

IMMIGRANTS IN SHIFTING TIMES ON LONG ISLAND, NY: THE STAKES OF LOSING TEMPORARY STATUS

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ABSTRACT

In July 2017, President Trump held a rally on Long Island, New York and—amidst sweeping national efforts to curb immigration flows to the United States and to limit the rights of those already here—he invoked notions of Long Island’s “liberation” from the influx of immigrants. Then, following a string of other restrictionist moves, and through a series of announcements from September 2017 to January 2018, President Trump announced the termination of the Temporary Protected Status (TPS) program—a long-standing humanitarian immigration program. The termination of TPS meant that the documented status and work authorization of thousands of Central American migrants—on Long Island and across the United States—could suddenly shift to undocumented status. Currently, the termination of TPS is on hold due to court injunctions; however, its future is unsettled. This Article assesses forty-two in-depth interviews with Long Island-based TPS holders who may soon become undocumented and identifies what these TPS holders will lose if TPS is terminated. This Article argues that TPS itself is an unstable and precarious status and poses significant challenges to beneficiaries. However, Long Island TPS migrants’ retrospectives about their previous undocumented lives suggest that their wages and working conditions would suffer were they to lose the legal presence and work authorization that TPS provides. Cutting the TPS program would also have destabilizing effects on other domains such as family life and TPS migrants’ sense of community safety.

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TABLE OF CONTENTS

INTRODUCTION	744
I. SHIFTING TIMES ON LONG ISLAND AND BEYOND	747
II. METHODS	749
III. THE STAKES OF LOST STATUS	752
A. <i>Work and Wages</i>	752
B. <i>Beyond the Workplace</i>	754
1. Family and Transnational Obligations	755
2. Safety and Law Enforcement	757
CONCLUSION.....	758

INTRODUCTION

In July 2017, President Trump held a rally on Long Island, New York and—amidst sweeping national efforts to curb immigration flows to the United States and to limit the rights of those already here¹—he invoked notions of Long Island’s “liberation” from the influx of immigrants.² Then, following a string of other restrictionist moves, and through a series of announcements from September 2017 to January 2018, President Trump announced the termination of the Temporary Protected Status (TPS) program—a long-standing humanitarian immigration program.³ The termination of TPS meant that the documented status and work authorization of approximately 20,000 Central American migrants currently living on Long Island,⁴ and hundreds of thousands more migrants with TPS around the country (TPS migrants),⁵ could suddenly be lost. Termination would subject them to an immediate loss of work authorization and risk of deportation, threatening to separate parents from

1. SHOBA SIVAPRASAD WADHIA, BANNED: IMMIGRATION ENFORCEMENT IN THE TIME OF TRUMP 7–36 (2019); see *Timeline: U.S. Post War Immigration Policy 1952-2019*, COUNCIL ON FOREIGN REL., <https://www.cfr.org/timeline/us-postwar-immigration-policy> (last visited May 9, 2020).

2. See Joe Dowd, *Trump to LI Gang Members: 'We Will Find You'*, LONG ISLAND BUS. NEWS (July 28, 2017), <https://libn.com/2017/07/28/trump-headed-to-long-island-to-tout-ms-13-crackdown/>.

3. Hillel R. Smith, Cong. Research Serv., UPDATE: Termination of Temporary Protected Status for Sudan, Nicaragua, Haiti, and El Salvador: Key Takeaways and Analysis 2–3 (2018) (“From September 2017 through January 2018, DHS successively announced the impending termination of TPS for Sudan, Nicaragua, Haiti, and El Salvador.”); see also *Saget v. Trump*, 345 F. Supp. 3d 287, 291–92 (E.D.N.Y. 2018) (challenging the termination of TPS for immigrants of Haiti announced in November 2017); *Ramos v. Nielsen*, 336 F. Supp. 3d 1075, 1083 (N.D. Cal. 2018) (discussing the termination of TPS for Nicaragua in November 2017).

4. Welfare to Work Comm’n, SUFFOLK CTY. LEGISLATURE, IMPACTS OF FEDERAL IMMIGRATION POLICIES ON SUFFOLK RESIDENTS 2 (2018) (referring to “15,000 Salvadorans and 5,000 mostly Hondurans and Haitians on Long Island”).

5. Robert Warren & Donald Kerwin, *A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti*, 5 J. ON MIGRATION & HUM. SECURITY 577, 581 (2017); D’Vera Cohn et al., *Many Immigrants with Temporary Protected Status Face Uncertain Future in U.S.*, PEW RES. CTR. (Nov. 27, 2019), <https://www.pewresearch.org/fact-tank/2019/11/27/immigrants-temporary-protected-status-in-us/>.

their U.S. citizen children and destabilize communities and workplaces.⁶ As of June 2020, the termination of TPS is pending due to temporary court injunctions, and its future is unsettled.⁷ The threat has mobilized TPS migrants and their advocates to demand preservation of the status⁸ as communities scramble to prepare for the real possibility that they will fail.⁹

This Article uses forty-two in-depth interviews with TPS migrants to interrogate the stakes of moving from a temporary documented status to an undocumented status. The authors rely on the perspectives of TPS migrants who live in two suburban and rural counties on Long Island, New York: Nassau and Suffolk counties. The authors' research team asked interviewees about their living and working conditions when they were undocumented and after receiving temporary status. A comparison of their undocumented and documented experiences reveals what would be lost if the Trump Administration succeeds in terminating TPS and this population once again becomes undocumented.

