

Rebuilding from Rubble: Why TPS is needed for Nepal



By Lisa Parisio



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

ACKNOWLEDGMENTS

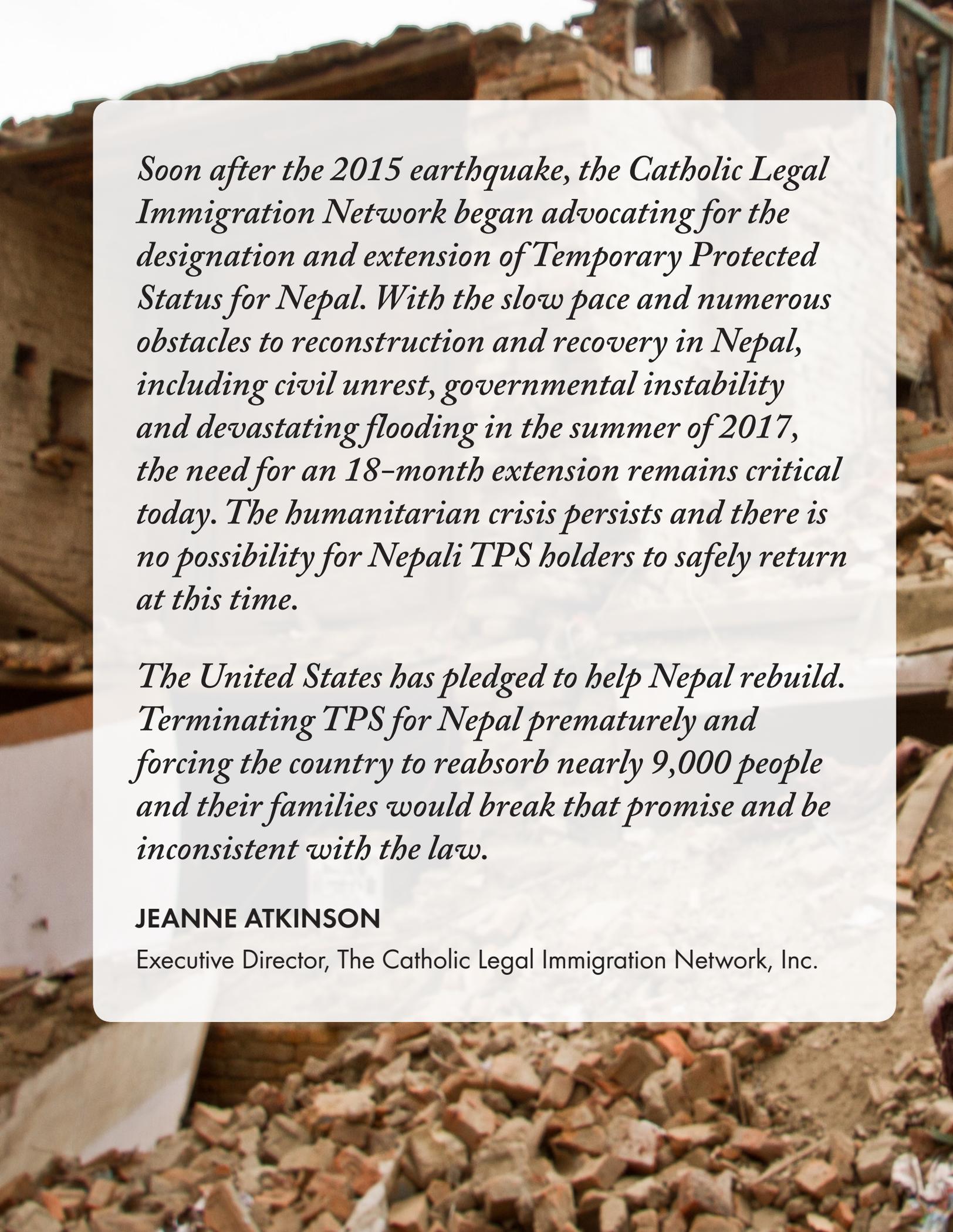
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The background of the entire page is a photograph showing the aftermath of a disaster. In the foreground, there is a large pile of reddish-brown rubble, likely bricks and concrete fragments. In the background, the remains of a building are visible, with some structural elements still standing but heavily damaged. The overall scene is one of devastation and reconstruction.

Soon after the 2015 earthquake, the Catholic Legal Immigration Network began advocating for the designation and extension of Temporary Protected Status for Nepal. With the slow pace and numerous obstacles to reconstruction and recovery in Nepal, including civil unrest, governmental instability and devastating flooding in the summer of 2017, the need for an 18-month extension remains critical today. The humanitarian crisis persists and there is no possibility for Nepali TPS holders to safely return at this time.

The United States has pledged to help Nepal rebuild. Terminating TPS for Nepal prematurely and forcing the country to reabsorb nearly 9,000 people and their families would break that promise and be inconsistent with the law.

JEANNE ATKINSON

Executive Director, The Catholic Legal Immigration Network, Inc.



