



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

LIVES IN THE BALANCE: WHY TPS IS NEEDED FOR VENEZUELA NOW



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ON THE COVER

People wait in line at a public supermarket in Ciudad Bolivar after inflation triggers food rationing.

“By continuing to merely ‘monitor’ the situation in Venezuela, the administration is abdicating its responsibility to protect vulnerable Venezuelans in the United States from having to return to dangerous conditions. Food, medicine and electricity have become rare commodities there, making it an unsafe environment for anyone. We call on the administration to use TPS as Congress intended — to protect people affected by exactly this kind of upheaval. Lives hang in the balance.”

ANNA GALLAGHER

Executive Director

The Catholic Legal Immigration Network, Inc.





A woman in the Netherlands holds a sign saying S.O.S. at a protest against Venezuela's President Maduro.

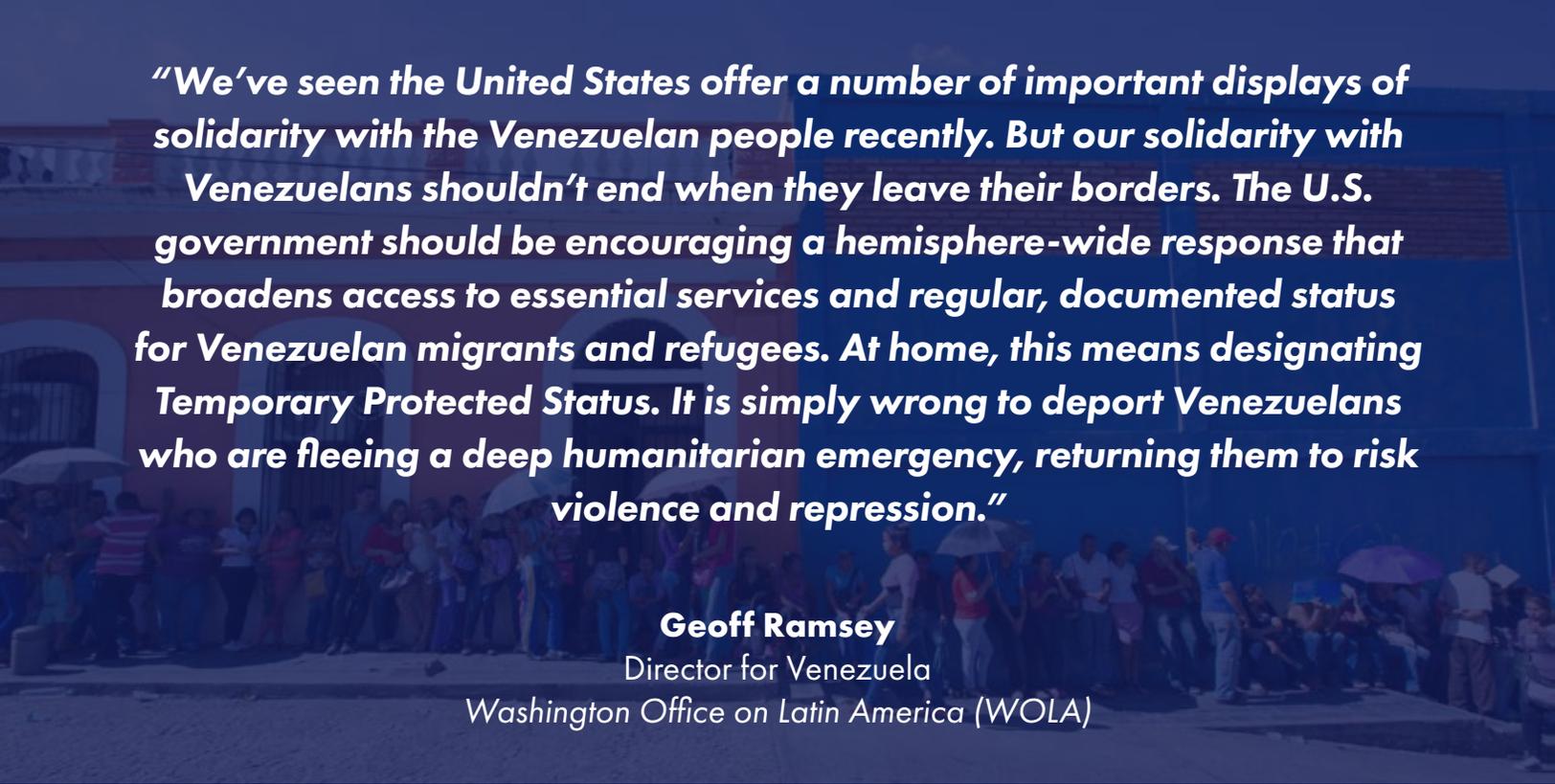
PREFACE

This report is intended to address the urgent need for Temporary Protected Status for Venezuela based on country conditions as applied to the law. It is not a comment on broader U.S. foreign policy past or present, or the current political situation in Venezuela. While these issues do not exist in a vacuum, CLINIC calls for the depoliticization of human life and focus on human needs. TPS is a readily available tool that can be used now to protect people in the United States. Venezuela should be designated immediately as part of the United States' humanitarian response.

EXECUTIVE SUMMARY

Venezuela is on pace to surpass Syria and become the largest refugee crisis in the world in 2020 if current trends continue.¹ As of December 2019, 4.8 million people had fled Venezuela's escalating humanitarian crisis,² which includes state-sanctioned violence and persecution of civilians, severe food, medicine and medical supplies shortages, a collapsed economy, widespread blackouts and fuel shortages.³ Inside Venezuela, at least 7 million people are in need of humanitarian aid.⁴ The COVID-19 crisis will make the situation even more dire.