While this Article focuses on the negative impacts of losing TPS, it acknowledges that TPS itself is an unstable and precarious status. A burgeoning literature chronicles the many ways that temporary—as opposed to permanent—immigration status fosters precarity in the lives of TPS

6. See, e.g., Christopher Woody, *Trump's Latest Immigration Crackdown Threatens the Economy – Both in the US and in El Salvador*, BUS. INSIDER (Jan. 17, 2018, 3:46 PM), <https://www.businessinsider.com/trump-ending-tps-el-salvador-threatens-economy-2018-1> (contemplating the effects of stripping Salvadorian workers of TPS so that “they’re going to wind up living in illegality here, which will make them more exposed to abuse by employers, make them live more in fear, make them far less likely to cooperate with local police”).

7. See *Saget*, 345 F. Supp. 3d at 293 (denying the defendant’s motion to dismiss in favor of TPS beneficiaries from Haiti); *Ramos*, 336 F. Supp. 3d at 1080–81 (granting a motion for a preliminary injunction in favor of TPS beneficiaries from El Salvador, Nicaragua, Haiti, and Sudan).

8. See, e.g., *About the National TPS Alliance*, NAT’L TPS ALLIANCE, <https://www.nationaltpsalliance.org/about-us> (last visited May 9, 2020) (discussing the TPS Alliance’s past actions and goals).

In August 2018, activists with the Alliance boarded a blue bus labeled ‘TPS Journey for Justice’ and crossed the US, making forty-four stops in twelve weeks. This past June, they succeeded in lobbying the House to pass the American Dream and Promise Act, which would give long-term beneficiaries of TPS, DED, and DACA a path to permanent legal status.

E. Tammy Kim, *The Fight Against Trump’s Other Family Separation Policy*, N.Y. REV. BOOKS (Aug. 14, 2019, 7:00 AM), <https://www.nybooks.com/daily/2019/08/14/the-fight-against-trumps-other-family-separation-policy/>; see generally INTERFAITH IMMIGRATION COAL., INTERFAITH TOOLKIT TO DEFEND TEMPORARY PROTECTED STATUS (TPS) (2017) (providing general guidance on media, community organizing, and legislative actions regarding TPS status).

9. See Kim, *supra* note 8.

Amaha Kassa, the executive director of the nonprofit African Communities Together, has seen this firsthand. After TPS was terminated for Guinea and Sierra Leone, he told me, people simply stayed on: ‘We’ve been helping them through their undocumented status,’ he told me. ‘They wanted to know, what does it mean to find work without work authorization? What does it mean for getting a driver’s license? And is it possible to apply for other relief, like amnesty?’ On every front—getting a job, avoiding deportation, caring for children—everything became harder without TPS.

Id.

migrants.¹⁰ In existing scholarship, Kati Griffith and Shannon Gleeson highlight how the state creates unique obstacles and burdens for TPS holders and their employers¹¹ and consequently, how the status creates unique forms of precarity for workers with TPS.¹² Similarly, sociologists Abrego and Lakhani describe the “legal violence” TPS exerts on individuals who hold this status.¹³ Menjívar’s often-cited work on TPS migrants also illustrates how the “liminality” of the status destabilizes the living and working lives of TPS migrants who come to rely on the benefits it nonetheless provides.¹⁴

The unstable environment surrounding TPS and immigration policy is the starting point of this Article. It outlines the recent shifting political context for immigrants, both nationally and on Long Island. It then provides an overview of the research methodology for its interview-based project and discusses the benefit of focusing on TPS migrants in the suburban and rural zones of Long Island, rather than those that live and work in central cities like nearby New York City. The final Section of this Article draws on the forty-two interviews to elaborate upon how losing legal status may impact their work and personal lives. TPS migrants’ retrospectives on their work lives as undocumented workers suggest that their wages and working conditions will suffer if their TPS is revoked.

10. See, e.g., Geoffrey Heeren, *The Status of Nonstatus*, 64 AM. U. L. REV. 1115, 1115 (2015) (discussing the “[i]n between” status of unauthorized immigrants, including TPS beneficiaries, and how they “live in constant fear of deportation” while not being eligible to receive most public benefits).

11. Shannon Gleeson & Kati L. Griffith, *Employers as Subjects of the Immigration State: How the State Foments Employment Insecurity for Temporary Immigrant Workers*, LAW & SOC. INQUIRY (forthcoming 2020) (manuscript at 3–4) (on file with authors).

Our findings reveal that when employing TPS workers, employers must engage with coercive and bureaucratic arms of the immigration state, which are intertwined and operate in tandem. The state’s policies and actions make TPS workers a more risky and costly proposition for employers, thereby exacerbating the job insecurity that TPS workers already face due to an at-will employment regime void of state required employment security protections.

Id.

12. Kati L. Griffith & Shannon M. Gleeson, *The Precarity of Temporality: How Law Inhibits Immigrant Worker Claims*, 39 COMP. LAB. L. & POL’Y J. 111, 134 (2017) (“TPS workers may be uniquely disadvantaged in the labor market . . . Employers may have reasons to prefer authorized employees who do not have TPS, over TPS holders.”); see also *id.* at 129 (“Administrative immigration processes foster a feeling of ‘temporariness’ in the TPS community, and may deepen a TPS worker’s sense of powerlessness when faced with a workplace law abuse.”). The intersection of criminal and immigration law can:

[F]oster a fear of deportation, even if they are not presently deportable. This may lead to workers self-regulating to avoid certain risks that they perceive as possibly leading to deportation. In turn, these workers may be dissuaded against rocking the boat by making a workplace law claim against their employers.

Id. at 132 (footnote omitted); *id.* at 134 (immigration enforcement in the workplace may “heighten inequality of power between employers and TPS employees and exacerbate the propensity for TPS workers to feel heightened loyalty to their employers”).

13. See Leisy J. Abrego & Sarah M. Lakhani, *Incomplete Inclusion: Legal Violence and Migrants in Liminal Legal Statuses*, 37 LAW & POL’Y 265, 279 (2015).

