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Assessing the Consequences of the End of TPS for Salvadorans

Introduction

Over the past two decades the world has seen an increase in globalization, communication, and therefore migration. We now have access to information days or even hours after its discovery, and as a result we have seen an increase in advocacy for the prosperity of what is right and change for what can be improved. Now more than ever, it is possible to think outside of physical borders that separate us from those who might be different than us, and as we change and adapt to the world around us, we become global citizens. With this in mind, as we become increasingly aware of the state of the world around us we have a duty to "respond to the urgent needs of persons subject to persecution in their homelands..." (U.S. Congress 1). This is manifested in several different ways, one of which is called Temporary Protected Status. Temporary Protected Status, or TPS, is a temporary legal status extended by the United States when extenuating circumstances in a country causes a threat to the safety of returning nationals, or when the country cannot sufficiently support their return ("Temporary..."). It "expands the protection of forced migrants who cannot satisfy the criteria [of refugee or asylum status]...it promises group-based protection when the determination of an individual's status proves impossible..." (quoted in Menjívar 1). Since 1990, the U.S. has granted TPS to people from over 20 different countries, and in 2001 the U.S. extended Temporary Protected Status to Salvadorans already residing in the U.S. due to the damage caused by earthquakes and Hurricane Mitch ("Temporary," "Temporary...Overview"). While not all of the estimated 200,000 Salvadorans in the US are expected to return to El Salvador when their Temporary Protected Status expires, the repercussions of the termination of TPS cannot be understated.

The status was created with the intent to offer further protection to people whose homes they could not safely return to, and it has always remained clear that residency under TPS was temporary. However, after twenty years in one place it is hard not to adopt some of the customs as your own, make new traditions for your family and integrate yourself into society. Yet the end of all this has become the reality for thousands of Salvadorans who have come to the US and lived under TPS for over two decades. As of January 2018, Salvadorans that have had a continuous residence in the U.S. under TPS since 2001 were given until September 2019 to arrange for their departure to El Salvador, after which they will be deported ("Temporary"). Although many will pursue the path to citizenship or permanent residency, thousands of affected migrants must think about whether they will remain in the US without documents, be sent to El Salvador, or find an alternative location to take up residency. The small Central American country has an economy intertwined with cash flow from abroad and homicides rates that have skyrocketed in the past several years and the loss of TPS holders' income and the influx of thousands of people have the potential to send El Salvador's economy into a downward spiral. Furthermore, the mandate to return to El Salvador not only signals the end of the life they have come to know, but also the return to the life of fear they ran from. Gang violence has woven its way into every neighborhood and into every aspect of life, with hardly a single family unaffected by its presence. Although there are a few organizations in place to receive returned migrants, the number of returnees far outweighs the amount of services that are in place to offer services of reintegration, leaving the majority to handle the transition for themselves and their families. The end of Temporary Protected Status will not only have personal consequences for individuals, but the influx of such a large number of migrants to the small country of El Salvador will have a ripple effect throughout the culture and economy.

I will begin by analyzing the affect that the end of TPS will have on El Salvador's economy, assess the state of El Salvador's gang violence as a push factors for migrants and refugees, and finally look into the organizations and policies in place to receive and reintegrate returned deportees. Having resided in the United States for almost two decades, the expulsion of almost 200,000 Salvadorans will clearly have an impact on the economy and labor market as well as the culture in the United States, but here I am going to focus on the direct impact on the country of El Salvador.

Temporariness of TPS

It seems logical to think that there should be policies and laws in place against sending people to what may very likely be their deaths. So why, then, if so many people are fleeing from such an obvious source of violence, can they not obtain refugee status or asylum in the United States? To answer this I will turn to the Refugee Act of 1980, which stipulates that a refugee is,

(A) any person who is outside any country of such person's nationality or, in the case of a person having habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion... (U.S. Congress 1).