While many countries in the region have responded to the crisis by providing temporary immigration statuses and pathways to legally work,⁵ the U.S. administration has not taken similar measures to protect Venezuelans in the United States by designating the country for TPS. Estimates from the summer of 2019 showed that at least 200,000 Venezuelans in the United States would benefit from TPS.⁶ In July 2019, in the absence of action from the Department of Homeland Security, which typically designates TPS, the House of Representatives passed legislation that would designate TPS for Venezuela.⁷ The bill received bipartisan support, with 39 Republicans joining Democrats in voting to protect Venezuelan lives.⁸ In the Senate, the bill also has bipartisan support,⁹ but there has been no real movement on the legislation since the fall of 2019 when attempts to pass by unanimous consent failed.¹⁰



“We’ve seen the United States offer a number of important displays of solidarity with the Venezuelan people recently. But our solidarity with Venezuelans shouldn’t end when they leave their borders. The U.S. government should be encouraging a hemisphere-wide response that broadens access to essential services and regular, documented status for Venezuelan migrants and refugees. At home, this means designating Temporary Protected Status. It is simply wrong to deport Venezuelans who are fleeing a deep humanitarian emergency, returning them to risk violence and repression.”

Geoff Ramsey

Director for Venezuela

Washington Office on Latin America (WOLA)

Calls for TPS for Venezuela predate the legislation. In March 2019, more than 215 national, state and local organizations working in the areas of immigration, civil rights, human rights, labor, faith and education sent a letter to then-Department of Homeland Security Secretary Kirstjen Nielsen calling for an immediate designation in response to the growing humanitarian emergency.¹¹ In April 2019, advocates received a response from then-U.S. Citizenship and Immigration Services Director Francis Cissna that the administration is “continuing to monitor conditions” but would not designate TPS.¹² Since the time of that letter, more than one million more people have fled Venezuela.¹³

This report provides an overview of the law, current country conditions and why Venezuela should be designated for TPS immediately as part of the United States’ response to this devastating humanitarian disaster.