14. Cecilia Menjívar, *Liminal Legality: Salvadoran and Guatemalan Immigrants’ Lives in the United States*, 111 AM. J. SOC. 999, 1003, 1008 (2006).

The retrospectives also reveal that losing TPS would destabilize migrant families and their sense of security.

I. SHIFTING TIMES ON LONG ISLAND AND BEYOND

This study is situated in a time of radical shifts in U.S. immigration policy. The interviews on Long Island took place starting in March 2016, six months before Donald Trump was elected president in November 2016. When this Article's study closed in March 2019, the Trump Administration had called for a number of restrictions on legal routes to immigration (e.g., the "Muslim Bans"),¹⁵ increased border enforcement (e.g., the extension of the physical wall along the U.S.–Mexico border),¹⁶ and intensified interior immigration enforcement initiatives through surprise raids¹⁷ and cooperation with local law enforcement agencies.¹⁸

Scaling back, and potentially terminating, the TPS program has been part of the Trump Administration's strategy of immigration restriction. In 1990, Congress created the TPS program, which allowed the U.S. Department of Homeland Security (then the Immigration and Naturalization Service), in consultation with the U.S. State Department, to designate individuals from particular countries undergoing qualifying events (such as environmental disasters, civil strife, and other extraordinary situations) as meriting temporary stays and work authorization in the United States.¹⁹ In 2017 and 2018, the Trump Administration announced its plans to terminate TPS for several countries, including El Salvador, Honduras, and Nicaragua.²⁰ TPS migrants challenged the terminations in federal court, and federal courts have stalled the termination of TPS temporarily.²¹ The future of TPS remains, to say the least, in flux.

On Long Island, New York, local developments have mirrored national trends towards immigration restriction. In March 2017, a high-

15. See Shoba Sivaprasad Wadhia, *National Security, Immigration and the Muslim Bans*, 75 WASH. & LEE L. REV. 1475, 1483–88 (2018) (discussing controversial immigration policies commonly referred to as "muslim bans").

16. Faye Hipsman & Doris Meissner, Migration Pol'y Inst., Trump Executive Order and DHS Implementation Memo on Border Enforcement: A Brief Review 2 (2017).

17. Kati L. Griffith & Shannon Gleeson, *Trump's 'Immigration' Law Agenda: Intensifying Employment-Based Enforcement and Un-authorizing the Authorized*, 48 SW. L. REV. 475, 477 (2019) ("The spectacle of worksite immigration raids has garnered renewed attention during the Trump administration."); see also Bill Ong Hing, *Entering the Trump ICE Age: Contextualizing the New Immigration Enforcement Regime*, 5 TEX. A&M L. REV. 253, 273 (2018) (discussing ICE raids under the Trump Administration).

18. Huyen Pham, *287(G) Agreements in the Trump Era*, 75 WASH. & LEE L. REV. 1253, 1257, 1273 (2018).

19. See SMITH, *supra* note 3, at 2.

20. *Id.*; see also Termination of the Designation of Honduras for Temporary Protected Status, 83 Fed. Reg. 26074 (June 5, 2018) (providing notice that the TPS designation for Honduras will be terminated).

21. *Saget v. Trump*, 345 F. Supp. 3d 287, 292 (E.D.N.Y. 2018) (denying the defendant's motion to dismiss in favor of TPS beneficiaries from Haiti); *Ramos v. Nielsen*, 336 F. Supp. 3d 1075, 1080–81 (N.D. Cal. 2018) (granting a motion for a preliminary injunction in favor of TPS beneficiaries from El Salvador, Nicaragua, Haiti, and Sudan).

profile murder perpetrated by the Salvadoran gang, MS-13,²² brought Long Island into the media spotlight. President Trump and other immigration restrictionists racially mobilized this event to perpetuate the image of undocumented immigrants as criminals.²³ Referring to the gang, President Trump provocatively stated, “[t]hey come from Central America. They’re tougher than any people you’ve ever met . . . They’re killing and raping everybody out there. They’re illegal. And they are finished.”²⁴ In August 2017, during a speech in Arizona, President Trump again made reference to Long Island to proclaim that he was “liberating our towns” and that the Trump Administration was “getting them out of here, throwing them in jails.”²⁵

A review of Long Island local news highlights that immigration is indeed a polarized issue on Long Island.²⁶ The Long Island community is politically split, and local politicians have made both pro- and anti-immigrant proclamations.²⁷ Until a New York court concluded that state and local law enforcement could not make civil immigration arrests,²⁸ jails on Long Island were regularly detaining immigrants for Immigra-

22. Kwegyirba Croffie, *MS-13 Gang Members Indicted in Brutal Deaths of High School Students*, CNN (Mar. 3, 2017, 1:59 AM), <https://www.cnn.com/2017/03/02/us/ms-13-long-island-killings/index.html>. From the funding of the violence and repression during the civil war, to the criminalized immigration laws that facilitated these deportations, the United States had a large part to play in the creation of MS-13. See Dara Lind, *MS-13, Explained*, VOX, <https://www.vox.com/policy-and-politics/2018/2/26/16955936/ms-13-trump-immigrants-crime> (last updated Feb. 5, 2019, 9:45 PM) (“[M]ost analysts peg the group’s growth into something significant to the early 1980s, when Salvadorans began to flee a brutal civil war in their home country and come to the US as unauthorized immigrants . . . mass incarceration and deportation were what took the gang international.”).

23. See Claude Solnik, *Trump Touts “Liberating” Long Island, Attacks Media*, LONG ISLAND BUS. NEWS (Aug. 22, 2017), <https://libn.com/2017/08/22/trump-touts-liberating-long-island-attacks-media/>.