In the case of many who are fleeing from the gang-controlled *barrios*, their plight does not neatly fall into one of these explicit categories, and this is enough for the courts to deny their status as a refugee. Interestingly enough, earlier in the very paragraph from which the above excerpt comes,

it notes, "The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands..." yet clearly the state's self-interest has taken priority (U.S. Congress 1). Change is needed, whether that be to update the Refugee Act of 1980, as 40 years of policy changes and increasing migration can cause an act of Congress like this to become outdated, or the creation of a new law to address the thousands of people that are left without a law under which they can find protection. Moreover, according to the same document, in order to apply for and receive asylum status, one must first be considered a refugee (U.S. Cong.1 Sec 208 (a)). However, since any national from a particular country may be included in TPS, it "functions as a 'blanket' form of relief for those who have left a particular nation" (Bergeron 25). Although TPS has always been intended as a temporary solution capping the time it could be granted at 18 months, "there is no such strict time limit on the length of a humanitarian crises," therefore this time capsule has been rendered fluid by the nature of the issue. Apart from this, critics note that the cycle of extension and re-extension of the status trap TPS beneficiaries in "legal limbo," as they contribute to the U.S. economy as business-owners and taxpayers, while being denied benefits of full membership (Bergeron 29). In her assessment of TPS in *Temporary Protected Status after 25 Years: Addressing the Challenge of Long Term "Temporary" Residents and Strengthening a Centerpiece of US Humanitarian Protection*, author Clair Bergeron offers possible solutions to the dilemmas that arise when the theory behind TPS does not match its execution, arguing for the possibilities of either assisting previous TPS beneficiaries in their repatriation, or passing a law that would allow those who have had TPS for extended periods of time the option of becoming permanent residents (39). However, the U.S. Department of Homeland Security announced the end of TPS for Salvadorans in January of 2018 but extended their residence and protection until September of 2019 to ensure for an orderly

return. Should they choose not to return and are deported to El Salvador, according to an agreement between El Salvador and the United States which limits the amount of deportees, there can be no more than eight flights a week with 135 people per flight, meaning that the U.S. could not send more than 56,000 Salvadorans per year ("How...America"). Even so, in a country of only 6 million people this is still a substantial influx of nationals to account for, not to mention those that will return home on their own accord.

Impact on the Salvadoran Economy

By September 9, 2019, over 200,000 Salvadorans protected under TPS will be required to have left the US or made arrangements to obtain alternative legal documentation. Of the nearly 200,000 Salvadorans in the United States under TPS, many have been residing there since or before 2001, the designated continuous resident date for TPS ("Temporary..."). Many were residing in the US already when earthquakes struck El Salvador and the US government decided to extend TPS to previously residing residents. This granted Salvadoran immigrants the ability to obtain legal work permits, which would allow them to seek out higher-paying jobs. Moreover, the median household income of unauthorized immigrants in the United States according to a survey conducted by Pew Hispanic Center is approximately \$30,000 (Passel). In comparison, the median household income for TPS beneficiaries is between \$40,000-\$50,000 ("Temporary...States"). Manuel Orozco, a political scientist with InterAmerican Dialogue, estimates that 80 to 85 percent of Salvadoran TPS beneficiaries send remittances back home, equaling approximately 600 million US dollars annually, or 2 percent of El Salvador's GDP (Aizenman). It is estimated that last year remittances from Salvadorans, both documented and not, constituted \$4.6 billion, a whopping 17 percent of El Salvador's GDP (World Bank, Personal

Remittances; World Bank, GDP; World Factbook). Furthermore, El Salvador only sees 2 percent GDP annual growth rate, meaning that without even the remittances from TPS holders, the economy would lack the growth it needs to sustain itself (World Bank GDP Growth). Speaking on the recent termination of TPS for Salvadorans, Roberto Rubio-Fabián, executive director of Funde, a nonprofit research organization in San Salvador says, "The economic impact is going to be undeniable'... Remittances are the 'pillar that supports an economy with serious structural problems,'" (cited in Partlow). Not only do remittances go towards increasing household incomes in El Salvador, they additionally have a positive influence on various aspects of the economy including employment, GDP, productivity, quality of life and household consumption (Figueroa 50).