TEMPORARY PROTECTED STATUS: AN OVERVIEW OF THE LAW

Temporary Protected Status, or TPS, was established by Congress through the Immigration Act of 1990.¹⁴ TPS is intended 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 United States and would put them at risk of violence, disease or death.¹⁵ Under the law, the secretary of the Department of Homeland Security, or DHS, may designate a country for TPS in three scenarios:¹⁶

- A. Ongoing armed conflict (such as a civil war) that would pose serious threat to the personal safety of nationals;¹⁷
- B. An environmental disaster (such as 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 nationals;¹⁸ 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.¹⁹

Congress has also used its authority to designate a country for TPS.²⁰

TPS may be designated or extended in six, 12 or 18-month increments.²¹ At least 60 days before the 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.²² The decision must be published on a timely basis in the Federal Register.²³ Under the law, TPS may be extended as many times as necessary, as long as the dangerous country conditions continue.²⁴ The DHS secretary also has the authority to redesignate a country for TPS in order to change or add the underlying grounds for a TPS designation and/or to move forward the date by which a person needed to be in the United States in order to apply for TPS.²⁵

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.²⁶ If granted, recipients are temporarily protected from deportation and may receive work authorization to support themselves while they remain in the United States.²⁷ TPS does not provide a path to lawful permanent resident status or citizenship.²⁸

“At the Center for Victims of Torture we treat Venezuelan asylum seekers at our healing center in St. Paul and our program in Georgia. The Trump administration’s asylum policies have made the process more grueling for torture survivors, including in ways that re-traumatize them or otherwise exacerbate their symptoms. Granting TPS to Venezuelans will provide these survivors — and the many other Venezuelans who were traumatized in their home country or along their journey to the United States — with some relief, as they will not have to endure the harsh journey that has now become the asylum process, and instead, will more quickly achieve peace of mind to better heal from trauma and thrive in the United States.”

Alison Beckman, M.S.W., L.I.C.S.W

Senior Clinician for External Relations

Center for Victims of Torture

CURRENT COUNTRY CONDITIONS AND GROUNDS FOR DESIGNATING VENEZUELA FOR TPS UNDER THE LAW

The secretary of Homeland Security or Congress should immediately designate Venezuela for TPS due to extraordinary and temporary conditions that prevent people from safely returning to the country.²⁹ Venezuela's intense civil unrest began in 2013 with the death of President Hugo Chavez, and Vice President Nicolas Maduro taking power, narrowly winning election over the opposition party.³⁰ The opposition party challenged the legitimacy of the election results, sparking protests and the Maduro government's violent suppression in response.³¹ In May 2018, Maduro claimed victory in another contested election, with the United States and other countries refusing to recognize the outcome.³² In January 2019, opposition party lawmaker Juan Guaidó declared himself the legitimate president of Venezuela, with widespread recognition from more than 50 nations, including neighboring countries and the United States.³³ Despite Guaidó's international recognition, Maduro and military leaders continue to cling to power.³⁴

Arbitrary arrest, torture, and other human rights violations are well documented and persistent in Venezuela.³⁵ The Maduro government's violent suppression of demonstrations are ongoing, with a reported 67 people killed in protests in 2019.³⁶ Of those, the Venezuelan Social Conflict Monitor found that 59 people were killed by Maduro's forces or by civilians supporting Maduro.³⁷ Six of the deaths were classified by the Monitor as extrajudicial executions.³⁸

In addition to protests, at least 18,000 people have been killed by Maduro's special police force since 2016 for "resistance to authority."³⁹ Killings are carried out in raids on poor communities that are perceived to not support Maduro.⁴⁰ The Office of the UN High Commissioner for Human Rights has concluded there are likely "many" extrajudicial executions among the deaths.⁴¹ In 2019, the UN released a report documenting the Maduro regime's use of torture against those in political opposition to him: "women and men were subjected to one or more forms of torture or cruel, inhuman or degrading treatment or punishment, including electric shocks, suffocation with plastic bags, water boarding, beatings, sexual violence, water and food deprivation, stress positions and exposure to extreme temperatures."⁴²

In September 2019, the United Nations Human Rights Council voted to begin an investigation into Venezuela's widespread human rights abuses,⁴³ including examining "extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment."⁴⁴

Since Maduro took power, Venezuela's economy has been in freefall.⁴⁵ Along with staggering hyperinflation, which reached a high point of 10 million percent in 2019, the economy has declined by approximately 65 percent since 2013.⁴⁶ It is the largest economic collapse outside of a war in 45 years,⁴⁷ and economists believe it will take many years to recover.⁴⁸ As a result, nearly 90 percent of Venezuelans are living below the poverty line.⁴⁹ Venezuela's power grid is also failing and there are severe fuel shortages, despite Venezuela's rich oil reserves.⁵⁰ In 2019, Venezuela's second largest city, Maracaibo, had its electricity rationed to no more than 12 hours a day, if available at all.⁵¹