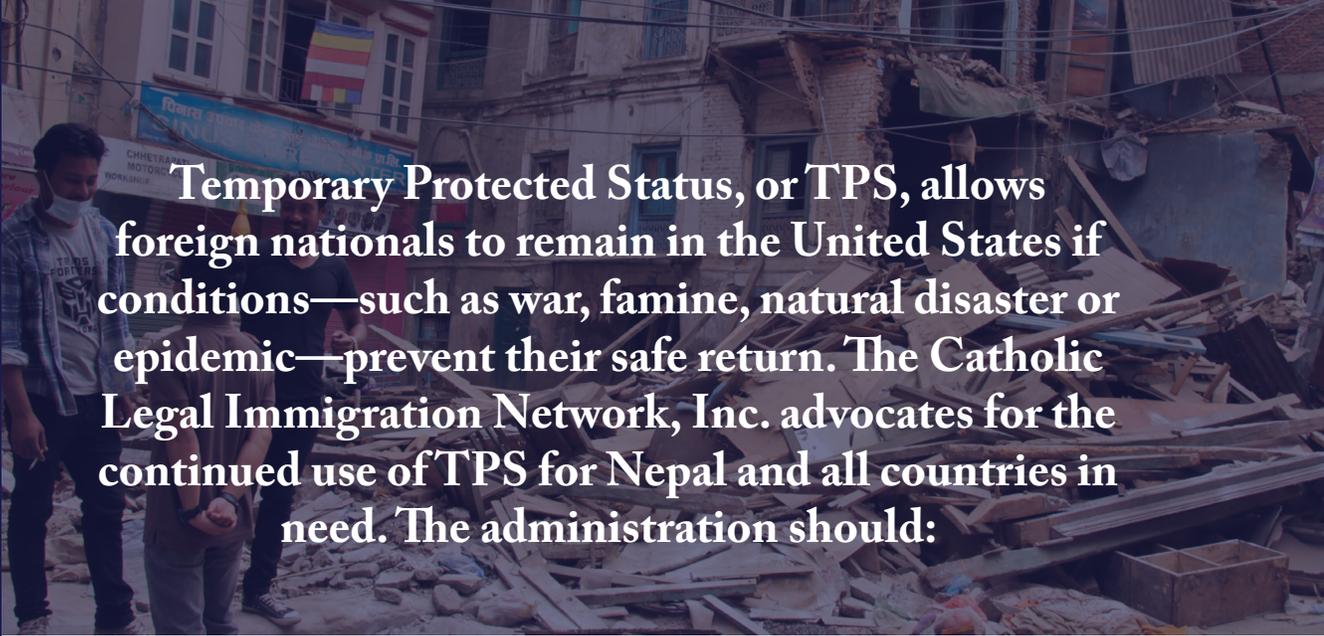
EXECUTIVE SUMMARY

This report documents the clear and acute need for an extension of Temporary Protected Status, or TPS, for Nepal for at least another 18 months. The law requires the secretary of the Department of Homeland Security to extend TPS when after review, the secretary determines that the conditions for the designation continue to be met. Nepal still meets the requirements as it continues to rebuild from the cataclysmic earthquake and aftershocks of April and May of 2015. A lack of adequate housing, destroyed public infrastructure that restricts access to basic needs and services, health care and education and persistent food and water insecurity makes the safe return of nearly 9,000 Nepali TPS holders impossible at this time. In addition to the short time since the earthquake, civil unrest and intervening natural disasters—namely catastrophic flooding that affected nearly all of Nepal’s southern border region in the summer of 2017—have slowed progress and prevented the country from adequately recovering.

Since the beginning of the Trump administration, the Department of Homeland Security has significantly narrowed its interpretation of the TPS statute. Decisions to terminate TPS have been focused solely on the initial catastrophic conditions that led to the initial designation. Prior administrations also considered additional factors, such as subsequent environmental events and governance concerns that affected the designated country’s recovery. This report outlines overwhelming evidence that Nepal has not sufficiently recovered from the devastating 2015 earthquake and cannot safely absorb TPS holders and their families. Compelling factors that have arisen since the earthquake should be considered when deciding whether to extend TPS for Nepal.

In addition to an overview of country conditions and legal analysis, this report contains specific recommendations for the administration regarding TPS for Nepal. CLINIC calls on the administration to keep the United States’ promises to support Nepal in its long-term recovery after such a devastating event. Extending TPS is both in line with the law and necessary to achieve that goal.

RECOMMENDATIONS FOR THE ADMINISTRATION REGARDING TEMPORARY PROTECTED STATUS FOR NEPAL



Temporary Protected Status, or TPS, allows foreign nationals to remain in the United States if conditions—such as war, famine, natural disaster or epidemic—prevent their safe return. The Catholic Legal Immigration Network, Inc. advocates for the continued use of TPS for Nepal and all countries in need. The administration should:

1

Continue to extend TPS for Nepal in 18-month increments as long as conditions persist in Nepal that prevent the country from being able to safely return nationals, as is consistent with U.S. law.

2

Honor the Nepali government's request to extend TPS, as the country cannot safely accept the return of its nationals at this time.

3

Follow the process for making TPS extension determinations according to the law, which requires consultation with appropriate government agencies such as the State Department, timely publication of notices and extending and/or redesignating TPS when conditions warrant it.

4

Engage and consult with experts in civil society that are working in and serving Nepal to better understand the conditions on the ground, such as status of reconstruction from the earthquake and intervening factors which have affected progress.

5

Encourage Congress to create a permanent solution for Nepali and other TPS holders who have been in the United States for many years because their countries have remained unsafe.



“As a community center and home-away-from-home, Adhikaar sees the hardships that Nepali immigrants go through to support families here and the country's rebuilding efforts back home. Right now, Nepal is still in a pivotal state of rebuilding from the 2015 earthquakes, and TPS gives hardworking Nepalis in the United States the tremendous opportunity to support these efforts by creating a stable foundation to rebuild Nepal while contributing to the economy in the U.S.”

PABITRA BENJAMIN
Executive Director, Adhikaar

INTRODUCTION

Temporary Protected Status is a life-saving humanitarian immigration program grounded in the international concept of *nonrefoulement*, meaning that a country will not return a person to the hands of their persecutor or to conditions that threaten life or freedom.¹ As a signatory of the United Nations Protocol Relating to the Status of Refugees, the United States has committed to honoring this principle and Congress has codified it through the laws governing TPS, asylum and refugees.²

The damage to Nepal’s private and public infrastructure was catastrophic—750,000 homes were destroyed or seriously damaged, 7,000 classrooms were lost and 900 health care facilities that served rural villagers were demolished.

Nepal was first designated for TPS in June 2015 following a deadly 7.8 magnitude earthquake that struck on April 25, 2015, less than 50 miles from the capital, Kathmandu.³ The earthquake and its aftershocks—including a 7.3 magnitude earthquake on May 12, 2015—killed approximately 9,000 people, left more than 20,000 injured, and displaced millions.⁴ The damage to Nepal’s private and public infrastructure was catastrophic—750,000 homes were destroyed or seriously damaged,⁵ 7,000 classrooms were lost,⁶ and 900 health care facilities that served rural villagers were demolished.⁷ Infrastructure damage and environmental impacts severely affected food and water security.⁸ The

¹ Carla Arguenta, *Temporary Protected Status: Current Immigration Policies and Issues*, CONGRESSIONAL RESEARCH SERVICE (Jan. 17, 2017), trac.syr.edu/immigration/library/P13104.pdf.

² *Id.*

³ 80 Fed. Reg. 36346 (June 24, 2015), www.federalregister.gov/documents/2015/06/24/2015-15576/designation-of-nepal-for-temporary-protected-status.

⁴ *Id.*

⁵ *Id.*

⁶ *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.

⁷ 80 Fed. Reg. 36346 (June 24, 2015), www.federalregister.gov/documents/2015/06/24/2015-15576/designation-of-nepal-for-temporary-protected-status.

⁸ *Id.*



A young Nepali woman outside her earthquake-devastated home in the village of Changu Narayan.

situation was especially grave for people in remote areas, who were cut off from assistance when roads were reduced to rubble.⁹

Following the earthquake and its aftershocks, the United States committed significant aid and issued a strong statement to stand by Nepal in what would inevitably be a long-term recovery process.¹⁰ Then-Secretary of State John Kerry pledged the United States' support, including playing "an important role in reconstruction efforts, particularly in the most critical sectors like housing, education, health, agriculture, protecting vulnerable populations, and preserving Nepal's cultural heritage."¹¹

Despite the commitment of aid from the United States, other countries and non-governmental organizations around the world immediately after the earthquake, rebuilding efforts in Nepal have been fraught with complications and challenges.¹² Political unrest, governmental dysfunction in distribution of rebuilding loans and catastrophic flooding in the summer of 2017 have all slowed recovery and contributed to a continued state of devastation and risks to health and safety.¹³ Two years after the

⁹ *Id.*

¹⁰ *U.S. Relations with Nepal: Bureau of South and Central Asian Affairs Fact Sheet*, U.S. DEPARTMENT OF STATE (Aug. 10, 2016), www.state.gov/r/pa/ei/bgn/5283.htm.