The impact of remittances is far-reaching in El Salvador, affecting almost every part of the economy. For example, Cecilia Menjivar, co-director of the Center for Migration Research at the University of Kansas, notes that many immigrants will purchase homes in El Salvador either for their families or for their own retirement. This in turn affects the housing market, construction companies, and real estate businesses, just to name a few ("The Economic Impact"). The money often goes towards helping with the costs of buying medicines, clothes for children, food, helping the elderly with no pension, and covering household and hospital bills (Grillo). With almost 35 percent of the country's population living below the poverty level, any such assistance is welcomed (The World Factbook). Remittances are considered to be "one of the largest financial inflows to developing countries, helping reduce poverty and improving human development in areas such as health, education and gender equality" (Figueroa 43). In fact,

worldwide, developing countries received \$131 billion in official aid while homeward-bound remittances equaled \$431.6 billion (Staff).

Moreover, not only would the remittance wages would be sorely missed, but also the return of thousands of the now skilled, bilingual workers would have a drastic impact on El Salvador's labor market. While the unemployment rate stands at 7 percent, almost 40 percent of workers are underemployed. Not only this, but with only 11,000 jobs created by the economy yearly for the 60,000 people who enter the workforce, the newly arrived deportees would only serve to increase the number of unemployed. That, coupled with a reduction in remittances, would "plunge people into poverty and reduce spending, which would hurt companies, causing unemployment, and hitting government finance." (Grillo; "How...America"). The effects of terminating TPS are far-reaching, creating a cyclical imbalance in El Salvador's economy that will neither easily nor quickly be reversed.

Violence as a Push Factor

This economic perspective represents only a small snapshot of the consequences that await Salvadorans should they be forced to move, with cultural and humanitarian consequences coming hand in hand. While the thought of the "American Dream" represents an important economic pull factor for many Central Americans migrating north, there are also strong push factors in place that force people out of their homes for their own safety. With homicide rates reaching nation highs in recent years it's no wonder Salvadorans in the U.S. have found various ways to stay in the United States. Unstable gang and government relations have increased violence so much that daily activities have become dangerous for everyday citizens.

Mara Salvatrucha (commonly known as MS-13) and Barrio 18 are two of the biggest rival gangs in El Salvador. The gangs find their roots in Los Angeles, but after the Salvadoran civil conflict ended in 1992 the U.S. sent thousands of undocumented gang members to El Salvador, where they planted roots and chose *barrios* (neighborhoods) to take charge of (Raphling). The homicide rates peaked shortly after that in El Salvador, reaching 139 per 100,000 people in 1995. In the past several years, El Salvador has made its way to the top of the list of the world's most dangerous places, with the number of homicides peaking in 2015 with 104 homicides per 100,000 people, high even compared to Honduras' 63 and Columbia's 26 per 100,000 (See Figure 1.1) (WorldBank Intentional). The number of asylum and refugee seekers from the Northern Triangle of Central America increased by 597% between 2010 and 2015, the majority of which were from El Salvador. Furthermore, there was an additional 96% increase to those numbers the following year when a truce between Salvadoran gangs and the government ended. The homicide rates that had been steadily declining throughout the 2012-2013 truce spiked again, when the government decided to crack down on gang activity in the country (Home 25). Unfortunately, "they [the police] operate with relative impunity as a result of a recent legal revision that ensures no officer will be investigated for any shooting done in 'self-defence'," meaning that the people can no longer turn to their authorities for protection (Watts).

Even with these astonishing death tolls, it is important to keep in mind that the numbers of actual homicides may, in fact, exceed those presented here. A prominent issue is that the government minimizes "the importance of violence as a push factor," saying that the country is safer due to lower homicide rates, yet gangs have become increasingly well-versed at the dismemberment,

decomposition and incineration of the bodies of their victims so that reported homicides are most likely much lower than those in actuality (Home 26, Gomez). The crackdown by the government has only seemed to increase tension and make matters worse, meaning diplomacy may be the only option. Raul Mijango, a former Farabundo Martí National Liberation Front (FMLN) guerrilla who played an important role as mediator in the truce, commented, "You can't kill them all. That would be genocide... It's like a snake that you can't kill. You can only remove the fangs" (Watts). And as the government works to "remove the fangs," throwing several thousand deportees into the snake pit will only make matters worse.