24. Frank Eltman, *MS-13 Gang Suspects Indicted in Slayings of 3 Teenagers*, ASSOCIATED PRESS (Mar. 2, 2017), <https://apnews.com/aeeb47aac17646b7a21ce8723bc50f9f/MS-13-gang-suspects-indicted-in-slayings-of-3-teenagers>.

25. Solnik, *supra* note 23.

26. Advocates and some local officials have called for restricting the participation of local law enforcement in federal immigration enforcement efforts. See Rachelle Blidner, *Southampton Town Considers Formalizing Immigration Policy*, NEWSDAY, <https://www.newsday.com/long-island/suffolk/southampton-town-considers-formalizing-immigration-policy-1.13218873> (last updated Mar. 6, 2017, 11:10 AM) (discussing support for policies that protect immigrants). Nonetheless, Suffolk County agreed to allow the federal government to use its correctional facility “to hold federal detainees accused of crimes as well as ‘individuals who are awaiting a hearing on their immigration status or deportation.’” Victor Manuel Ramos, *Suffolk Jail in Riverhead has Pact with Feds for Immigration Detainees*, NEWSDAY, <https://www.newsday.com/long-island/suffolk/ice-jail-suffolk-1.15599128> (last updated Dec. 26, 2017, 11:06 PM).

27. Republican Congressman, Lee Zeldin, made supportive statements about Trump’s immigration policy to end the Deferred Action for Childhood Arrivals program (DACA). Alex Petroski, *Lee Zeldin Weighs in on DACA, Overall Immigration Reform*, TBR NEWS MEDIA (Sept. 6, 2017), <https://tbnewsmedia.com/lee-zeldin-weighs-in-on-daca-overall-immigration-reform/>; *Ejecutivos de Suffolk y Nassau Envían Carta al Congreso Pidiendo Extender las Protecciones a Salvadoreños con TPS*, NOTICIA LONG ISLAND (Jan. 12, 2018), <https://www.noticiali.com/articulos/ejecutivos-de-suffolk-y-nassau-envian-carta-al-congreso-pidiendo-extender-las-protecciones-a-salvadorenos-con-tps/> (reporting on a letter that Suffolk and Nassau County executives sent to congressional representatives urging them to take action to protect the 15,000 Salvadoran TPS holders in the area).

28. *People ex rel. Wells v. DeMarco*, 168 A.D.3d 31, 34 (N.Y. App. Div. 2018).

tion Customs Enforcement (ICE).²⁹ The New York Civil Liberties Union (NYCLU), which filed the suit, contrasted New York City's sanctuary city efforts to protect immigrants with the efforts on Long Island which "reinstated a previously abandoned policy of detaining immigrants for ICE" after Trump's election.³⁰ As a result of the state court ruling, law enforcement officials across New York are no longer authorized to make an arrest based on civil law immigration violations.³¹ Nor are they authorized to detain a migrant unless the migrant is suspected of a crime. A request from ICE to hold a migrant for a civil immigration violation is no longer sufficient grounds for detention.³² This is in part due to immigrant advocacy, which abounds on Long Island and regularly challenges policies that target undocumented community members.³³ It is within this polarized context that the study's interviewees discussed their lives both before and after receiving temporary status to live and work in the United States through the TPS program.

II. METHODS

This Article draws on retrospective interviews with migrants who have TPS. The vast majority of these individuals were undocumented before receiving TPS. Interviewees reflect on their previous undocumented experiences and offer insight on how gaining TPS altered their experiences at work and beyond. The retrospective interview approach provides a unique opportunity to consider the consequences of losing this

29. Victor Manuel Ramos, *Nassau County Taken off ICE 'Sanctuary' List*, NEWSDAY, <https://www.newsday.com/long-island/nassau/nassau-county-taken-off-ice-sanctuary-list-1.13437773> (last updated Apr. 11, 2017, 10:02 PM) ("Sheriff Michael Sposato . . . has maintained that the county jail honors requests to detain immigrants, as he believes the policy 'makes Nassau County safer.'").

30. Press Release, N.Y. Civil Liberties Union, *Lawsuit Seeks to Block Suffolk County Sheriff from Detaining Immigrants for ICE* (Dec. 11, 2017) (on file with author) ("The detention of Mr. Francis by the Suffolk County Sheriff's Office is the latest in an ongoing series of immigration arrests by local law enforcement agencies that overstep their authority under state law.").

31. *Wells*, 168 A.D.3d at 34 ("[W]e conclude that New York state and local law enforcement officers are not authorized by New York law to effectuate arrests for civil law immigration violations.").

32. *Id.* at 53 ("[T]he Sheriff's policy, issued on December 2, 2016, directing the retention of prisoners, who would otherwise be released, pursuant to ICE detainers and administrative warrants is unlawful . . .").

33. Raisa Camargo & Christopher J. Brooks, *Long Islanders Protest Trump Immigration Policy*, NEWSDAY, <https://www.newsday.com/long-island/suffolk/immigrants-children-separation-rally-1.19221978> (last updated June 15, 2018, 8:13 AM) ("Dr. Eve Krief, a Huntington pediatrician who founded the advocacy group Long Island Inclusive Communities Against Hate, organized the protest. Krief said she is disturbed by a new Trump administration immigration policy, which calls for increased prosecution of border crossers.").

Long Island clergy and parishioners marched in Islip Tuesday to demand justice for families at the U.S.-Mexico border. The group was made up of several dozen members from Presbyterian churches across the Island as they marched their way to Islip Town Hall. The event comes amid the confusion surrounding the Trump administration's zero tolerance immigration policy.

Church Members in Islip Protest Trump's Immigration Policy, NEWS 12 LONG ISLAND (June 26, 2018, 3:15 PM), <http://longisland.news12.com/story/38514724/church-members-in-islip-protest-trumps-immigration-policy>.

temporary status. It also allows interviewees to share what life was like before the Trump Administration, when immigration crackdowns were less frequent, or public, and what life is like now that enforcement efforts have redoubled. This Article uses the interviewees' retrospectives to consider the impacts on both workplace outcomes and migrants' everyday lives.