The economic crisis and civil unrest have led to devastating food and medicine shortages and a mass exodus from the country.⁵² At least 21 percent of the population, nearly 7 million people, do not have adequate food and are suffering malnourishment.⁵³ Six out of 10 families are searching for food in garbage dumps or begging.⁵⁴ To survive, people are eating dog food or stray dogs themselves.⁵⁵ In a recent study, Cáritas, a non-governmental organization working in Venezuela, found the number of children enduring chronic malnutrition had risen to 35 percent, up from 27 percent in 2017.⁵⁶



Bags of rice ready to be shipped to Venezuela to support humanitarian aid, which remains severely underfunded.

In addition to widespread hunger, medicine and medical supplies are scarce.⁵⁷ Venezuelan hospitals do not have basic supplies like gauze, rubbing alcohol, latex gloves or even soap to keep wards clean.⁵⁸ If people need surgery, they need to bring their own scalpels.⁵⁹ Half of all operating rooms are closed.⁶⁰ Seventy-one percent of emergency rooms can't provide basic services and 79 percent of hospitals do not have a reliable source of water.⁶¹ As of early 2019, at least 22,000 doctors had fled Venezuela.⁶² Diseases that were all but eradicated have surged; others are spreading at alarming rates.⁶³ The COVID-19 global pandemic will only make conditions more dire as the country has no healthcare infrastructure to triage this emergency.⁶⁴

The United Nations High Commissioner for Refugees estimated that at least 4.8 million people had fled Venezuela as of December 2019.⁶⁵ It is the largest refugee crisis in the Western Hemisphere,⁶⁶ and is on pace to reach 6.5 million refugees in 2020, outsizing the Syrian crisis.⁶⁷ While humanitarian aid has provided a small bit of relief in recent months,⁶⁸ the crisis remains drastically underfunded.⁶⁹

“The United States’ duty to provide refuge to those fleeing Venezuela’s humanitarian crisis is a matter of justice and national interest. Returning civilians into crisis conditions, a breach of vital international norms, only risks further destabilization while undermining the U.S.’ legitimacy as a credible actor on the world stage. It would benefit the U.S., and the entire world, for the U.S. to act as it has so often claimed to — as a source of hope and security, in pursuit of a more humane, rights-based, and just international system.”

Mariam Iskajyan

Policy and Advocacy Program Manager
Win Without War



Peaceful demonstration at plaza de Francia, Caracas.

WHY TPS FOR VENEZUELA IS BOTH A NECESSARY HUMANITARIAN RESPONSE AND IN THE U.S. NATIONAL INTEREST

TPS is a vital tool in allowing the United States to meet requirements of international law to not return people to countries where their lives or freedom would be at risk.⁷⁰ Significantly, TPS protects people whose lives are at risk but who might not necessarily qualify for asylum or refugee admissions.⁷¹ While asylum and refugee law require proof of individualized persecution, based on specific protected grounds — for example, race, religion, political opinion — TPS is a broader, blanket protection.⁷² It applies to all nationals of a country where people cannot safely return in general.⁷³ For example, while Venezuelans in the United States would face life-threatening food and medicine shortages if deported back to Venezuela, these factors alone would not make them eligible for asylum.

The most recently available data from the Departments of Homeland Security and Justice shows that in fiscal year 2018, new Venezuelan affirmative asylum cases made up more than a quarter of *all* asylum cases filed, the largest percentage by nationality.⁷⁴ In an analysis of asylum grant rates in fiscal year 2018 — both affirmative and defensive asylum cases — only 15 percent of Venezuelan applicants received asylum.⁷⁵ Without TPS in place, U.S. deportation proceedings against Venezuelans are on the rise, up 277 percent from September 2018 to December 2019.⁷⁶ More than 5,300 deportation proceedings against Venezuelans have been filed since October 2019.⁷⁷ Furthermore, at least hundreds of Venezuelans are currently in immigration detention, perhaps indefinitely with no deportations to Venezuela occurring at this time.⁷⁸ A TPS designation could help free, protect and support this vulnerable population, instead of adding to the harm and suffering they have already endured.⁷⁹ With the COVID-19 pandemic, Venezuelans in detention, like all people in this situation, are at tremendous risk for their health and lives.⁸⁰