¹¹ *Id.*

¹² Narayan Adhikari, *Nepal's earthquake disaster: two years and \$4.1 billion later*, AL JAZEERA (April 25, 2017), www.aljazeera.com/indepth/opinion/2017/04/nepal-earthquake-disaster-years-41bn-170412110550808.html.

¹³ Hemant Ojha, Eileen Baldry, Krishna K. Shrestha, *Two years after the earthquake, why has Nepal failed to recover?*, THE CONVERSATION (May 12, 2017), <https://theconversation.com/two-years-after-the-earthquake-why-has-nepal-failed-to-recover-77552>; *Nepal Development Update*, THE WORLD BANK (Sept. 2017), <http://documents.worldbank.org/curated/en/764611505401428300/>

earthquake, studies showed that 62 percent of the people who lost their homes in the earthquake were still living in temporary shelters, unprotected from the elements of Nepal's extreme rainy and winter seasons. In more remote and vulnerable areas, the numbers were much higher.¹⁴

Under the law, Department of Homeland Security Secretary Kirstjen Nielsen must decide whether to extend TPS for Nepal by April 25, 2018.¹⁵ Due to the slow pace of earthquake recovery and the ongoing humanitarian crisis, all evidence compels the secretary to extend TPS for Nepal for at least another 18 months. A failure to do so would be inconsistent with the law¹⁶ and would breach U.S. commitments to Nepal and hinder recovery. The country is in no position to safely reabsorb TPS holders and their families. In Nepal, many people are dependent on remittances sent home from abroad to survive.¹⁷

Accordingly, in line with the law and American commitments and values, the administration must:

- Continue to extend TPS for Nepal in 18-month increments as long as conditions persist in Nepal that prevent the country from being able to safely return nationals, as is consistent with U.S. law.¹⁸
- Honor the Nepali government's request to extend TPS, as the country cannot safely accept the return of its nationals at this time.
- Follow the process for making TPS extension determinations according to the law, which requires consultation with appropriate government agencies such as the State Department, timely publication of notices and extending and/or redesignating TPS when conditions warrant it.¹⁹
- Engage and consult with experts in civil society who are working in and serving Nepal to better understand the conditions on the ground, such as status of reconstruction from the earthquake and intervening factors which have affected progress.
- Encourage Congress to create a permanent solution for Nepali and other TPS holders who have been in the United States for many years because their countries have remained unsafe.

TPS: AN OVERVIEW OF THE LAW

Congress established TPS in the Immigration Act of 1990 to protect foreign nationals in the United States from being returned to their home country if it became unsafe during the time they were in the

[pdf/119723-WP-PUBLIC-SEPT-17-38p-Nepal-Development-Update-Sept-2017.pdf](#).

¹⁴ *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>.

¹⁵ INA §244 (b)(3)(A); 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.

¹⁶ INA §244 (b)(3)(A).

¹⁷ *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>.

¹⁸ INA §244 (b)(3)(A).

¹⁹ *Id.*

United States.²⁰ Under the law, the secretary of the Department of Homeland Security, or DHS, may designate a country for TPS in three scenarios:²¹

- A. Ongoing armed conflict (such as a civil war) that would pose serious threat to the personal safety of nationals;²²
- B. An environmental disaster (such as earthquake or hurricane) or an epidemic, when the foreign state is temporarily unable to adequately handle the return of its citizens and the foreign government has requested TPS for its nationals; or²³
- 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.²⁴

TPS may be designated or extended in increments of a minimum of six months or up to a maximum of 18 months.²⁵ 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 U.S. government, for example the State Department, and determine whether conditions warrant extension.²⁶ The decision must be published on a timely basis in the Federal Register.²⁷ Under the law, TPS may be extended as many times as necessary, as long as the dangerous country conditions continue.²⁸ TPS can also be re-designated for a country if necessary.²⁹

Under the law, TPS may be extended as many times as necessary, as long as the dangerous country conditions continue.

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.³⁰ If granted, applicants are temporarily protected from deportation and may receive work authorization to support themselves while they remain in the

²⁰ INA §244.

²¹ INA §244 (b).

²² INA §244 (b)(1)(A).

²³ INA §244 (b)(1)(B).

²⁴ INA §244 (b)(1)(C).

²⁵ INA §244 (b)(2)(B).

²⁶ INA §244 (b)(3)(A).

²⁷ *Id.*

²⁸ *See generally* INA §244.

²⁹ *Id.*

³⁰ INA §244 (a)(1).



Reconstruction in Kathmandu continues three years later.

United States.³¹

In certain limited circumstances, TPS holders may apply for authorization to travel abroad.³² TPS does not provide a path to lawful permanent resident status or citizenship.³³

TPS FOR NEPAL: BACKGROUND AND CONTEXT

Nepal was first designated for TPS in June 2015 under the section of the Immigration and Nationality Act that permits designation if 1) the foreign state has experienced an environmental disaster (for example, an earthquake) resulting in a substantial but temporary disruption of living conditions, 2) the foreign state is unable, temporarily to adequately handle the safe return of its nationals and 3) the foreign state has requested TPS.³⁴ Since the original 18-month designation, TPS for Nepal has come under review once and was extended for another 18 months due to ongoing conditions resulting from the earthquake and its aftershocks that continue to prevent the safe return of TPS holders to Nepal.³⁵

On April 25, 2015, Nepal was rocked by a 7.8 magnitude earthquake that struck less than 50 miles from

³¹ INA §244 (a)(1)(A); INA §244 (a)(1)(B).

³² INA §244 (c)(4)(B).

³³ *See generally* INA §244.

³⁴ INA §244 (b)(1)(B).

³⁵ 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.

the country's capital, home to a quarter of Nepal's entire population.³⁶ The earthquake was followed by a series of aftershocks, one measuring 7.3 on the Richter scale hitting on May 12, 2015.³⁷ The event was devastating, killing nearly 9,000 people and displacing millions.³⁸ Vital public and private infrastructure—including over 750,000 homes, 25 hospitals, 900 village health care facilities, roads, schools, and more—was destroyed.³⁹ In the most affected districts of the country, an estimated 2.8 million people were left in need of humanitarian aid.⁴⁰

However, government infighting and civil unrest, as the country struggled to transition from monarchy to a secular democracy, resulted in none of more than \$4.1 billion in international aid being distributed for a full year after the earthquake.

