

This is an excerpt from *Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities*, a report published by Asian Americans Advancing Justice—AAJC and Asian Americans Advancing Justice—Los Angeles in June 2019. The report is available for download: <https://advancingjustice-aaajc.org/inside-the-numbers-report-2019>

ISSUE BRIEF: RESCISSION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS AND TEMPORARY PROTECTED STATUS

Deferred Action for Childhood Arrivals

As a result of years of advocacy by undocumented youth, the Obama administration established the Deferred Action for Childhood Arrivals (DACA) program in June 2012. DACA allows certain undocumented people, also referred to as “Dreamers,” who came to the U.S. under the age of 16 and meet other criteria to apply for temporary protection from deportation and work authorization. DACA participants receive deferred action for a period of two years, with the ability to renew every two years. Since the program was established by the president and not in legislation passed by Congress, it is subject to change or termination by subsequent administrations. Indeed, as described below, President Trump has moved to terminate the program and, as of this writing, U.S. Citizenship and Immigration Services (USCIS) is no longer accepting new applications. It is accepting renewal applications under court order.¹³¹



DACA has provided incredible opportunities to this segment of the undocumented population. DACA recipients are able to obtain a Social Security number, obtain a driver's license, build credit, and seek jobs with benefits such as health care. In several states, DACA recipients can access in-state tuition, greater financial support, and scholarships. Through these lifted burdens, DACA recipients can feel a greater sense of security, helping to alleviate symptoms of stress and exclusion due to their status.¹³² As Anthony Ng, policy manager for immigrant rights with Asian Americans Advancing Justice—Los Angeles and DACA recipient, puts it, “DACA has been a lifeline for many. I’ve met young people with DACA who are able to sustain themselves, provide for themselves, their families, and to live a normal life.”

Impact of DACA on the Asian American Population

At the start of the program in 2012, the Migration Policy Institute estimated that 150,000 Asian Americans were eligible for DACA, with another 79,000 potentially becoming eligible in the near future. Asian Americans have had some of the lowest application rates for DACA. Among Asian countries, South Korea had the highest DACA participation rate at 24% as of August 2018, ranking 14th behind nations from Central and South America and the Caribbean.¹³³

DACA allows certain undocumented people who came to the U.S. under the age of 16 and meet other criteria to apply for temporary protection from deportation and work authorization.

Asian-Origin Countries with the Highest Participation in the DACA Program

Ranked by Number of DACA Recipients 2018

FIGURE 21

Country	Number of DACA Recipients	Immediately Eligible Population	Participation Rate
South Korea	7,090	29,000	24%
Philippines	3,760	25,000	15%
India	2,550	20,000	13%
Thailand	190	6,000	3%
China	690	23,000	3%
Vietnam	30	5,000	1%

FIGURE 21: Migration Policy Institute, Deferred Action for Childhood Arrivals (DACA) Data Tools (2018).

Barriers to applying for DACA have included the high application fee, collecting the required documents (such as a birth certificate or other recognized identity documents), and lack of trust in the government, including fear of deportation of applicants’ family members. Lack of language assistance, the stigma of having an undocumented status, and isolation from their ethnic communities also appear to have a greater impact on Asian applicants than on Latino applicants.¹³⁴

Rescission of DACA

On September 5, 2017, then–Attorney General Jeff Sessions announced the decision to rescind the DACA program. DACA recipients sued the administration in federal court, and the government is currently under a temporary court order to continue accepting DACA renewal applications. The government is no longer accepting new applications, which means that younger people who age into the program (applicants must be aged 15 or older to apply) and older people who never previously applied now are barred from applying. Litigation over the DACA decision is ongoing, and the entire program could be fully terminated in the future.¹³⁵

If DACA is terminated, then close to 700,000 recipients would lose protection and be susceptible to deportation. DACA recipients also would face losing jobs, benefits, potentially have to drop out of college or graduate school, and would lose homes, cars, or other investments if they can no longer pay their bills.

If DACA is terminated, then close to 700,000 recipients would lose protection and be susceptible to deportation. DACA recipients also would face losing jobs, benefits, potentially have to drop out of college or graduate school, and would lose homes, cars, or other investments if they can no longer pay their bills. In addition to the harmful impacts on DACA recipients and their families, collectively, there would be a significant negative impact on our nation’s economy. According to research from the New American Economy, the DACA-eligible population earns almost \$19.9 billion in total annual income. Most importantly, rescinding DACA also betrays our current undocumented youth who have come forward, placed their faith in the government, and shared personal information including addresses where their parents or other undocumented family members may live when applying for the program.¹³⁶ When DACA was repealed, Raymond Partolan, an immigration activist formerly on the staff of Asian Americans Advancing Justice—Atlanta, recounts, he was “devastated and angry,” not just for himself, but for the hundreds of thousands of DACA recipients who had “come out of the shadows, declared themselves to be undocumented, presented themselves to the government so that they could get their driver’s licenses and work, and essentially pay almost \$500 every two years just to be able to live a normal life in this country.”