In addition to meeting the obligations of international law, TPS would serve the president's stated national interests to protect and stand with the Venezuelan people.⁸¹ Through TPS, the United States could protect hundreds of thousands of Venezuelans from deportation as well as support people still in Venezuela. With TPS, Venezuelans in the United States would be eligible for work authorization, allowing them to send unofficial "foreign aid" back to Venezuela in the form of life-saving remittances. Reports show that remittances are becoming increasingly important in sustaining

people as the crisis deepens.⁸² While the bolívar, Venezuela's currency, has been made virtually worthless, those with access to U.S. dollars are more able to purchase items they need to survive.⁸³ Given Maduro's growing acceptance of dollarization in Venezuela,⁸⁴ remittances from the United States can play a key role in sustaining Venezuelans who remain in the country.⁸⁵

RECOMMENDATIONS

American principles, interfaith values and morality demand that the U.S. government take immediate action to ensure Venezuelan nationals in the United States are protected from the massive civil and humanitarian crisis in Venezuela. Our commitment as a nation and a people to protect and welcome those in need is the precisely the reason why Congress created TPS and why we must use it now.

The Catholic Legal Immigration Network recommends:

1. DHS should immediately designate TPS for Venezuela for 18 months, with continuous presence and residence dates being set on the day of the designation.
2. DHS and USCIS should grant a 180-day registration period to give Venezuelans in the United States ample time to apply for TPS. Re-registration should be lengthened and additional steps taken to ensure people are able to apply based on the progression of the COVID-19 crisis.
3. DHS and USCIS should conduct robust outreach and public education to ensure Venezuelans in the United States have information about the TPS designation, how to apply and how to avoid notarios and others engaged in the unauthorized practice of immigration law.
4. DHS and its component agencies should immediately issue guidance and training to prevent the removal of Venezuelans who would qualify for TPS, and to ensure any detained potential beneficiaries are immediately released so they are able to access the legal assistance and resources needed to apply and be protected from COVID-19.

“Venezuela is currently undergoing a massive institutional crisis which has had a devastating impact on the human rights of its people. TPS is a necessary response to a human rights crisis and is critical to demonstrating the U.S. government’s solidarity with the Venezuelan people and the U.S. regional neighbors.”

Charanya Krishnaswami
Americas Advocacy Director
Amnesty International USA

YULEY'S STORY

Yuley's son, now 5-years-old, was born with a serious heart condition. She tried desperately to get him the help he needed in Venezuela, talking to everyone she could in the country's highly-politicized health care system. All she was able to obtain for her son were a few painkillers. Eventually, in a closed-door meeting with a politically-appointed hospital director, she was told that she must wait for the inevitable death of her child. She was warned not to go anywhere else, as the Venezuela system was good enough and it was simply that her child was beyond help. Yuley refused to give up, and despite facing massive risks, managed to get her son to the United States to get him the life-saving medical care he needed. Her son is now thriving and expected to grow into adulthood, as long as he can maintain access to the care he needs. Yuley's asylum case in the United States has been pending for years. "TPS would make my life easier, especially with the security of work as a single mom with high medical bills, and groceries, gas etc.," she says. Yuley wants TPS decision makers to know, "If someone migrates here from their country, it's because of a need. It hurts us to be here, we miss our families."



A man stands in the street following protests.

ENDNOTES

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"We cannot remain insensitive, our hearts deadened, before the misery of so many innocent people. We must not fail to weep. We must not fail to respond. [...]"

Loving our neighbor as ourselves means being firmly committed to building a more just world, in which everyone has access to the goods of the earth, in which all can develop as individuals and as families, and in which fundamental rights and dignity are guaranteed to all."

Pope Francis

105th World Day of Migrants and Refugees
September 2019

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