This rocky history pitting the government against gangs has created a vastly unstable environment for the country. The gangs derive the majority of their income from extortion, kidnappings, and drugs among other methods and returning migrants are seen as easy targets for robbery and extortion (Watts). The U.S. Department of State "has assessed San Salvador as being a **critical** threat location from crime directed at or affecting official U.S. government interests," yet they're on the verge of sending hundreds of thousands of immigrants, many of whom have lived in the U.S. for over 20 years, to the country without hesitation (El Salvador 2017). People that have grown up, worked, gone to school, made friends, learned the language and built a life for themselves in one country are now being given the option to either go by choice or be deported to El Salvador, a country many may never even remember having been brought to the States by their parents at a young age. Others fear their return to the country they fled for their lives, and with no one to turn to their pleas are only heard by others that share their plight.

*Figure 1.1¹ (Source: WorldBank "Intentional Homicides")

Reintegration Programs and Policies

Having looked at various economic and safety factors it's clear that the end of TPS for Salvadorans in the United States will impact more than one aspect of society in El Salvador. With an economy intertwined with remittances and gang violence overshadowing daily life, the success of returning migrants' reintegration into Salvadoran society will require the direct involvement and support of the state. Although there are a few institutions that work towards the resettlement and reintegration of deportees into Salvadoran society, they are few and far in between. Salvadorans' job options are limited, and they "face an unpalatable choice between moving to the countryside, where their relatives are, or staying in the cities to seek employment" (How). The following section looks at the programs and policies that have been established as a response to the increase in returning migrants, and although this is not a comprehensive list of the programs and services that exist in El Salvador, it offers a snapshot of the ways that El Salvador has prepared to receive the migrants.

There are three prominent Salvadoran laws that deal with migrants: (i.) Migration law; (ii.) the Special Law for the Protection and Development of the migrant and his Family; and (iii.) the proposed Special Law of Migration and Immigration. The first deals with internal migration, registering and regulating the entry and exit of people into national territory. This law does not explicitly deal with repatriation, return, or deportation. Second, the Special Law for the Protection and Development of Migrants and their Families, works towards developing the

¹ This figure accounts for all reported homicides, but does not include missing persons. Actual homicide rates may actually be higher.

principal constitution, which secures the rights of migrants and their families. Within this law is the establishment of the inter-institutional state entity, the National Council for the Protection and Development of Migrants and their Families, otherwise known as *Connigrantes*, which will be explored more in-depth later on. Furthermore, this law also dictates the creation of the *Strategic Plan for the Protection and Development of the Salvadoran Migrants and their Families*, with the goal of implementing public policies that guarantee, promote and restore the rights of Migrants and their families (Asociación 16-18). In order to accomplish this, two programs were put in place: the Humanitarian Protection and Aid program and the Migration and Development Program. The Humanitarian Protection and Aid program offers the following services: Assistance and repatriation services; search for missing persons, aid for victims of sexual abuse and exploitation; aid for human trafficking victims; medical, psychological and psychiatric aid and rehabilitation; and, finally, facilitating the process of family reunification (Asociación 18). The Migration and Development Program, on the other hand, focuses on productive, economic, social and cultural integration and cooperation as well as guaranteeing the complete validity of economic, social and cultural rights of migrants and their families. Finally the Special Law of Migration and Immigration, which deals more closely with El Salvador's immigration, has been proposed to unify and modernize migratory legislation to ensure effective border control and guarantee the protection of migrants' human rights, no matter their condition (Asociación 18-19).

