

## **Policy Brief: Analyzing the Biden Administration’s Failure to Utilize Existing Statutory Authority to Newly Designate TPS for Cameroon (and other African Countries)**

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### **I. About the Catholic Legal Immigration Network, Inc. (CLINIC) and Temporary Protected Status Deferred Enforced Departure Administrative Advocacy Coalition (TPS-DED AAC)**

CLINIC is the nation’s largest network of nonprofit immigration legal services providers and founding member of the Temporary Protected Status Deferred Enforced Departure Administrative Advocacy Coalition (TPS-DED AAC). The TPS-DED AAC<sup>1</sup> is a national coalition which advocates for the bold and broad use of TPS for *all qualifying countries* to protect human life. Over the course of dozens of in-depth country campaigns since 2017, the 100+ member coalition has unique expertise on TPS policy and decision-making process generally, for specific countries, and implementation of TPS decisions at USCIS.

### **II. Temporary Protected Status<sup>2</sup>**

TPS was established by Congress through the Immigration Act of 1990. TPS is intended to protect foreign nationals in the United States from being returned to their home country if returning would put them at risk of violence, disease, or death. Critically, Congress explicitly did not set a numerical cap on the number of people who could benefit from TPS under a designation or the number of countries that may be designated at any one time. Under the law, the Secretary of the U.S. Department of Homeland Security, or DHS, may designate a foreign country for TPS when it satisfies at least one of three scenarios:

- A. Ongoing armed conflict (such as a civil war) poses a serious threat to the personal safety of nationals of the affected country;
- B. An environmental disaster (such as an earthquake or hurricane) or an epidemic occurs, and the affected country is temporarily unable to handle the return of its citizens and has requested TPS for its nationals; or
- C. Other extraordinary and temporary conditions 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.

TPS may be designated or extended in 6-, 12-, or 18-month increments. Importantly, under existing statute, TPS may be extended and redesignated (which moves up the cutoff date) *as many times* as necessary, as long as the dangerous country conditions continue or new conditions arise. TPS does not provide a pathway to permanent residency or citizenship.

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<sup>1</sup> TPS-DED AAC, <https://www.tpsdedaac.org/>.

<sup>2</sup> Jill Wilson, “Temporary Protected Status: Overview and Current Issues,” *Congressional Research Service*, August 9, 2021, <https://crsreports.congress.gov/product/pdf/RS/RS20844>.

### III. Intersection of TPS and Systemic Anti-Black Racism

TPS plays a unique and crucial role in the U.S. humanitarian immigration system as a blanket protection for all qualifying nationals of a country. As a blanket protection—as opposed to individualized determinations like under U.S. asylum and refugee law—TPS can act as a safety net, able to catch people who slip through other cracks of the system, *including due to the systemic racism* inherent in our nation’s immigration laws. Accordingly, TPS designations for Black majority countries are particularly impactful in providing life-saving protection especially given disproportionate criminalization, detention, and deportation of Black immigrants in the United States.

### IV. The Biden Administration’s TPS Policy in the 2022 Landscape

When the Biden administration assumed office, only 10 countries had current TPS designations.<sup>3</sup> Given the previous administration’s anti-TPS policies, there was a “backlog” of countries that warranted new TPS designations. During the Biden administration’s transition and early days of the administration, the TPS-DED AAC presented legal and policy recommendations for new TPS designations for countries in the “backlog,” including Cameroon.<sup>4</sup> While this brief focuses on longstanding recommendations regarding TPS for Cameroon, designations for Mauritania and Ethiopia are also warranted and urgent to safeguard Black immigrants in the U.S. from return to life-threatening conditions.<sup>5</sup>

In the first year of the administration, no African countries have been newly designated despite the urgent need for humanitarian protection, devolving countries conditions, and continued detention and deportation of Black nationals from these countries. This policy decision to not designate additional African countries for TPS in the first year of the administration does not exist in a vacuum. This decision stands in tandem with the Biden administration’s policies towards Black asylum seekers at the U.S.-Mexico border. That includes the administration’s misuse of Title 42, resulting in the return of thousands of Black immigrants to dangerous conditions. Examining these policy decisions as a whole calls into question how race and politics are factoring into the administration’s overall immigration agenda.