The data is drawn from a larger diverse sample of low-wage TPS migrants in the New York City metropolitan area from July 2016 to April 2019. Bicultural and bilingual research assistants, as well as community and legal services organizations, helped us sample interviewees through an outreach and referral strategy.³⁴ In total, this Article focuses on interviews with forty-two Central American TPS migrants on Long Island (in Nassau and Suffolk counties). Central Americans (largely Salvadorans) are the largest regional origin group benefiting from TPS on Long Island. The resulting interviewee sample splits fairly evenly between men and women (twenty-three men; nineteen women).³⁵ While over half of interviewees (twenty-five) have less than a high school degree, six interviewees completed high school.³⁶ Another eleven interviewees have at least a college degree.³⁷ Interviewees often held multiple jobs over their time in the United States and were largely concentrated in three main industries: construction (thirteen), home care (twenty-one), and restaurants (twenty-seven);³⁸ fewer interviewees were factory or retail workers, machine operators, warehouse staff, and drivers.

34. We acknowledge the limits to this sampling strategy, which relies on referrals from local organizations and personal referrals. However, we argue that immigrants with Temporary Protected Status, for the most part, rely on a legal advocate for their initial and subsequent renewal applications. Further, the extent to which this approach produces a biased well-connected population, we consider our findings to therefore be a conservative assessment of the challenges likely facing TPS beneficiaries.

35. See *infra* Table 1. Interviewees received a \$50 honorarium for their participation, and were assured of the voluntary and confidential nature of the study.

36. See *infra* Table 1.

37. See *infra* Table 1.

38. See *infra* Table 1.

TABLE 1. Central American TPS Holders on Long Island
(Nassau & Suffolk counties)

	Total
TOTAL	42
GENDER	
<i>Men</i>	23
<i>Women</i>	19
LOCATION	
<i>Nassau County</i>	28
<i>Suffolk County</i>	14
EDUCATION	
<i>Less than HS</i>	25
<i>High School</i>	6
<i>College or More</i>	11
INDUSTRY³⁹	
<i>Construction</i>	13
<i>Home Care</i>	21
<i>Restaurants</i>	27
<i>OTHER</i>	25

While many other studies highlight the significant TPS populations in large metropolitan areas (e.g. Houston, Los Angeles, Miami, and Washington, D.C.),⁴⁰ this Article focuses on an often-overlooked segment of the New York City region: Long Island, New York. Compared to its neighboring metropolis, Long Island is more politically mixed, suburban, and has scarcer legal and other community resources for immigrants. As mentioned at the outset, President Trump thrust Long Island into the national spotlight. By focusing specifically on Central Americans on Long Island, this Article holds constant key factors that undoubtedly impact the intersectional immigrant experience.⁴¹

Existing scholarship confirms that legal status impacts a range of economic, social, and institutional arenas in migrant life. This Article, however, focuses broadly on interviewees' view of how immigration status relates to work and wages, as well as their personal lives (their family well-being and their sense of safety and security). To assess these

39. Some interviewees talked about their job experiences in more than one industry.

40. See, e.g., CECILIA MENJÍVAR, CTR. FOR MIGRATION RESEARCH, TEMPORARY PROTECTED STATUS IN THE UNITED STATES: THE EXPERIENCES OF HONDURAN AND SALVADORAN IMMIGRANTS 6 (2017); see also Warren & Kerwin, *supra* note 5, at 586–87.

41. We realize, however, that the Central American TPS population is also far from uniform. Indeed, the experiences of the largest national origin group in the region—migrants from El Salvador—are likely to vary from those of migrants from Nicaragua and Honduras.

dynamics, interviewers asked interviewees to share their histories of migration, the processes they had to navigate in order to obtain and keep TPS, the job opportunities and working conditions they faced, their relationships with their families in the United States and abroad, and their feelings about the current political environment.⁴²

III. THE STAKES OF LOST STATUS

On the whole, interviewees perceive their TPS as fostering key benefits for work and wages, family well-being, and interactions with law enforcement. While imperfect, TPS has helped the migrant community in key ways. However, the uncertain prospect of losing this temporary documentation looms large, creating a shared fate with the broader undocumented community and leaving many interviewees with trepidation about what the future may bring.

A. *Work and Wages*

Losing status means a heightened threat—and sometimes devastating reality—of deportation. As Gleeson and Griffith illustrate in previous scholarship, based on interviews with community and legal advocates, TPS migrants have “a lot of fear” in this current political environment.⁴³

Interviews with Long Island-based TPS migrants reveal that losing temporary status could threaten economic mobility and wage increases they have achieved. For many, gaining TPS meant better access to formal industries, unionized jobs, and generally better paying jobs. TPS also opened up access to jobs that provided tangible benefits, especially health insurance.⁴⁴

In turn, deauthorization⁴⁵ could mean the loss of licenses that provide access to more coveted jobs (even if still low-paying) and could potentially force some back into the unregulated informal economy. The prospect of losing TPS could also mean the loss of work benefits and exposure to inferior working conditions.⁴⁶ The Article shares three Long Island workers’ narratives regarding the relationship of their TPS to their work experiences.

Julio, a restaurant worker, viewed the temporary work authorization provided by TPS as essential to an increase in wages.⁴⁷ Julio was born in El Salvador and lived in the United States without documentation before

42. All interviews were fully transcribed and coded in Atlas.ti.

43. Griffith & Gleeson, *supra* note 17, at 493.

44. Interview by Alicia Canas with Amancio, on Long Island, N.Y. (Aug. 30, 2017); Interview by Alicia Canas with Rosio, on Long Island, N.Y. (Sept. 12, 2017).