Following the earthquake and aftershocks, Nepal received an influx of international reconstruction aid.⁴¹ To deal with the massive housing and infrastructure crisis and disburse rebuilding loans to civilians, the Nepali government established the National Rebuilding Authority in December 2015.⁴² However, government infighting and civil unrest, as the country struggled to transition from monarchy to a secular democracy⁴³ resulted in *none* of more than \$4.1 billion in international aid being distributed for a full year after the earthquake.⁴⁴ Blockades along Nepal's southern border related to the civil unrest prevented vital rebuilding materials and other forms of assistance from being allowed into the country.⁴⁵ These failures deepened the suffering of the Nepali people.⁴⁶ Those displaced by the earthquake were forced to weather monsoons and winters in makeshift shelters, unprotected from the rain and freezing temperatures.⁴⁷

³⁶ 80 Fed. Reg. 36346 (June 24, 2015), www.federalregister.gov/documents/2015/06/24/2015-15576/designation-of-nepal-for-temporary-protected-status.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Nepal: Events of 2016*, HUMAN RIGHTS WATCH (2016), www.hrw.org/world-report/2017/country-chapters/nepal#8ff2d4.

⁴¹ Helen Regan, *International Aid to Nepal Ramps Up*, TIME (April 28, 2015), <http://time.com/3837688/nepal-earthquake-aid-relief-donations/>.

⁴² National Reconstruction Authority, Government of Nepal, www.nra.gov.np.

⁴³ *Nepal profile - timeline*, BBC (Feb. 19, 2018), www.bbc.com/news/world-south-asia-12499391.

⁴⁴ 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.

⁴⁵ 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.

⁴⁶ *Nepal: Events of 2016*, HUMAN RIGHTS WATCH (2016), www.hrw.org/world-report/2017/country-chapters/nepal#8ff2d4.

⁴⁷ *Id.*



Man repairs some of the damage in Bhaktapur city.

In October 2016, the Department of Homeland Security extended TPS for Nepal for another 18 months.⁴⁸ In its decision, the U.S. government cited the ongoing humanitarian crisis and the intervening factors that prevented recovery in Nepal: “recovery efforts were impeded by civil unrest and the related obstruction of key crossings at the Nepal-India border. The border blockades created difficulties in the delivery of humanitarian relief and reconstruction supplies to earthquake-affected areas.”⁴⁹ The decision also noted that due to the delays and challenges of reconstruction during winter and monsoon seasons, it would be unlikely that the country would even begin large-scale reconstruction before 2017.⁵⁰

⁴⁸ 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.

⁴⁹ *Id.*

⁵⁰ *Id.*



“The earthquake that struck Nepal in 2015 was a horrific natural disaster, taking the lives of so many and displacing millions. Over the past few years, the people of Nepal have worked hard to rebuild, with the assistance of governments and organizations around the world, including the United States. Despite our efforts, reconstruction and rehabilitation have been and remain a challenge. As we continue our work in Building Back Better, I am optimistic that the U.S. government will continue its humanitarian support to the Nepali people.”

HIS EXCELLENCY DR. ARJUN K. KARKI
Ambassador of Nepal to the United States

NEPAL TODAY: CONDITIONS IN 2018 CONTINUE TO WARRANT AN 18-MONTH EXTENSION

Following the initial lengthy delays in responding to the earthquake, progress has been limited. Upheaval in Nepal's government, related bureaucratic delays and civil unrest⁵¹ have prevented the speedy and appropriate dispersal of loans to rebuild homes and repair public infrastructure.⁵² The country is also striving to "build back better," with more earthquake resilient structures, requiring the government to issue new construction guidelines and codes and training for proper construction.⁵³ Other unforeseen factors have also taken their toll, including flooding that affected huge swaths of the country in the summer of 2017.⁵⁴ In all, conditions in Nepal remain dangerous and unstable with no possibility of the country being able to safely absorb TPS holders and their families at this time.

INADEQUATE PROGRESS IN REBUILDING HOMES AND PERSISTENT WIDESPREAD DISPLACEMENT

The earthquake destroyed 500,000 private homes and seriously damaged an additional 270,000 residences, about 14 percent of the housing in the entire country.⁵⁵ At the two-year mark after the

⁵¹ *Global Report on Internal Displacement*, INTERNATIONAL DISPLACEMENT MONITORING CENTRE (2017), www.internal-displacement.org/global-report/grid2017/pdfs/2017-GRID.pdf.

⁵² *Nepal Development Update*, THE WORLD BANK (Sept. 2017), <http://documents.worldbank.org/curated/en/764611505401428300/pdf/119723-WP-PUBLIC-SEPT-17-38p-Nepal-Development-Update-Sept-2017.pdf>.

⁵³ Nepal: women on the front lines to build back better, OXFAM INTERNATIONAL (2016), www.oxfam.org/en/nepal-nepal-earthquake/nepal-women-front-lines-build-back-better; Supporting Nepal to Build Back Better, UNITED NATIONS DEVELOPMENT PROGRAMME (Oct. 2015), www.undp.org/content/dam/undp/library/crisis%20prevention/UNDP_NP_supporting-nepal-to-build-back-better-key-achievements-in-undps-earthquake-response.pdf.

⁵⁴ *Nepal: Floods and Landslides - Jun 2017*, RELIEF WEB (June 2017), <https://reliefweb.int/disaster/fl-2017-000107-npl>.

⁵⁵ *Nepal Labour Market Update*, INTERNATIONAL LABOUR ORGANIZATION (Jan. 2017), www.ilo.org/wcmsp5/groups/public/---asia/---ro-

earthquake, reports showed that only 3.5 percent of homes that had been surveyed and identified as damaged or destroyed had been rebuilt.⁵⁶ Seventeen affected districts in the country had yet to be evaluated to fully document the extent of the damage.⁵⁷ Only \$330,000 of more than \$4.2 billion in recovery aid had been spent or disbursed.⁵⁸ Furthermore, the fractional rebuilding that had occurred favored Nepal's wealthier economic classes.⁵⁹ A rebuilding policy established by Nepal's government required proof of landownership to receive a loan to rebuild and repair homes.⁶⁰ With a quarter of Nepal's population not being landowners, tens of thousands of the most vulnerable people—including women and ethnic minorities—were initially left without hope of recovery.⁶¹ Efforts have since been made to provide aid to the country's poorest, including those who do not own land.⁶²

In September 2015, Nepal's government adopted a new constitution, a major milestone in a decade-long struggle to transition from monarchy to secular democracy.⁶³ Establishing the new constitution sparked large-scale protests across the country.⁶⁴ It was opposed by vulnerable populations—including marginalized ethnicities, women and people identified in lower castes—due to lack of representation in the government and province lines drawn according to where certain ethnicities lived.⁶⁵ Dozens of people were killed in civil unrest and earthquake recovery was delayed.⁶⁶ Along Nepal's southern border, the Indian government and protesters set up a blockade at a key border point where 70 percent of India's imports flowed into Nepal.⁶⁷ As a result, materials needed to rebuild the country (along with vital humanitarian aid for earthquake survivors) were obstructed for months.⁶⁸ The blockade was finally lifted in February 2016.⁶⁹

Since the two-year mark, the rate of rebuilding has slightly improved. In July 2017, 90 percent of the 646,000 people approved for government aid had received the first of the series of three loans in the National Reconstruction Authority's program.⁷⁰ Despite the improvement in the rate of disbursements,

[bangkok/---ilo-kathmandu/documents/publication/wcms_543497.pdf](#).

