK (Nov. 16, 2018), <https://reliefweb.int/report/south-sudan/south-sudan-food-securityoutlook-october-2018-may-2019>.

48 *Id.*

49 *Id.*

50 *2018 South Sudan Humanitarian Needs Overview*, UN OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (Dec. 5, 2017), <https://reliefweb.int/report/south-sudan/2018-south-sudan-humanitarian-needs-overview>.

51 *Id.*

52 *Id.*

53 *South Sudan declares the end of its longest cholera outbreak*, WORLD HEALTH ORGANIZATION (Feb. 7, 2018), www.afro.who.int/news/south-sudan-declares-end-its-longest-cholera-outbreak.

54 *Id.*

55 *Id.*

56 Megan Specia, *383,000: Estimated Death Toll in South Sudan's War*, THE NEW YORK TIMES (Sept. 26, 2018), www.nytimes.com/2018/09/26/world/africa/south-sudan-civil-war-deaths.html.

South Sudan's economy continues to collapse according to the World Bank⁵⁷ and fuel shortages and long gaps and inconsistent pay for employees in the public sector continue to contribute to the country's insecurity.⁵⁸ Vital infrastructure and services are not available: only 22 percent of healthcare facilities are operational.⁵⁹ At least two million children are out of school due to teachers fleeing, displacement and destruction of schools in the war.⁶⁰

What will the impact be if TPS for South Sudan is not extended and re-designated?

TPS is a life-saving protection and approximately 70 people⁶¹ are currently safeguarded from the war and immense humanitarian crisis in South Sudan through TPS. Continuing to provide protection is demanded both by law and morality. Additionally, TPS should be redesignated for South Sudan in order to provide protection for more recently arrived people, equally in need of safety from conflict, hunger and disease.

TPS terminations are destructive to TPS holders and their families, which include U.S. citizen children, communities, the U.S. economy and other vital interests of the United States. Terminating TPS results in employers losing workers and having to absorb turnover costs. It reduces contributions to Social Security, Medicare and the other ways TPS holders help support the U.S. economy.

TPS holders also provide unofficial foreign aid from the United States to their home countries through remittances sent back to families and friends. For many living in TPS-designated countries, these remittances are their lifelines.

The U.S. has made commitments to help restore stability in South Sudan and to assist those that have been impacted by the protracted violence.⁶² TPS is a piece of that commitment and the DHS Secretary must extend for 18 months and redesignate TPS.⁶³

Why is TPS for South Sudan in line with our shared values?

TPS is grounded in the international principle of not returning people to a country where their lives or freedom would be threatened. This value is codified in our laws through TPS, as well as the laws governing asylees and refugees. TPS honors our long history of providing relief to victims of catastrophic events, war, violence and natural disasters. It is a commitment to protect and welcome those in need.

American interfaith values demand that the U.S. extend and redesignate TPS to protect the lives and dignity of South Sudanese TPS recipients. Continued TPS for South Sudan satisfies our moral and international obligations until greater progress is made to ensure people are not returned to dangerous conditions.

57 *The World Bank in South Sudan: Overview*, THE WORLD BANK (Oct. 12, 2018), www.worldbank.org/en/country/southsudan/overview/.

58 *2018 South Sudan Humanitarian Needs Overview*, UN OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (Dec. 5, 2017), <https://reliefweb.int/report/south-sudan/2018-south-sudan-humanitarian-needs-overview>.

59 *Id.*

60 *Id.*

61 82 Fed. Reg. 44205 (Sept. 21, 2017), www.federalregister.gov/documents/2017/09/21/2017-20174/extension-of-south-sudan-for-temporary-protected-status.

62 *U.S. Relations With South Sudan*, U.S. DEPARTMENT OF STATE (Aug. 10, 2018), www.state.gov/r/pa/ei/bgn/171718.htm.

63 *Id.*