

State University of New York at New Paltz

How Presidential Ideology Affects Temporary Protected Status

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Abstract:

In his State of the Union Address, given on March 1, 2022, President Joseph Biden mentioned the need for immigration reform that would benefit those who hold temporary immigration status. But who are these people? The temporary migrants this paper will focus on are those with Temporary Protected Status. People with this status are from a country which has been designated as having extreme temporary conditions that would make repatriation dangerous for the migrant. But who decides which countries get designated and why? The Secretary of Homeland Security, designated by the president and carrying out their orders, makes the designation announcements. Though there is no clear reason as to why they designate some countries and not others, even if conditions are similar. This paper will investigate to see if the ideology of the president influences TPS designations. I hypothesize that presidents who have a conservative ideology are less likely to designate countries for TPS than presidents with liberal ideologies. This paper will explain TPS law and analyze immigration theory by drawing connections between theory and TPS designations. Then, it will discuss the effect of ideology on decision making and describe the developing political polarization in the US. With this foundation and basic understanding of TPS policy, presidential ideology, and political polarization, a chi square test will determine if the ideology of the president has an effect on TPS designations. This will be followed by discussing the results of this experiment in the larger sense of the policy. To finish, policy recommendations will be given that could fix some of the current problems with TPS in practice.

Keywords: International Relations, Temporary Protected Status, Law, Ideology, Presidential Ideology, Liberalism, Conservatism, Chi Square Test, Subsidiary Protection

Introduction

“We can do all this while keeping lit the torch of liberty that has led generations of immigrants to this land—my forefathers and so many of yours. Provide a pathway to citizenship for Dreamers, **those on temporary status**, farm workers, and essential workers... **Let’s get it done once and for all.**” (Biden 2022)

In his State of the Union Address, given on March 1, 2022, President Joseph Biden mentioned the need for immigration reform that would benefit those who hold temporary immigration status. But who are these people? Some are migrant laborers who are given status in the United States for a set period of time to do work such as farm labor. Others are students who come for the educational opportunities but must leave at the end of their schooling. The temporary status that we will focus on in this paper is Temporary Protected Status (TPS). These are people who cannot return home due to “ongoing armed conflict, an environmental disaster, or other extraordinary and temporary conditions” (USCIS 2022). Many of them come to the US for humanitarian reasons because of the temporary despair in their native country. Others may have been here with other temporary visas yet because of the unsafe conditions will not be required to leave upon the expiration of their visa. Essentially, the US grants citizens blanket protection from deportation and provides them with work authorization cards.

Recently, the Biden Administration has granted this status to people from Ukraine, Afghanistan, Sudan, and Cameroon due to the armed conflicts (USCIS 2022; USCIS 2022; USCIS 2022; USCIS 2022). This makes the total number of TPS designations under President Biden seven, while under President Trump, the number of designations was zero. This leads one to question how designations are made. Is it that country conditions have been deteriorating

around the world since President Biden took office? Or is it something different, such as their political ideologies influencing their decision making?

Throughout this paper, I will investigate to see if the ideology of the president has an effect on TPS designations. I hypothesize that presidents who have a conservative ideology are less likely to designate countries for TPS than presidents with liberal ideologies. This paper will explain TPS law and analyze immigration theory by drawing connections between theory and TPS designations. It will then discuss the effect of ideology on decision making and describe the developing political polarization in the US. With strong literature to demonstrate the need for quantitative data, a chi square will determine if the ideology of the president has an effect on TPS designations. These results will then be discussed, and policy recommendations will be given for legislatures so they can fix some of the current problems with TPS.

What is TPS?

Currently, the United States' criteria for a person to receive refugee status is the same as international refugee law. International Refugee Law was codified during the 1967 Protocol Relating to the Status of Refugees. There is a rigid set of criteria that a person must meet in order to be considered a refugee in another country that has not been amended to cover modern issues, such as climate change (UNHCR 2010). Unlike Refugee Law, TPS would protect people who had to flee their home due to gangs and other illegitimate terrorizing groups, environmental degradation, epidemics, etc. (Frelick 2020; Bergeron 2018). This program was introduced in the late 1980s. During this time, El Salvador was entrenched in a Civil War, during which the US was supplying military aid, so many Salvadorians had to flee to the US for refuge. US immigration courts could not handle all the asylum cases, so Congress decided to add TPS to the

Immigration Act of 1990 to give Salvadorians, and people from other countries in the future, blanket protection to relieve the burden on immigration courts. It is important to note that a significant factor in the addition of TPS was so that the US did not seem hypocritical in their support of civilians in the Salvadorian Civil War (Segerblom 2007). So, in essence, the US created this law to give the appearance of supporting those who had to flee from this horrific war.