In addition to the policies set in place to assist with the reintegration of deportees into Salvadoran society, there are also several nonprofits that have a tangible hand in helping with the immediate reception of the deportees and later their reinsertion into society. The first is the previously

mentioned *Conmigrantes*, instituted in 2012 by the Special Law for the Protection of Migrants and their Families, which works to create and fulfill comprehensive migration and development policies, coordinate activities between Salvadoran consulates and public and private institutions, and create and fulfill policies that protect migrants and assist them and their families with their development in El Salvador. It also assists youth and adolescents to reintegrate into the educational system by awarding scholarships and providing opportunities to further their education (Asociación 21-22). Next, the program *Bienvenido a Casa* (Welcome Home) receives Salvadorans returned by authorities from various countries. Along with offering a dignified reception, they provide information about El Salvador's various programs in place that offer help with reintegration. Specifically, they provide services such as clothing, hygiene items, medical attention, documenting human rights violations and emergency housing among other assistance (Asociación 23-24). The next stage in regards to the reintegration of returned migrants is the focus on their reinsertion into society. The Comprehensive Program for the Reinsertion of Returned Persons, started by the Foreign Relations department of the central government, aims to benefit returnees by working to stimulate the productive sector of their communities (Asociación 25). This is accomplished by generating jobs and creating a community for the returned migrants, as well as offering psychosocial support (Asociación 24-25). Furthermore, in addition to investing over \$420,000 to benefit 100 migrants returning from the United States, El Salvador's president Sánchez Cerén assured that they are looking to create projects in which returning migrants can invest, offering financial incentives like tax breaks (Asociación 26, Eordonez).

While the effort is not lacking, overall there are less than 40 total organizations and policies in place to assist in migrants' reintegration into society, and in reality only one in twenty migrants returning to El Salvador may receive the attention and assistance they need with such great numbers involved (Orozco 2). Furthermore, the existence of such programs and policies also does not guarantee that their presence and services are well known. The majority of TPS beneficiaries have lived in the United States for over 20 years; some have never even been to El Salvador. For those that now have children with American citizenship, they face the unsavory choice between moving their family to an unfamiliar land, and familial separation. Reintegration into Salvadoran society is a process that neither happens overnight, nor without a collective effort of the state and the people. Not only this, but it still leaves unanswered the question of cultural, linguistic and educational differences that must be addressed in order to achieve the successful adaptation to a new life. Yet the programs and policies that have been established are a sign that El Salvador is addressing the concern of the consequences ensuing the end of TPS and the imminent arrival of its former recipients.

Concluding Thoughts

Having looked at a brief history of TPS, the economic impacts, in-country violence, and the programs that are already in place for the reintegration of returned deportees, it's clear that the impact of the end of TPS is far-reaching. Having continuously resided in the United States for almost 20 years, adapting to a new life in El Salvador will be a drastic change for those that have assimilated to life in the U.S. Without the prospect of being viewed in the eyes of the state as an asylum-seeker or refugee, former TPS holders are left without a legal umbrella to stand under in the United States. As with any government policy, solutions to the dilemma posed by the semi-

permanent temporariness of Temporary Protected Status are varied and debatable, but the inevitable consequences that will ensure for El Salvador and its nationals in light of the end of TPS are undeniable. As with the end of any form of extended immigration policy, change will not come overnight. High stakes mean high rewards; and for TPS beneficiaries the risk of fighting for their ability to stay, or even staying undocumented, outweighs the risks of returning to El Salvador. Seeing that remittances from TPS beneficiaries in the U.S. are vital to the growth of the Salvadoran economy, and the Salvadoran government assured their nationals that they would explore other permanent legal residency options for the almost 200,000 that would be affected by the end of TPS (Dalton), which of course is the ideal resolution for both El Salvador and its current TPS beneficiaries. If unable to pursue the path to permanent residency in the United States, Salvadorans will have to either return to El Salvador, find an alternative country to take up residency, be deported, or risk staying undocumented in the U.S. Given that many TPS holders were fleeing from the gang violence that is widespread across the country, their fear of persecution lacks the individualization that refugee status requires. However without a viable alternative solution, El Salvador's GDP will decline until stagnant and thousands of Salvadoran migrants will be deported to what very likely may be their death.

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