45. Griffith & Gleeson, *supra* note 17, at 479, 497.

46. *See id.* at 479.

47. Interview by Alicia Canas with Julio, on Long Island, N.Y. (Dec. 7, 2016) [hereinafter Julio Interview].

receiving TPS in 2001.⁴⁸ For Julio, the difference from his previous undocumented work experience was indisputable.⁴⁹ As an undocumented worker, Julio worked in five different restaurants.⁵⁰ As a dishwasher in one restaurant, he was paid \$250 per week to work ten hours per day, six days per week—averaging out to \$4.17 per hour.⁵¹ Things improved after he received TPS. Although far from a panacea, after receiving TPS, Julio received a social security number and a driver’s license⁵² and became formally employed in the restaurant industry.⁵³ Julio explained the impacts plainly: “[B]efore I received TPS, [I earned] very little After receiving TPS, they [paid] me \$15 per hour.”

It took two years to process Julio’s TPS application before he obtained TPS. Like others, Julio has to pay a hefty fee every eighteen months to renew his status. But it has been worth it, even beyond the improvements in base hourly pay. Julio contrasts his pre- and post-status experience: “Before receiving TPS, they [employers] never paid overtime. Now they pay for overtime.” By the time of his interview, Julio was not only earning \$15 per hour for eight hours per day, but Julio’s supervisors also treated him “very well,” he attested. Although Julio still works in restaurants, TPS gives Julio hope to advance professionally. He would like to work for a company with better benefits and potentially open a restaurant or move into a different occupation.⁵⁴

Similar to Julio, Raymundo—a Honduran TPS migrant—discussed the benefits of TPS compared to his experience as an undocumented worker. Raymundo immigrated to the United States in 1997 and obtained TPS in 1998.⁵⁵ Before obtaining TPS, he worked in landscaping and masonry and earned \$10 per hour for a forty-hour work week.⁵⁶ After receiving TPS, Raymundo left his landscaping and masonry job to work at a condominium doing maintenance work for \$13 per hour. This job required both a driver’s license and a contractor’s license, made possible by his new status.⁵⁷ With TPS, Raymundo felt that he was now also able to save money on transportation and received medical insurance benefits,

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. In New York, undocumented immigrants now have access to driver’s licenses. This would facilitate local travel but would not be valid for air travel. See Tracey Tully & Michael Gold, *Long Lines as Undocumented Immigrants in N.Y. Rush to Get Licenses*, N.Y. TIMES (Dec. 16, 2019), <https://www.nytimes.com/2019/12/16/nyregion/undocumented-immigrant-drivers-license-ny-nj.html> (“The licenses would not be valid as identification for air travel, and would be distinct from the Real ID licenses that beginning next year will be required at airport security checkpoints.”)

53. Julio Interview, *supra* note 47.

54. *Id.*

55. Interview by Alicia Canas with Raymundo, on Long Island, N.Y. (Mar. 18, 2017) [hereinafter Raymundo Interview].

56. *Id.*

57. *Id.*

vacation days, a Christmas bonus, and paid sick days.⁵⁸ After losing his job following a turnover in the board leadership of the condominium, Raymundo was able to rebound and start his own small business as a painting contractor.⁵⁹ His driver's license has allowed him greater mobility across Long Island to obtain work.⁶⁰ Raymundo now averages about \$15 per hour and pays for his own medical insurance.⁶¹

Lastly, Guillermino—a Honduran TPS migrant—reported that TPS not only opened up additional opportunities that require work authorization, but also gave him confidence to pursue them. He could now fill out job applications and freely give his personal information (e.g., his social security number).⁶² After obtaining TPS, Guillermino worked as a machine operator at a construction site. This was in large part possible because he was able to obtain a machine operator license, which was required for the job.⁶³ With TPS, Guillermino has also worked at a hotel and as a driver (his current occupation).⁶⁴ Through these transitions, Guillermino's wages have steadily increased, from \$14.50 per hour as a school bus driver (which also culminated in a \$2 raise), to \$30 per hour as a unionized public bus driver.⁶⁵ Guillermino cautioned that finding work was not the issue.⁶⁶ Documented or undocumented, there are jobs available. “[T]here is always one type of work or another,” he said.⁶⁷ However, Guillermino took care to highlight that the quality and difficulty of the work is what varies depending on one's status.⁶⁸ He explained that as an undocumented worker, “you have to work a lot more just to make a little more in pay.”⁶⁹

B. Beyond the Workplace

Beyond improving immigrants' work lives, interviewees also felt that TPS helped in other facets of life and made life “so much easier.”⁷⁰ In many ways, this stemmed largely from the benefits of having a work permit, but TPS also opened other doors that aided the basic functions of raising a family, accessing services, and interacting with government authorities.

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. Interview by Alicia Canas with Guillermino, on Long Island, N.Y. (Mar. 16, 2017).

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. Raymundo Interview, *supra* note 55.