⁵⁶ *Nepal makes scant progress in rebuilding 2 years after quake*, FOX NEWS (April 25, 2017), www.foxnews.com/world/2017/04/25/nepal-makes-scant-progress-in-rebuilding-2-years-after-quake.html.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Nepal: Building Inequality - The Failure of the Nepali Government to Protect the Marginalised in Post-Earthquake Reconstruction Efforts*, AMNESTY INTERNATIONAL (April 25, 2017), www.amnesty.org/en/documents/asa31/6071/2017/en/.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Charles Haviland, *Why is Nepal's new constitution controversial?*, BBC NEWS (Sept. 19, 2015), www.bbc.com/news/world-asia-34280015.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ 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.

⁶⁷ *Id.*

⁶⁸ 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.

⁶⁹ *Nepal border blockade: ethnic groups lift roadblocks*, BBC NEWS (Feb. 6, 2016), www.bbc.com/news/world-asia-35525018.

⁷⁰ *Nepal Development Update*, THE WORLD BANK (Sept. 2017), <http://documents.worldbank.org/curated/en/764611505401428300/pdf/119723-WP-PUBLIC-SEPT-17-38p-Nepal-Development-Update-Sept-2017.pdf>.

people who received these first round loans—50,000 rupees or \$485—reported that the amount was insufficient for homes in need of major repairs or complete rebuilding.⁷¹ Additionally, receiving some monetary assistance was not a good indication of progress, due to lack of access to building materials or skilled laborers needed to rebuild homes.⁷²

In August 2017, the already-slow earthquake recovery in Nepal was dramatically affected by a new natural disaster—unrelenting rain that led to catastrophic flooding over more than one third of the country.⁷³ More than 460,000 people were displaced⁷⁴ and more than 190,000 homes were damaged or destroyed.⁷⁵ In the Terai region in the south of the country, more than 80 percent of the land was covered by floodwaters.⁷⁶ In a September 2017 study on the state of development in Nepal, the World Bank warned, “the pace of earthquake reconstruction remains a concern, which is now compounded by flood recovery and reconstruction.”⁷⁷

On December 27, 2017 (noting the eight-month delay following the earthquake before the government even began its response) the government announced its third anniversary in the work to rebuild the country.⁷⁸ In a statement, the National Reconstruction Authority admitted that despite the years that had elapsed since the disaster, the work of rebuilding is just beginning.⁷⁹ Years one and two, marked by intergovernmental and bureaucratic delays, were described by the government as “formative and normative stages.”⁸⁰ Indeed, as of February 2018, fewer than 100,000 houses had been rebuilt according to the Nepali government’s reports.⁸¹ At the end of 2017, only 5.1 percent of people eligible for housing grants had received the full loan amount to attempt to rebuild.⁸² Over 75 percent of private homes in the program were in need of ongoing reconstruction.⁸³ Ninety-three percent of Nepalis surveyed in a 2017 study said they were unable to rebuild because they did not have the funds.⁸⁴ Some of the most recent

71 *Nepal makes scant progress in rebuilding 2 years after quake*, FOX NEWS (April 25, 2017), www.foxnews.com/world/2017/04/25/nepal-makes-scant-progress-in-rebuilding-2-years-after-quake.html.

72 *50,000 quake-hit families yet to start rebuilding in Kavre-TKP*, HOUSING RECOVERY AND RECONSTRUCTION PLATFORM NEPAL (Jan. 19, 2018), www.hrrpnepal.org/news-events-detail/view/50000-quake-hit-families-yet-to-start-rebuilding-in-kavre-tpk.

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

74 *Id.*

75 *Post Flood Recovery Needs Assessment*, GOVT. OF NEPAL - NATIONAL PLANNING COMMISSION (2017), <http://nra.gov.np/uploads/docs/jKT7cPkw6A17I208105316.pdf>.

76 *Id.*

77 *Id.*

78 *National Reconstruction Authority begins its third year*, NATIONAL RECONSTRUCTION AUTHORITY (Dec. 27, 2017), www.nra.gov.np/content/press/o.

79 *Id.*

80 *Id.*

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

82 *Id.*

83 *Id.*

84 *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>.



Candles are lit on the anniversary of the earthquake in Durbar Square, Kathmandu, Nepal.

data available shows that 2.6 million people (of the original 2.8 million) remain displaced.⁸⁵

DAMAGED ECONOMY AND CRITICAL INFRASTRUCTURE ARE INSUFFICIENT TO SUPPORT THE POPULATION

Beyond Nepal's housing crisis, other vital public infrastructure remains far from sufficient to support the population in 2018. In addition to the 750,000 affected private homes, the earthquake destroyed 1,000 government buildings and severely damaged 3,000 others.⁸⁶ 7,000 classrooms were destroyed⁸⁷ leaving nearly one million children without access to education.⁸⁸ At least 25 hospitals were damaged and 900 village health care facilities were identified as unusable.⁸⁹ Damage to roads and other infrastructure severely limited and continues to limit access to services.⁹⁰ In September 2017, the World Bank reported that, "Reconstruction in...cultural heritage, schools, hospital, public buildings, and so forth has barely

⁸⁵ *Global Report on Internal Displacement*, INTERNATIONAL DISPLACEMENT MONITORING CENTRE (2017), www.internal-displacement.org/global-report/grid2017/pdfs/2017-GRID.pdf.

⁸⁶ *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.

⁸⁷ *Id.*

⁸⁸ 80 Fed. Reg. 36346 (June 24, 2015), www.federalregister.gov/documents/2015/06/24/2015-15576/designation-of-nepal-for-temporary-protected-status.

⁸⁹ *Id.*

⁹⁰ *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.

started.”⁹¹

As of February 2018, the Nepali government reported some progress had been made on the classrooms, government buildings and health facilities *enrolled* in the National Reconstruction Authority plan.⁹² However, according to the report, 31 percent of health care facilities, nearly 40 percent of government buildings and 34 percent of schools were still works in progress.⁹³ However, like private housing, public sector rebuilding efforts were also severely affected by the 2017 floods.⁹⁴ The World Bank reported 80 schools were destroyed, with 710 others damaged.⁹⁵ Ten health care facilities were lost and 64 damaged.⁹⁶

In addition to the lost public infrastructure, the earthquake’s impact on the economy, employment and poverty rates in Nepal prevent Nepalis from meeting their basic needs. The International Labour Organization estimates that the earthquake cost Nepal \$7 billion in losses and damages.⁹⁷ At least 5.6 million workers were affected.⁹⁸ Destroyed agriculture—both the physical land and markets and infrastructure—had a huge impact, previously employing nearly 75 percent of the country’s workers.⁹⁹ Approximately 700,000 people fell into poverty in Nepal as a direct result of the earthquake.¹⁰⁰ Existing conditions do not support Nepal’s damaged labor market being able to absorb 9,000 TPS holders and their families.