President Trump has demanded devastating changes to our immigration laws in exchange for legislation protecting DACA recipients. His demands include slashing the number of immigrants that the U.S. welcomes by more than half, ending the family reunification system and the diversity visa program, and implementing harsh enforcement measures, and building a wall at the U.S.–Mexico border. These proposals failed to get the required votes in both houses of Congress in 2018. The current administration’s anti-immigrant sentiments and harsh enforcement policies come with a greater sense of urgency to protect our immigrant—and especially undocumented—communities.

Raymond, Anthony, and many DACA recipients, their families, and allies continue to fight for their futures, calling for passage of a “clean” DREAM Act, one that would give them a pathway to citizenship without sacrificing immigration relief for other undocumented immigrants.



Temporary Protected Status

Temporary Protected Status, or TPS, is a humanitarian form of immigration status intended to protect foreign nationals in the United States from being returned to their home country if it becomes unsafe during the time they are in the U.S. and returning would put them “at risk of violence, disease, or death.” TPS was established by Congress through the Immigration Act of 1990. Under the law, the secretary of the Department of Homeland Security may designate a country for TPS in cases of ongoing armed conflict, environmental disaster, or epidemic where “the foreign state is unable to adequately handle the return of its citizens,” or other conditions that prevent safe return. While TPS does not confer permanent resident status or U.S. citizenship, it does provide temporary protection from deportation and eligibility for work authorization, allowing individuals with TPS to support their families in the U.S. and abroad.¹³⁷

Temporary Protected Status is a humanitarian form of immigration status intended to protect foreign nationals in the U.S. from being returned to their home country if it becomes unsafe during the time they are in the U.S. and returning would put them “at risk of violence, disease, or death.”

Ten countries have been designated for TPS: South Sudan, Syria, Yemen, Somalia, Sudan, Nicaragua, Nepal, Haiti, El Salvador, and Honduras. Liberia had TPS designation for a time but now is designated for Deferred Enforcement Departure, a similar type of protection. Approximately 300,000 to 400,000 individuals hold TPS.¹³⁸

TPS designations have been generally extended by both Democratic and Republican administrations. The Trump administration, however, has terminated TPS for 98% of all TPS holders, including individuals from Honduras, El Salvador, Haiti, Nepal, and Sudan, plus Deferred Enforcement Departure for Liberia. The administration extended but did not redesignate TPS for South Sudan, Syria, and Yemen. As a result of a legal challenge, a temporary injunction in the case of *Ramos et al. v. Nielsen* is in place, preventing the administration from ending TPS for El Salvador, Haiti, Nicaragua, and Sudan.¹³⁹



PHOTO CREDIT: ADHIKAAR

BIBEK*

Bibek came to the U.S. in 2014. As a TPS recipient he was able to secure a stable, good-paying job as a chef in Manhattan, and support his wife and two young children back home as Nepal struggles to rebuild from the earthquake. Without TPS, Bibek fears that the “dreams and life [he is] building towards will be gone” and that he will lose his home, health insurance, and means of supporting his family. He prays for a solution that will allow him “to continue building a fruitful and productive life here in the U.S.”

**Name changed to protect privacy.*

Focus on TPS for Nepal

On June 24, 2015, TPS was approved for citizens of Nepal as a result of the earthquake that devastated that country in April 2015. As of October 12, 2017, 14,791 individuals from Nepal have Temporary Protected Status.¹⁴⁰

On April 26, 2018, DHS Secretary Nielsen announced the termination of the TPS designation for Nepal, citing her assessment that the original conditions under which the country was designated were no longer substantial and that Nepal could adequately handle the return of its nationals. A 12-month delay of the termination date to allow for an orderly transition was also announced. The TPS designation for Nepal is set to terminate on June 24, 2019.¹⁴¹

The Congressional Asian Pacific American Caucus has referred to the termination of TPS for Nepal as “heartless,” “irresponsible,” and “inhumane,” stating that many Nepalis are still struggling with the effects of the earthquake with 90% still in temporary homes.¹⁴²

Many have been mobilizing to protest the termination of TPS. The National TPS Alliance organized a rally in Washington, DC on February 12, 2019, to draw attention to the plight of TPS holders. Adhikaar, a New York-based nonprofit organization whose mission is to work with the Nepali-speaking community to promote human rights and social justice for all, was part of the mobilization. Protest organizers report that TPS holders from nearly every designated country participated in the rally.¹⁴³