1. Family and Transnational Obligations

Many TPS migrants were in mixed-status families flung far and wide. For those TPS migrants with family in the United States, the ability to travel within the United States allowed them to maintain these critical connections. Lucrecia has worked in a series of service and retail jobs since arriving in the United States, though was unemployed at the time of her interview.⁷¹ She has a daughter in El Salvador who she is unable to visit but also has siblings in both Texas and California.⁷² For Lucrecia, TPS facilitated travel to see her extended family in Los Angeles. These connections are very meaningful given that she is without family in New York, and many of Lucrecia's family members cannot travel to Long Island.⁷³ "I've been able to travel to Los Angeles with my permit . . . a lot, really."⁷⁴ Because, well, I haven't been able to travel to El Salvador. The laws aren't great right now to allow it.⁷⁵ But I of course want to, my daughter is getting married in May, and I want to go, but I can't . . . if you don't want to stay (in El Salvador), you can't take the risk."⁷⁶

Though TPS migrants are not easily able to travel back to their country of origin, TPS remains key to maintaining transnational ties. For example, Raymundo, who earlier discussed the value of maintaining his contractor license, tied this benefit directly to his ability to support his daughter, whom he left behind in Honduras.⁷⁷ Abrego identifies feeling torn between two places as a key source of emotional tension for transnational Salvadoran families, even while the financial stability that migration brings is a core part of families' survival strategy.⁷⁸

Similarly, for Manuela, a Long Island domestic worker, having TPS is impactful to her transnational family. "Having TPS, thank God, my life has changed. I earn a little more now to help my son study, and to feed my mom in El Salvador."⁷⁹ She sacrifices a great deal, however, to balance these obligations and also afford her regular renewal and legal fees. "It does affect my health and well-being . . . but I don't want my family to go without anything, you know? I'd rather go even without a glass of water, than for my family to, because in my country there is no other way."⁸⁰

71. Interview by Alicia Canas with Lucretia, on Long Island, N.Y. (Aug. 21, 2017).

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. Raymundo Interview, *supra* note 55.

78. LEISY J. ABREGO, SACRIFICING FAMILIES: NAVIGATING LAWS, LABOR, AND LOVE ACROSS BORDERS 2 (2014).

79. Interview by Alicia Canas with Manuela, on Long Island, N.Y. (Aug. 26, 2017).

80. *Id.*

Many TPS individuals continue to worry for their other family members in the United States who have not been able to benefit from the program. It is estimated that, nationally, 298,000 TPS holders live in “mixed status families,” and over 16 million individuals live in a household with at least one undocumented family member.⁸¹ Rebeca, for example, is grateful that her mother and children have papers, but her children still worry constantly for the safety of their undocumented father.⁸² Candelario, on the other hand, is grateful that his wife is a resident and his children were born in the United States.⁸³ “It gives me comfort to know that [my children] can’t be kicked out of this country... they are better off than I am, they have studied here . . . they were born here and will grow up here But I don’t know when they are going to kick me out, or what is going to happen to TPS.”⁸⁴ While Candelario explores options for residency through other channels, he admits that he wakes up every day thinking about the President’s policies, and what will happen to him and his brothers (who are undocumented).⁸⁵ Rosario, meanwhile, is also preoccupied by basic practical concerns: what would happen were she to lose TPS and had to return to El Salvador? “I have two cars If all of a sudden we stop paying, what are the banks going to say? All of us who have TPS have many cars, houses”⁸⁶

Finally, it is critical to understand that the specter of losing TPS does not occur in a vacuum. Several interviewees had children with status pursuant to the Deferred Action for Childhood Arrivals program (DACA), which has benefitted an estimated 800,000 individuals⁸⁷ and is also in the current Administration’s crosshairs. Interviewees felt the weight of the uncertain future of both programs. For example, Glenda reflected on the policies of the new Administration: “Now with the new president, we have a lot of fear that he does away with DACA and TPS for Central Americans, so I am afraid . . . we don’t know what could happen . . . he’s constantly changing his mind.”⁸⁸ In the meantime, she has channeled her fear into seeking information from lawyers and community groups.

81. Silva Mathema, *Keeping Families Together: Why All Americans Should Care About What Happens to Unauthorized Immigrants*, CTR. FOR AM. PROGRESS (Mar. 16, 2017, 5:00 AM), <https://www.americanprogress.org/issues/immigration/reports/2017/03/16/428335/keeping-families-together/>; Nicole Prchal Svajlenka, *What Do We Know About Immigrants with Temporary Protected Status?*, CTR. AM. PROGRESS (Feb. 11, 2019, 12:01 AM), <https://www.americanprogress.org/issues/immigration/news/2019/02/11/466081/know-immigrants-temporary-protected-status/>.

82. Interview by Alicia Canas with Rebeca, on Long Island, N.Y. (Sept. 11, 2017).

83. Interview by Alicia Canas with Candelario, on Long Island, N.Y. (Feb. 5, 2017).

84. *Id.*

85. *Id.*

86. Interview by Alicia Canas with Rosario, on Long Island, N.Y. (July 23, 2017).

87. Gustavo López & Jens Manuel Krogstad, *Key Facts About Unauthorized Immigrants Enrolled in DACA*, PEW RESEARCH CTR. (Sept. 25, 2017), <https://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca/>.

88. Interview by Alicia Canas with Glenda, on Long Island, N.Y. (Aug. 24, 2017).

2. Safety and Law Enforcement

Beyond the financial stability and emotional assurance that TPS provides beneficiaries and their families, many interviewees also talked about a general sense of security (though not always complete security). For example, with TPS, Glenda feels more protected if law enforcement were to stop her some time. “I walk less anxious and more freely through the streets, even if no one asks me anything, because God forbid if an official ever stops me, I can reply with my TPS papers and an ID.”⁸⁹ Similarly, Rogelio feels a sense of added confidence when traversing everyday life.⁹⁰ He explains that the benefits go far beyond having a driver’s license. “One of the benefits of having TPS is that you feel more confident . . . you feel a sense of protection. If you have nothing, you have no protection . . . or maybe a little protection since police doesn’t work with immigration, right? But even so, one is always scared because they know they are *illegal* But if you are *legal*, one feels more confident to speak up, to drive, for everything, to have more confidence.”⁹¹ Antonio too sums up the major impact of TPS on his family life as allowing him to “go out without fear that they’re going to deport you, or that immigration will ask you your status.”⁹²