Temporary Protected Status law states that TPS is meant to protect people whose native country, or country of habitual residence for stateless persons, has “ongoing armed conflict, an environmental disaster, or other extraordinary and temporary conditions” (USCIS 2021). In addition, the law has been changed throughout the years, albeit not too much. The first change came in 1991 and it amended some of the technical language within the law as well as included TPS protections for those who have habitually resided in a country with a TPS designation to protect those who are stateless (Segerblom 2007). The second change occurred in 2002 after the passing of the Department of Homeland Security Act. At the passing of TPS, the Attorney General was to designate countries, but with the creation of the Department of Homeland Security, that power shifted to the Secretary of Homeland Security (Segerblom 2007).

For a country to be considered for a designation by the Secretary of Homeland Security, the Secretary needs to be asked by either the government of the considered country, the international community, or US congresspersons. After there is a request, the Secretary must consult with the State Department about the conditions of the country. If both departments have agreed that there is a need for a designation, the Secretary of Homeland Security must estimate the number of people who will qualify for TPS and designate them for an amount of time between 6 and 18 months (*Temporary Protected Status*, 1991). At least 60 days before the end of

this designation period the Secretary is required to announce, and publish in the Federal Register, whether the status will be terminated or extended. This way recipients have some time to figure out their next steps, even if it is only 60 days.

To actually be given TPS, a person must send an application and required materials to United States Citizenship and Immigration Services. Required materials include their completed form I-821 Temporary Protected Status, proof of entry into the US- if they have it, proof of residency in the US from before the date of designation, proof of citizenship or habitual residency, and a money order to pay the fee, or an application for a fee waiver (USCIS 2022). Many applicants opt to apply for an Employment Authorization Document. TPS does give the person the opportunity to work in the US, but they still must apply for this on a separate application which is shipped in tandem with their TPS application. To be eligible for this they need to send in two passport photos and more money (USCIS 2022).

Applicants need to apply within a certain amount of time during the initial designation—this amount of time is specified by the Secretary. As well as the ability to live and work in the US, people with TPS are able to travel outside the US and are not eligible for deportation- unless they commit a serious crime (USCIS 2022). They must first be given advance parole, but they are able to travel and reenter the US. So, at this basic level of understanding, TPS seems like a good status for those in need of a safe haven.

Why do we care about TPS?

TPS is a relatively unknown status. Under the Biden Administration it has gained more traction, especially because his 2022 State of the Union Address, but it still affects a small portion of the population, so few US citizens know about it. Under President Biden many people

have been admitted to the program. Currently there are 320,000 migrants who have TPS, and with the recent designations of Afghanistan, Myanmar, Ukraine, Haiti, and Venezuela, there could be an estimate 588,335 more people eligible for the program (Roy and Felter 2022). Since the time of this report Sudan and Cameroon have also been designated so the estimated number is now higher. TPS is slowly becoming one of the larger immigration programs and because TPS is dealing with humanitarian crises there should be some set of criteria or a more individualized process that allows for more people to be protected from the atrocities they are subjected to in their native country. Currently, there is no set criteria in which the Secretary of Homeland Security- the person designated by the President and carrying out their wishes- has to ensure a country meets before designating or denying status (Bergeron 2018; Frelick 2020). The decision is arbitrary and made by the president, then carried out by their appointed official who has the codified right to designate. If all countries that were considered were given status, then there would be more status holders, and this is why we need to analyze what factors go into designations.

Problems with TPS

Temporary Protected Status in practice does not work as smoothly as it would appear to from the previous description. The most basic flaw with TPS is the target audience, though it is debated as to who the target audience is. Some say it is intended for those who already have nonimmigrant visas, such as students and temporary workers, even though the law was created for Salvadorian refugees, as it has been previously mentioned. Either way, the applicant needs to have been in the US before the day of designation in order to be eligible for TPS (Frelick 2020). This protects those with temporary visas, but not those who actually experienced the event that

warrants the designation. A perfect example of this was Ukraine, though it should be noted that TPS policy for Ukraine has changed since the original announcement of designation. Ukraine was given TPS because of the Russian invasion that occurred on February 28, 2022. They were given status on March 3, 2022, and to be eligible for status they had to have been in the US before March 1, 2022 (Homeland Security 2022). This means that Ukrainians had only *four* days between the start of the war and the time of designation to get to the US for this protection. Those who arrived after March 2, 2022, would have to attempt to get refugee status as they would not have been eligible for TPS. Secretary Mayorkas and President Biden did not account for the fact that many people may not have been able to get flights, had not learned about the severity of the war immediately, or for any other reason may have had circumstances that would require more than *four* days to get to the US. While one can understand why the Biden Administration designated Ukraine, they can also see that this designation would not protect all of the Ukrainians that it should. Luckily, Secretary Mayorkas and the President realized their mistake and changed the date by which they had to continuously reside in the US from March 1 to April 11, 2022 (USCIS 2022). Though the mistake of the premature designation was realized and fixed this time, there was no obligation for the continuous residence date to be amended, so in the future the same issue can arise again.