These delays and failure to use TPS, a readily available tool to provide a measure of protection and stability to vulnerable people, is also compounded by the administration’s failures to date to secure immigration relief through Congress.

### V. Factors Considered in the Biden Administration’s New TPS Designations

Only three countries have been newly designated for TPS under the Biden administration at the time of this paper. These include Venezuela, Burma (Myanmar) and Haiti.<sup>6</sup> Haiti was previously designated and the new designation (as opposed to an extension and redesignation) was related

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<sup>3</sup> “Temporary Protected Status and Deferred Enforced Departure Designations and Decision Dates,” TPS-DED AAC, last updated November 3, 2021, <https://bit.ly/3HXbHBu>.

<sup>4</sup> “Biden TPS Transition Recommendations: First 180 Day Timeline and Urgent Recommendations on Restoring TPS and DED Protection,” TPS-DED AAC, December 9, 2020, <https://bit.ly/3Bv3hyF>; “Request to Designate and Redesignate 18 Countries for Temporary Protected Status and Protect 2.3 Million Immigrants,” TPS-DED AAC, March 5, 2021, <https://bit.ly/3HZBYzo>.

<sup>5</sup> “Request for New Designation of TPS for Ethiopia,” TPS-DED AAC, August 4, 2021, <https://bit.ly/3H19zqS>; “165 Organizations Call for Immediate 18-month Designation of Temporary Protected Status or Deferred Enforced Departure for Mauritania,” The Leadership Conference on Civil and Human Rights, February 23, 2021, <https://civilrights.org/resource/163-organizations-call-for-immediate-18-month-designation-of-temporary-protected-status-or-deferred-enforced-departure-for-mauritania/>.

<sup>6</sup> “Temporary Protected Status and Deferred Enforced Departure Designations and Decision Dates,” TPS-DED AAC, last updated November 3, 2021, <https://bit.ly/3HXbHBu>.

to the posture of Haiti TPS in the ongoing *Ramos* and *Saget* cases.<sup>7</sup> Other countries have been extended and redesignated.

Country	Conditions Warranting TPS Under DHS Designation
<b>Venezuela<sup>8</sup></b>	<ul style="list-style-type: none"> <li>● At the time of designation, DHS found that Venezuela “has been in the midst of a severe political and economic crisis for several years.”</li> <li>● Summary of key factors leading to designation include: “Economic contraction; inflation and hyperinflation; deepening poverty; high levels of unemployment; reduced access to and shortages of food and medicine; a severely weakened medical system; the reappearance or increased incidence of certain communicable diseases; a collapse in basic services; water, electricity, and fuel shortages; political polarization; institutional and political tensions; human rights abuses and repression; crime and violence; corruption; increased human mobility and displacement (including internal migration, emigration, and return); and the impact of the COVID-19 pandemic, among other factors.”</li> <li>● Number of people eligible for TPS: “USCIS estimates that approximately 323,000 individuals are eligible to file applications for TPS under the designation of Venezuela.”</li> </ul>
<b>Burma<sup>9</sup></b>	<ul style="list-style-type: none"> <li>● Summary of key factors leading to designation include: “On February 1, 2021, the Burmese military perpetrated a coup, deposing the democratically elected government and declaring a temporary one-year state of emergency, after which it has said it will hold elections. The military is responding with increasing oppression and violence to demonstrations and protests, resulting in large-scale human rights abuses, including arbitrary detentions and deadly force against unarmed individuals. The coup has triggered a humanitarian crisis, including the disruption of communications and limited access to medical care. The Burmese military has a clear and well-documented history of committing atrocities against the people of Burma, and again, the military is committing brutal violence against the Burmese people, including young children.”</li> <li>● Other factors considered by DHS included: <ul style="list-style-type: none"> <li>○ Coup/political crisis</li> <li>○ Arbitrary arrest, suppression of peaceful protests</li> <li>○ Massacres and killing of civilians, including children</li> <li>○ Particular threats to vulnerable groups including “serious threats lay ahead for activists, journalists, ethnic minorities and others who have long been targets of the military’s oppressive campaigns”</li> <li>○ Decreased access to medicine, food, fuel</li> <li>○ Internally displaced persons (DHS reported there were over 330,000 internally displaced persons in need of humanitarian assistance, including people who were continually displaced since</li> </ul> </li> </ul>

<sup>7</sup> 86 Fed. Reg. 41863, Aug. 3, 2021, <https://www.federalregister.gov/documents/2021/08/03/2021-16481/designation-of-haiti-for-temporary-protected-status>.