ONGOING HUMANITARIAN AID NEEDS, WORSENING FOOD AND WATER INSECURITY AND HUMAN TRAFFICKING

Infrastructure destroyed by the earthquake, compounded with the flooding, translates into an ongoing humanitarian crisis. The lack of public buildings and passable roads greatly limits access to medical care and medications, clean and safe drinking water, food, shelter and sanitation.¹⁰¹

Access to safe and clean drinking water is reported to be worsening.¹⁰² In the most severely earthquake-

⁹¹ *Nepal Development Update*, THE WORLD BANK (Sept. 2017), <http://documents.worldbank.org/curated/en/764611505401428300/pdf/119723-WP-PUBLIC-SEPT-17-38p-Nepal-Development-Update-Sept-2017.pdf>.

⁹² *National Reconstruction Authority Report*, RELIEFWEB (Feb. 11, 2018), https://reliefweb.int/sites/reliefweb.int/files/resources/NATIONAL%20RECONSTRUCTION%20AUTHORITY_4.pdf.

⁹³ *Id.*

⁹⁴ *Nepal Development Update*, THE WORLD BANK (Sept. 2017), <http://documents.worldbank.org/curated/en/764611505401428300/pdf/119723-WP-PUBLIC-SEPT-17-38p-Nepal-Development-Update-Sept-2017.pdf>.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *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.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ 80 Fed. Reg. 36346 (June 24, 2015), www.federalregister.gov/documents/2015/06/24/2015-15576/designation-of-nepal-for-temporary-protected-status.

¹⁰² *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->

affected districts, 1,570 water systems were destroyed and 3,663 were damaged and needed repair.¹⁰³ Between September 2016 and April 2017, access to clean drinking water dropped by 9 percentage points in the districts worst hit by the earthquakes.¹⁰⁴ Thirteen percent of people in these areas say access to water is an urgent current need.¹⁰⁵ More than 50 percent of water infrastructure included in the National Reconstruction Authority plan had not been rebuilt as of February 2018.¹⁰⁶ Beyond humanitarian needs, 2 percent of people surveyed said that even if other housing rebuilding needs were theoretically met (namely adequate cash, supplies and labor) water scarcity prevented them from rebuilding.¹⁰⁷

More than 50 percent of water infrastructure included in the National Reconstruction Authority plan had not been rebuilt as of February 2018.

Lack of adequate shelter and access to medical care continues to plague earthquake survivors.¹⁰⁸ A 2017 survey showed that a quarter of families in the most affected areas had a family member who suffered recent illness due to inadequate shelter, particularly in winter and monsoon seasons.¹⁰⁹ Across all of Nepal, 19 percent of families had someone who recently became sick due to housing.¹¹⁰ Nearly 50 percent of people still surviving in cow sheds said that a family member had taken ill.¹¹¹ Types of illnesses included prolonged and persistent cold and fever, pneumonia, asthma, body swelling and some reported cases of dysentery and cholera.¹¹²

Food scarcity and malnutrition is a serious, ongoing problem in Nepal. During the earthquake, crops and irrigation systems were destroyed and livestock lost, instantly affecting food security.¹¹³ Markets

[Earthquake-Nepal-Quantitative-Survey-April-2017.pdf](#).

¹⁰³ Pragma Lamsal, *Post-earthquake Nepal: rebuilding WASH facilities, rebuilding a nation*, WATERAID (Feb. 2, 2016), <https://washmatters.wateraid.org/blog/post-earthquake-nepal-rebuilding-wash-facilities-rebuilding-a-nation>.

¹⁰⁴ *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>.

¹⁰⁵ *Id.*

¹⁰⁶ *National Reconstruction Authority Report*, RELIEFWEB (Feb. 11, 2018), https://reliefweb.int/sites/reliefweb.int/files/resources/NATIONAL%20RECONSTRUCTION%20AUTHORITY_4.pdf.

¹⁰⁷ *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>.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Nepal Earthquake's impact on food security and agriculture likely very high*, FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (April 30, 2015), www.fao.org/news/story/en/item/285171/icode/.

and vital roadways and infrastructure were also gone, leading to disruptions in planting seasons.¹¹⁴ A major 2017 assessment of humanitarian conditions show a slight improvement in food security overall with fewer people citing access to food as a very top survival need.¹¹⁵ However, people in the hardest-hit areas and vulnerable groups (such as low income, widows and people with disabilities) continue to suffer acutely and report the amount of food they eat declined over the course of 2017.¹¹⁶ The U.S. Agency for International Development cites that 36 percent of Nepali children suffer from chronic malnutrition, which can lead to stunting, blindness and brain damage.¹¹⁷ Food security issues are compounded by the overall lack of agriculture and food in the country, driving prices skyward.¹¹⁸

While all humanitarian issues in Nepal were exacerbated by the 2017 floods—due to the extensive damage as well as by affecting earthquake recovery—food security was especially affected. Agricultural outputs in the 2017 harvest season were devastated by flood waters over the southern Terai plains, known as the breadbasket of Nepal.¹¹⁹ 64,000 hectares (approximately 250 square miles) of crops were lost.¹²⁰ Difficulties in getting enough food to people after the earthquake became all the more complicated by the loss in agricultural production.

An increase in sexual trafficking and violence is another consequence of the earthquake.¹²¹ Young children left without guardians and others who suffer from hunger and exposure to the elements are targeted and offered an escape out of Nepal.¹²² UNICEF reports rescuing about 1,000 people as they were being trafficked over the border.¹²³ It is unclear how many people have been and continue to be victims.¹²⁴ Overall estimates from Nepali police and humanitarian organizations show a 15 to 20 percent increase in human trafficking since the earthquake.¹²⁵

114 *Id.*

115 *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>.

116 *Id.*

117 *Nepal Agriculture and Food Security*, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT (Nov. 2017), www.usaid.gov/nepal/agriculture-and-food-security.

118 *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>.