Another issue is the “legal limbo” cardholders are left in (Bergeron 2018; Frelick 2020). Jennifer Simmelink summed this up well in her evaluation of Liberian TPS holders in saying:

Liberians with TPS status have been asked to accept certain responsibilities—remaining “temporary,” not integrating too much into the fabric of United States society, yet still continuing to hold jobs and support families—without any of the rights assigned to citizens and other legal permanent residents. After living in the United States for years Liberians are global citizens, seeking safety in a nation that is not their own, creating ties to that nation, but also retaining ties to their own. (338)

Liberians have had TPS four separate times since the implementation of TPS. They have also been granted protection from deportation via Deferred Enforced Deportation (DED) on account of the political turmoil in the country- DED this is similar to TPS, but this is executed by the president and only halts deportation rather than permitting work or travel. Thus, many Liberians have been in the country since 1991 whether it be legally or illegally (Simmelink 2011).

Furthermore, they have been working and paying taxes during this time, but even with TPS they are ineligible to receive benefits such as Social Security and SSI (Segerblom 2007). This makes Liberians the perfect example of the detriment of temporariness. They do not have the ability to go back to Liberia because they would be forced to reside in a warzone, yet because their status keeps being given and revoked, they cannot plan a future or get too comfortable in their surroundings. USCIS has the right to use any of the information they are given during the TPS application process to deport someone if they are denied status and/or the designation is terminated (Simmelink 2011; Seghetti, Ester, and Wasem 2015). So, when a country's designation ends the person is at an elevated risk for deportation as the government has their information.

This lack of stability prompted Mountz and their research team to look into some of the mental health issues associated with not having a permanent place to live. While Simmelink called Liberians "global citizens" Mountz would say that rather than being a citizen of anything, they struggle to find an identity (2002). Their citizenship is tied to the place they are born, unless they naturalize elsewhere, yet the conditions were so bad where they were born that they were forced to leave and thus the TPS designation was given. Their "home" is probably not the same place they left. They lost their home and thus a part of their identity. Furthermore, the country they were born in has had to heal and rebuild and saying that all people need to go back at the

same time, and this can be hundreds of thousands of people, is not feasible (Simmelink 2011). They would have to go back to a place they probably would not recognize after their 20+ years of being away, and the place they have to return to probably does not have the capacity to take them back. This would only make them further question what their identity is.

More than the issue of their identity, because TPS holders know that their designation could end at any time, some people refuse to make large purchases and maintain economic ties with their native country as a safety net (Mountz et. al 2002). Mountz said that some Salvadorans were even building houses back home in the instance that they would have to return (2002). This is not so bad if TPS in practice were a temporary policy, but as we mentioned in the 20+ year designations with Somalia, Honduras, El Salvador, and Nicaragua, this is not good. So, this is an economic issue in that the money they make in the US is (1) not spent on large purchases, such as cars and houses which boost the US economy, and (2) spent in another country causing the US economy to lose money. This would not be an issue if there were a path to permanent residency, but there is not. If someone with TPS wants to stay in the United States after the end of their designation, they have few options. They either have an immediate family member sponsor them for permanent residency, such as a child who has turned 21, or be the victim of a crime. Since TPS law is not practiced as it was intended, with only 6-18 month designations, the law needs to be revised for a path to permanent residency (Frelick 2020; Bergeron 2018; Seghetti, Ester, and Wasem 2015). Every so often someone in Congress proposes that a new legislation be enacted to close this gap and give TPS holders a path to permanent residency, such as the Comprehensive Immigration Reform (CIR) legislation that was discussed in the 113th Congress, but it never passes (Seghetti, Ester, and Wasem 2015). In essence, the definition of “temporary” needs to be redefined if the policy is to remain “Temporary” Protected Status, otherwise, Congress needs to

start seriously considering other options that lead to permanent residency after the “temporary” period ends.