<sup>8</sup> 86 Fed. Reg. 13574, March 9, 2021, <https://www.federalregister.gov/documents/2021/03/09/2021-04951/designation-of-venezuela-for-temporary-protected-status-and-implementation-of-employment>.

<sup>9</sup> 86 Fed. Reg. 28132, May 25, 2021, <https://www.federalregister.gov/documents/2021/05/25/2021-11075/designation-of-burma-myanmar-for-temporary-protected-status>.

	<p>2012 due to earlier conflict”</p> <ul style="list-style-type: none"> <li>○ Lack of safety and security for humanitarian aid workers.</li> <li>● USCIS estimates that approximately 1,600 individuals are eligible to apply for TPS under the designation of Burma.</li> </ul>
<p><b>Haiti</b><sup>10</sup></p>	<ul style="list-style-type: none"> <li>● “Haiti is grappling with a deteriorating political crisis, violence, and a staggering increase in human rights abuses. Within this context, as noted by the United Nations Children's Fund (UNICEF), Haiti faces the challenges of ‘rising food insecurity and malnutrition, [. . .] waterborne disease epidemics, and high vulnerability to natural hazards, all of which have been further exacerbated by the coronavirus disease 2019 (COVID-19) pandemic.’”</li> <li>● Other factors considered by DHS included: <ul style="list-style-type: none"> <li>○ Political crisis</li> <li>○ Human rights abuses</li> <li>○ Targeting of media</li> <li>○ Kidnappings, escalating crime/gang violence resulting in “disruption of community-level social functioning, family separation, increased financial burdens on host families, forced school closures, loss of livelihoods and a general fear among the affected populations”</li> <li>○ Protracted economic crisis and poverty</li> <li>○ Lack of access to healthcare, including due to long-term effects of Hurricane Matthew, and continued presence of cholera</li> <li>○ Increased food insecurity (including due to climate shocks) and lack of access to basic services</li> </ul> </li> <li>● Internal displacement and lack of access to food, clean water, sanitation. DHS estimated “155,000 individuals are eligible to apply for TPS under the designation of Haiti.”</li> </ul>

**VI. Cameroon Country Conditions and Clear Case for TPS**

Conditions similar to the factors leading to the new TPS designations above (as well as other current TPS designations) exist in Cameroon as have been presented to the Biden administration by TPS law and policy experts, directly impacted communities, and Members of Congress.

Well reported and documented factors warranting an immediate designation of TPS for Cameroon include:

- **Multiple armed conflicts**, arbitrary arrest and torture of civilians (including targeting of ethnic minorities, political protestors, journalists), and kidnappings.<sup>11</sup> Civilian massacres have been documented by HRW and other international NGOs.<sup>12</sup>

<sup>10</sup> 86 Fed. Reg. 41863, Aug. 3, 2021, <https://www.federalregister.gov/documents/2021/08/03/2021-16481/designation-of-haiti-for-temporary-protected-status>.

<sup>11</sup> “Cameroon: More than a hundred detainees from Anglophone regions and opposition party languishing in jail for speaking out,” Amnesty International, January 24, 2022, <https://www.amnesty.org/en/latest/news/2022/01/cameroon-more-than-a-hundred-detainees-from-anglophone/>; “Secret Torture Chambers in Cameroon,” Amnesty International, July 2017, <https://www.amnesty.org/en/latest/campaigns/2017/07/cameroon-torture-chambers/>.

<sup>12</sup> “World Report: Cameroon,” Human Rights Watch, 2021, <https://www.hrw.org/world-report/2021/country-chapters/cameroon>.