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

120 *Id.*

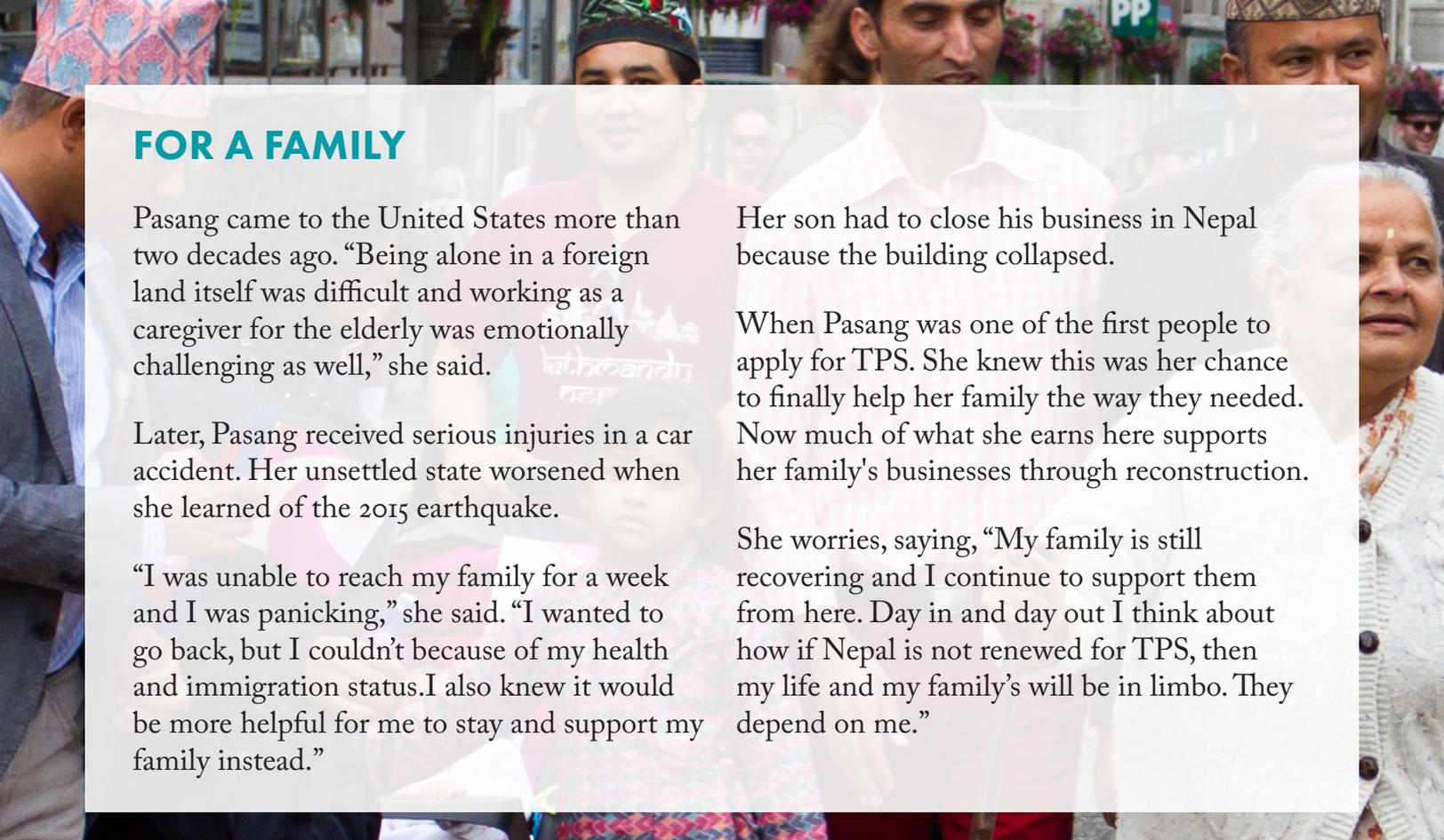
121 *Safe from Nepal's Child Traffickers: Protecting Children After the Earthquakes in Nepal*, UNICEF, www.unicef.org.uk/protecting-children-from-trafficking-nepal-earthquakes/.

122 *Id.*

123 *Id.*

124 *Id.*

125 Stephen Groves, *Nepal earthquake survivors are falling prey to human trafficking*, PRI (Nov. 15, 2016), www.pri.org/stories/2016-11-15/nepal-earthquake-survivors-are-falling-prey-human-trafficking.



FOR A FAMILY

Pasang came to the United States more than two decades ago. “Being alone in a foreign land itself was difficult and working as a caregiver for the elderly was emotionally challenging as well,” she said.

Later, Pasang received serious injuries in a car accident. Her unsettled state worsened when she learned of the 2015 earthquake.

“I was unable to reach my family for a week and I was panicking,” she said. “I wanted to go back, but I couldn’t because of my health and immigration status. I also knew it would be more helpful for me to stay and support my family instead.”

Her son had to close his business in Nepal because the building collapsed.

When Pasang was one of the first people to apply for TPS. She knew this was her chance to finally help her family the way they needed. Now much of what she earns here supports her family's businesses through reconstruction.

She worries, saying, “My family is still recovering and I continue to support them from here. Day in and day out I think about how if Nepal is not renewed for TPS, then my life and my family’s will be in limbo. They depend on me.”

NEPALI TPS HOLDERS WORK...



FOR A COMMUNITY

Neema always knew she wanted to advocate for those in need. In Nepal she was a lawyer at an NGO, but she came to the United States to earn her masters and do more.

She was taken advantage of by a for-profit college, leaving her with a large amount of debt. “I was alone and unable to progress with my studies; I was unable to fulfill my dream.”

Neema found a nanny position, but was frustrated that she had to hide her education and skills. “I was afraid to speak to people, and always looked down at my feet.” A chance encounter on the subway led Neema to Adhikaar, a women-led community center that

serves the Nepali population. “I met friends who encouraged me to find dignity and pride in my past and present.”

When the earthquakes hit, Neema felt the pull of panic. “I felt so much fear and worry for my family at home, and pain for my country and what was lost in the destruction,” she said. But she turned her fears into motivation and campaigned to designate TPS for Nepal.

Now a TPS recipient, Neema has not stopped working for the immigrants and domestic workers in her community. “TPS has created a foundation upon which I can build a life I am proud of.”