Lidia, a factory worker on Long Island with TPS feels conflicted, though. On one hand, she feels a sense of confidence when rumors of raids start to circulate in the community.⁹³ “It’s true [immigration authorities] can’t arrest me, because I have legal papers.”⁹⁴ On the other hand, she fears for her friends and neighbors.⁹⁵ She continued, “But it feels so sad to see everyone so scared.”⁹⁶ The raids that began under the Trump Administration have shaken her.⁹⁷ She recalls particularly the case of a neighbor, who some community members believe had TPS but was nevertheless picked up.⁹⁸ He left behind a wife who was preparing to have twins.⁹⁹ Well aware of the precarity of TPS, she explained: “If you get into problems, even if you have TPS, they can still deport you.”¹⁰⁰ She is constantly on alert, as friends and coworkers often pass along tips of where ICE has been rumored to be.¹⁰¹ While things seem to have calmed down at the time of her interview, she insisted, “We don’t know what

89. *Id.*
 90. Interview by Alicia Canas with Rogelio, on Long Island, N.Y. (Aug. 13, 2017).
 91. *Id.* (emphasis added).
 92. Interview by Alicia Canas with Antonio, on Long Island, N.Y. (Mar. 13, 2017).
 93. Interview by Alicia Canas with Lidia, on Long Island, N.Y. (Aug. 29, 2017).
 94. *Id.*
 95. *Id.*
 96. *Id.*
 97. *Id.*
 98. *Id.*
 99. *Id.*
 100. *Id.*
 101. *Id.*

will happen.”¹⁰² Lidia and others like her reflect the simultaneous benefit and precarity that TPS provides, and which would only worsen if the program is to end.

Others also acknowledged the limits of TPS and the reality that officials have vast discretion in dealing with TPS migrants. Salvador, for example, reflected on the current political context. “It makes you think . . . now it doesn’t matter if you have [permission to stay] or not.”¹⁰³ If the police stop you . . . and the police [officer] is racist, they can turn you over to immigration [officials].¹⁰⁴ If the immigration judge is racist, they can send you back to your country. And you can’t do anything.”¹⁰⁵ He went on to insist on the United States’ obligation to not only El Salvador, but also the world, to respect the rights of immigrants to build a life and future.

Despite TPS migrants’ simultaneous enjoyment of benefits and fear of losing them, not all beneficiaries were paralyzed by the uncertainty of the future. Indeed, many balanced a realistic assessment of the political moment with a willingness to charge forward. Milton, who has done a range of construction and landscaping jobs, acknowledged how TPS was crucial for obtaining a social security number, a driver’s license, the ability to express himself, and to simply move around.¹⁰⁶ Having identification meant that he could do simple things now, like get through security in his building with ease—a situation feared by those in the United States without documentation. However, Milton also refused to submit to fear about the new president, and bravely declared, “[i]f they deport me and my status ends, I’ll go start my life over again someplace else.”¹⁰⁷ He remained in the minority among interviewees, however, in feeling confident that he could upend his life and restart anew. Yet, his perspective is an important reminder of the agency migrants can deploy even in the face of precarity and real threats to their families’ well-being.

CONCLUSION

Temporary permission to live and work in the United States is precarious.¹⁰⁸ Among other things, TPS entangles workers and their employers in complex work authorization bureaucracies and enforcement efforts. As Griffith and Gleeson have conveyed elsewhere, many TPS

102. *Id.*

103. Interview by Alicia Canas with Salvador, on Long Island, N.Y. (June 10, 2017).

104. *Id.*

105. *Id.*

106. Interview by Alicia Canas with Milton, on Long Island, N.Y. (Feb. 5, 2017).

107. *Id.*

108. See Griffith & Gleeson, *supra* note 11, at 128–37 (describing the ways legal institutions and enforcement regimes in the administrative, criminal, and employment spheres foster precarity for TPS holders).

migrants liken their temporary status to “liv[ing] in a carton of milk”; it is living life with “an expiration date” looming over you.¹⁰⁹

While TPS fosters unique types of precarity, these interviews with Long Island TPS migrants highlight how TPS migrants often view their TPS as an improvement over undocumented status. For some migrants, TPS opens doors to more formal job opportunities, higher wages, and better working conditions. TPS also fosters security in home life, at least temporarily. TPS allows some migrants to travel within the United States to maintain often dispersed family networks, even though they are unable to easily return to their countries of origin. It helps migrants maintain their economic obligations to their transnational families, which helps ease, if not erase, the pain of separation.

What prior research on TPS combined with these Long Island interviews convey is the complex picture of life with temporary authorization to live and work in the United States. This study reinforces that scholars need to consider low-wage migrant worker experiences three-dimensionally, rather than minimizing it into precarious or non-precarious frames. It reminds labor scholars to consider dimensions of life beyond the employment sphere and to resist talking about work as an isolated institution.

This study also raises questions about how a turn from temporary to undocumented experience may alter immigrant lives, which future research should tackle. For example: What is the long-term impact of TPS program benefits, even if migrants lose the status? That is, does the experience of having TPS status alter individuals’ experiences in ways that impact their subsequent experiences as undocumented workers? Does TPS help inform individuals of their rights and empower them to exercise them, and will migrants continue to exercise these rights if they fall into undocumented status? What is the impact of having TPS over a longer period of time and then losing the status and associated benefits? Will this loss create additional risk aversion and hesitance to come forward with complaints for newly undocumented populations? Looking forward, to what extent could a permanent path to citizenship help ameliorate the precarity of both temporary and undocumented statuses and help address deep-seated inequities in the labor force and broader community? Researchers and policy analysts must engage these questions in order to unravel the complex relationship between temporary immigration status, shifting structural dynamics, and community well-being.

109. Griffith & Gleeson, *supra* note 17, at 491 (quoting Interview by Darlene Dubuisson with Labor Union Advocate, in New York, N.Y. (Sept. 6, 2018)).