- **Mass internal displacement.** Displacement doubled in Cameroon between 2019 and 2020 and according to the Internal Displacement Monitoring Centre, there are currently 1 million known people displaced inside Cameroon’s borders.<sup>13</sup>
- **Humanitarian crisis of food and water shortages,** including due to climate shocks. According to USAID, “Approximately 2.6 million people in Cameroon are currently facing Crisis (Phase 3) or worse levels of acute food insecurity [as of 2020] and are in need of food assistance—an increase of nearly 1.7 million people from the same period in 2019.”<sup>14</sup> The World Food Programme finds that 4.4 million people are in need of humanitarian assistance.<sup>15</sup>
- **Lack of access to and weaponization of health care.** According to research conducted by RFK Human Rights: “The Cameroonian government has been criticized for its lack of transparency on the misuse of millions of dollars in pandemic relief funds.<sup>16</sup> Medical workers report that hospitals have seen no additional aid or construction for new facilities, resulting in a lack of personal protective equipment, limited bed space, and an inability to treat patients.<sup>17</sup> Some attempts to distribute masks, hand sanitizer, and other protective materials by non-governmental groups have even been politicized and prevented by the ruling party.”<sup>18</sup>

The conditions in Cameroon today echo the conditions that spurred designations for Venezuela, Burma and Haiti. Economic and political crises, food and medicine shortages, human rights abuses by government forces, arbitrary detention, suppression of protest and free speech, escalating violence against particularly vulnerable populations, massive displacement, and food insecurity are all common threads through the conditions of these four countries. The Biden administration made the correct and moral decision under the law to newly designate these three countries, and it should do the same for Cameroon.

## VII. Human Consequences of the Failure to Designate TPS for Cameroon

As documented by Human Rights Watch, deportations from the United States to Cameroon in recent years have resulted in Cameroonians being returned “to face persecution, torture, and other serious harm.”<sup>19</sup> Experts characterize these deportations as a violation of “the principle of *nonrefoulement*, a cornerstone of international refugee and human rights law.”<sup>20</sup> Like the U.S. refugee and asylum systems, Congress created TPS to ensure that the United States would not return people to countries where their lives or freedom would be at risk.

The failure to designate TPS for Cameroon results in prolonged detention of Cameroonian immigrants in the U.S. immigrant detention system, the separation of families, and other compounding immediate and generational consequences.

<sup>13</sup> “Out of Sight: Cameroon’s Downward Spiral of Violence and Displacement,” Internal Displacement Monitoring Centre, March 22, 2021, <https://www.internal-displacement.org/media-centres/out-of-sight-camerouns-downward-spiral-of-violence-and-displacement>.

<sup>14</sup> “Food Assistance Fact Sheet: Cameroon,” USAID, April 2020, <https://www.usaid.gov/cameroon/food-assistance>.

<sup>15</sup> “Cameroon,” *World Food Programme*, last accessed February 17, 2022, <https://www.wfp.org/countries/cameroon>.

<sup>16</sup> Moki Edwin Kindzeka, “Cameroon Investigates Missing \$335 Million in COVID Funds,” *VOA News*, May 31, 2021, <https://www.voanews.com/a/africa-cameroon-investigates-missing-335-million-covid-funds/6206445.html>; Sarah Saadoun (Human Rights Watch), “In Cameroon, Government Secrecy in the Management of Funds Destined for COVID-19 Response,” *Le Monde*, August 2020, <https://www.hrw.org/news/2020/09/24/cameroon-government-secrecy-management-funds-destined-covid-19-response>.

<sup>17</sup> “Cameroon: Investigate, Distribute Health Fund,” Human Rights Watch, June 12, 2020, <https://www.hrw.org/news/2020/06/12/cameroon-investigate-distribute-health-fund>.

<sup>18</sup> *Id.*

<sup>19</sup> “US: Deported Cameroonian Asylum Seekers Suffer Serious Harm,” *Human Rights Watch*, Feb. 10, 2022, <https://www.hrw.org/news/2022/02/10/us-deported-cameroonian-asylum-seekers-suffer-serious-harm#>.

<sup>20</sup> *Id.*

## **VIII. Conclusion and Recommendations**

The Biden administration should use TPS as Congress intended—a readily available tool to protect people in the United States from forced return to life-threatening conditions and to provide a measure of stability through employment authorization. Given the dire and devolving country conditions in Cameroon and urgent need for Cameroonians in the United States to be freed from detention and protected, the Biden administration should immediately designate TPS for Cameroon (and all countries that meet the statutory requirements for protection).<sup>21</sup>

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<sup>21</sup> “List of Countries with Conditions that Satisfy Grounds for TPS,” TPS-DED AAC, last updated January 30, 2022, <https://bit.ly/TPSChart>.