FOR A FUTURE

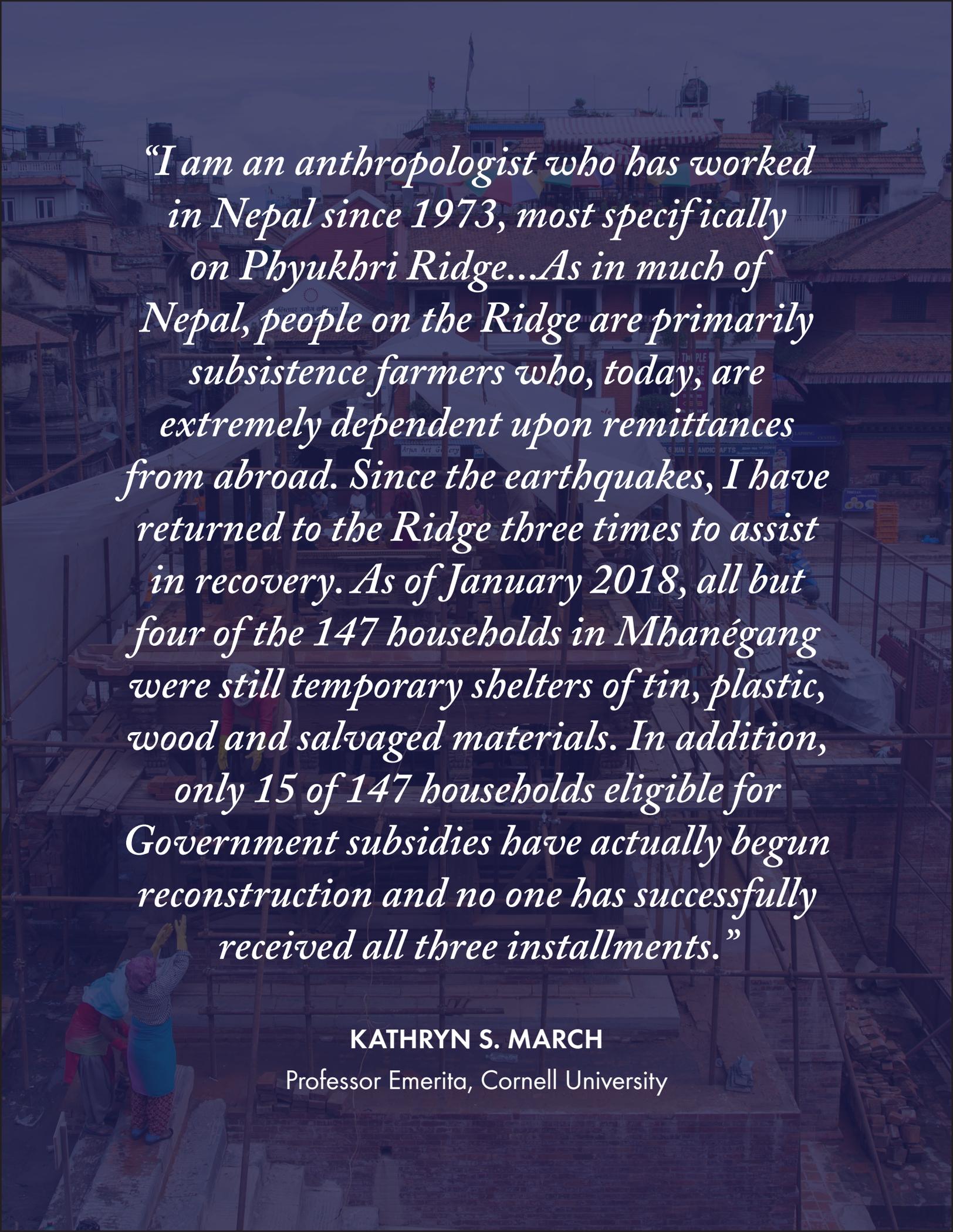
When the earthquake hit Nepal a year after he came to the United States, Bibek's life took an unexpected turn as he found himself as the sole source of income for his family. "My wife and children were back home and it was very traumatic for them, and for me, to know that now more than ever, they depended on me."

TPS changed Bibek and his family's lives. "I was able to get work authorization to get a stable and good-paying job, and I was able to enroll in health insurance." As the deadline for Nepal's TPS renewal looms, Bibek questions what his future will hold. "I work hard every day, earning enough to support myself here as well as save what I can to send home so that my children are able to eat, live a full life and go to school. If TPS is terminated then my children will not be able to go to school."

"I am a hardworking individual. I pay taxes. I contribute to this country's economy and society. I work as a chef at a nice restaurant in Manhattan. My son is now seven and my daughter is four. I left Nepal when my wife was still pregnant with our daughter and while I have never met my daughter in person, I see them every day on Skype. They remind me of what I am here for."

Bibek cannot imagine being forced to return to Nepal at this time. "The situation back home with the country still rebuilding from the earthquakes and the political system is just getting started, daily life is very unstable. If I were to return to Nepal, I most likely would have to sell every asset I have to start afresh for myself and my family."

"Without TPS, the dreams and the life I am building towards will be gone. I will lose my health insurance, access to a bank account for financial stability, my home, everything. I didn't come to the U.S. with outlandish dreams of getting rich or making it big. I came here with a simple desire, one to create a stable and safe life for myself, my wife and two small children. I respect and follow all the laws in this country, and want to continue contributing. My life hangs in a delicate balance...Every night I pray to God that something will happen that will allow me to continue building a fruitful and productive life here in the United States."



“I am an anthropologist who has worked in Nepal since 1973, most specifically on Phyukhri Ridge...As in much of Nepal, people on the Ridge are primarily subsistence farmers who, today, are extremely dependent upon remittances from abroad. Since the earthquakes, I have returned to the Ridge three times to assist in recovery. As of January 2018, all but four of the 147 households in Mhanégang were still temporary shelters of tin, plastic, wood and salvaged materials. In addition, only 15 of 147 households eligible for Government subsidies have actually begun reconstruction and no one has successfully received all three installments.”

KATHRYN S. MARCH

Professor Emerita, Cornell University

CONCLUSION

Nepal has made some limited progress in stabilizing and rebuilding since the earthquake. But by and large, a humanitarian crisis remains. The safe return of Nepali TPS holders and their families remains impossible at this time due to the severe lack of adequate shelter, food, water, health care, education and jobs as well as other risks. Accordingly, under the law, the administration must extend TPS for Nepal for at least another 18 months, allowing the country more time to rebuild.

In addition to TPS holders not being able to safely return at this time, Nepali TPS holders in the United States are helping stabilize Nepal through the remittances they send home from abroad. Remittances are reportedly becoming more and more important in survival, with 15 percent of people in the most affected areas saying that remittances are their main source of income.¹²⁶ Should TPS for Nepal be terminated, the loss of remittances would likely exacerbate hunger, malnutrition, thirst and exposure, prevent people from purchasing necessary building materials and hiring laborers and drive migration from Nepal. In this, TPS is necessary for the United States to keep its promise to help Nepal recover and rebuild and to ensure regional stability.

In addition to extending TPS, the administration must call on Congress to act swiftly to create a long-term solution to protect Nepali TPS holders and their families, who have become such a vibrant and needed part of American workplaces and communities.

¹²⁶ *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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Soon after the 2015 earthquake, the Catholic Legal Immigration Network began advocating for the designation and extension of Temporary Protected Status for Nepal. With the slow pace and numerous obstacles to reconstruction and recovery in Nepal, including civil unrest, governmental instability and devastating flooding in the summer of 2017, the need for an 18-month extension remains critical today. The humanitarian crisis persists and there is no possibility for Nepali TPS holders to safely return at this time.

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JEANNE ATKINSON

Executive Director, The Catholic Legal Immigration Network, Inc.

ABOUT THE CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

CLINIC provides vital legal resources, guidance, and support to a network of more than 330 legal, community-based and Catholic immigration programs across the country. CLINIC affiliates are in 47 states, with 1,200 attorneys and accredited representatives, who in turn assist hundreds of thousands of vulnerable and low-income immigrants each year. In addition to legal and program capacity building assistance, CLINIC conducts national-level administrative advocacy and provides state and local support to affiliates on the ground combating anti-immigrant legislation.



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