Advocates also have looked to the courts for relief. On February 11, 2019, a class-action lawsuit was filed to stop the unlawful termination of TPS for over 100,000 TPS holders from Honduras and Nepal. The lawsuit also seeks to prevent the separation of tens of thousands of U.S. citizen children from their TPS-holder parents. Plaintiffs are members of diverse organizations fighting to defend TPS in the courts and in Congress, including Adhikaar, the International Union of Painters and Allied Trades, and the National TPS Alliance. On May 10, 2019, DHS announced

that it would not enforce the decision to terminate TPS for Honduras or Nepal pending the resolution of litigation. In addition, DHS announced that it would automatically extend the validity of TPS-related documents for beneficiaries under the TPS designation for Nepal through March 24, 2020.¹⁴⁴

Policy Recommendations

Dreamers and TPS recipients represent the cornerstone of American values and help our country thrive and advance. They are members of our families and communities who have called America home for decades. Forcing Dreamers and TPS recipients to leave the U.S. would cause harm not only to them and their families but would disrupt communities and local economies and, for TPS holders, place an even greater burden on their still-recovering impoverished countries of origin. Congress should pass a “clean” DREAM Act that would finally offer undocumented youth a pathway to citizenship within, for many, the only country they have ever known, without expanding harmful immigration enforcement measures that separate immigrant families. Congress should pass legislation that offers all Temporary Protected Status recipients and Deferred Enforced Departure recipients a pathway to citizenship. We support the American Dream and Promise Act of 2019 (H.R. 6), as filed on March 12, that would offer a pathway to citizenship for Dreamers, TPS recipients, and Deferred Enforced Departure recipients.

Congress should pass a “clean” DREAM Act that would offer undocumented youth a pathway to citizenship and pass legislation that offers all Temporary Protected Status recipients and Deferred Enforcement recipients a pathway to citizenship.

NOTES

¹³¹ U.S. Citizenship and Immigration Services website, “Consideration of Deferred Action for Childhood Arrivals (DACA)” (February 14, 2018).

¹³² Roberto G. Gonzales, “Here’s How DACA Changed the Lives of Young Immigrants, According to Research,” *Vox* (February 16, 2018); Sanam Malik, “DACA Helps Undocumented Students Access Higher Education,” *Center for American Progress* (April 7, 2015).

¹³³ Migration Policy Institute, “DACA-Eligible Population (2008–2012): Estimates and Ranges of Error at the National and State Levels,” table linked in Sarah Hooker and Michael Fix, *County-Level View of DACA Population Finds Surprising Amount of Ethnic & Enrollment Diversity*, *Migration Policy Institute* (September 2014); Migration Policy Institute, *Deferred Action for Childhood Arrivals (DACA) Data Tools* (2018).

¹³⁴ Sanam Malik, “More Work Is Needed to Increase DACA Applications from Asian American and Pacific Islander Immigrants,” *Center for American Progress* (June 22, 2016).

¹³⁵ United We Dream and National Immigration Law Center, “Top Five Things to Know about the Announcement That DACA Is Ending” (September 5, 2017); National Immigration Law Center and United We Dream, “Frequently Asked Questions: USCIS Is Accepting DACA Renewal Applications” (August 2018).

¹³⁶ Migration Policy Institute, *Deferred Action for Childhood Arrivals (DACA) Data Tools* (2018); New American Economy, “DACA-Eligible Population Earns Nearly \$19.9 Billion” (January 28, 2018).

¹³⁷ Catholic Legal Immigration Network, Inc., “Temporary Protected Status for Yemen” (June 13, 2018), citing Jill H. Wilson, “Temporary Protected Status: Overview and Current Issues,” *Congressional Research Service* (Jan. 17, 2018).

¹³⁸ Catholic Legal Immigration Network, Inc., “Temporary Protected Status: Comprehensive Backgrounder” (January 7, 2019).

¹³⁹ Catholic Legal Immigration Network, Inc., “Temporary Protected Status: Comprehensive Backgrounder.”

¹⁴⁰ Jill H. Wilson, “Temporary Protected Status: Overview and Current Issues,” *Congressional Research Service* (January 17, 2018).

¹⁴¹ Wilson, “Temporary Protected Status,” citing U.S. Department of Homeland Security, “Secretary Kirstjen M. Nielsen Announcement on Temporary Protected Status for Nepal” (April 26, 2018).

¹⁴² Congressional Asian Pacific American Caucus, “CAPAC Chair Statement on Termination of TPS for Nepal” (April 26, 2018).

¹⁴³ Marissa J. Lang, “‘I Feel This Is My Home’: Hundreds Protest in Washington to Support Immigrants with Temporary Protected Status,” *Washington Post* (February 12, 2019).

¹⁴⁴ Asian Americans Advancing Justice—Asian Law Caucus, “Press Release: TPS Holders from Honduras and Nepal Sue Trump Administration to Prevent Unlawful Deportation of 100,000 People” (February 11, 2019). Department of Homeland Security, “Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for Nepal and Honduras,” *Federal Register* Vol. 84, No. 91 (May 10, 2019).