The final major issue with Temporary Protected Status is how arbitrary the designations are. The guidelines within the law are vague. They only say that a country needs to have extreme temporary conditions that would prevent the safe return of its nationals and the state cannot pose a threat to national security (Temporary Protected Status 1991). Because this is so vague it is often up to the discretion of the president to decide which country will receive status (Frelick 2020; Segerblom 2007). If the president knows how a designation or non-designation can advance them politically, they will do what is needed, such as the case with Biden and Venezuela. Another example is when Biden and Secretary Mayorkas changed the date for which Ukrainians would be eligible for TPS. Because there is no formal or extensive process required for a country to receive a designation, all of the decision is up to the discretion of the president and Secretary of Homeland Security. In 2003, Colin Powell, former Secretary of State had this to say about the denial of a TPS designation for Colombia,

Our decision was based on many factors, including the high percentage of approved political asylum claims for Colombians, the practical difficulties for the Department of Homeland Security in implementing such policies, and the fact that recent security improvements in Colombia diminish the need for special protections for Colombian nationals abroad. We will, however, continue to actively monitor the situation.

(USCRI)

The government of Colombia had asked both the Clinton and George W. Bush Administrations for TPS to be made available for Colombians in the US and the only reason given for Colombians being denied was that it would be too hard to implement the policy. Colin Powell effectively did not deny the need for this protection, only that this would put a burden on the government.

Another example of the inconsistency of designations can be seen with the recent Afghanistan and Ukraine designations. As it has previously been mentioned, the US government designated Ukrainians for TPS on March 3, 2022— one week after the Russian invasion. Afghanistan, on the other hand, was overrun by the Taliban between May and August 2021, yet Afghans did not become eligible for TPS until March 2022— 8 months after Kabul was officially taken over and women and girls began losing their rights (HRW 2022). One explanation that could explain this could be that countries tend to accept immigrants with similar ethnic compositions (Meyers 2001). Another, also offered by Meyers, is that the US used this as a foreign policy tool to advance its relations with Ukraine while publicly denouncing the Russian invasion and appearing to be morally superior to Russia (2001). Many people were watching the situation since Russia is a country with nuclear weapons who invaded a neighboring sovereign nation. Thus, the US had to take a strong stance against this violence without getting directly involved. But everything is the opposite in the case of Afghanistan. People in Afghanistan lead culturally different lives than those in the US. Furthermore, the US has little hope in bettering relations between themselves and Afghanistan, especially the Taliban, so it was not a top priority for the Biden Administration. The best-case scenario is that it would improve US moral authority, and this may be why they waited until they needed the extra moral support. Waiting until something bad happened internationally so the US could appear to be a source of humanitarian relief with little concern for those fleeing violence and repression in Afghanistan. This need for moral superiority is exactly what the US did at the creation of TPS in allowing Salvadorians escaping communism to receive this protection. So, the US government has a history of designating countries to take a stance against some international issue rather than use the policy to advance humanitarian goals.

Ideology

It has been established that there are issues with the designations of countries for Temporary Protected Status, including the lack of transparency in the decision-making process, and why TPS is an important policy in the US. But is the decision to designate a country for TPS an arbitrary decision? Or is there something more to the decision, such as the ideology of the decision maker? Before we discuss this, we must first examine what ideology is, the prominent opposing ideologies and political parties in the US, and the effect ideology has in everyday policymaking.

According to Merriam-Webster, “Today, [ideology] most often refers to ‘a systematic body of concepts,’ especially those of a particular group or political party” (2022). In the United States, there are two dominating ideologies: Liberalism and Conservatism, and these are institutionalized in the Democratic and Republican parties (Twenge et al. 2016). Liberals try to use the government as a vehicle to create a more equal society for all no matter who one’s parents are nor where they were born while opposing religion in politics (2012). On the other end of the spectrum, conservatives are more concerned with long term improvement and economic growth rather than equality and believe that private citizens are the driving force for change, innovation, growth, and opportunity (Ellis and Stimson 2012). Because of the vast differences in their ways of thinking, it is often difficult for them to agree on policy issues and thus encourages political polarization. Political polarization then acts as an easy way to get voters as it is easier to vote for a party than research each individual candidate. Thus, candidates will run with a party and vote along their party lines when in office to maintain party support and create the tension between parties that gets voters to the polls.

As for immigration policy more specifically, Katherine Fennelly, Kathryn Pearson and Silvana Hackett studied congressional action and inaction on immigration policy from 1993 to 2012. They wanted to see the role of political polarization in the votes made by Congressmembers during this time period. They found that there were 391 votes on immigration bills between the House and Senate between 1993-2012 and that the majority of the time, members of Congress would vote along party lines (Fennelly et al. 2015). They found that issues on immigration were especially polarizing and would often end in Republicans and Democrats fighting against one another. Between 2011-2012, 74% of immigration votes were along party lines; notably, the Removal Clarification Act of 2012 had no Republican support (Fennelly et al. 2015). Interestingly, while they voted along party lines, this did not mean that the parties had a clear opposing view from the other. These researchers also classified the policies into expansionist and restrictive- expansionist being those that appeared more liberal and restrictive appearing more conservative- and they found that expansionist and restrictive votes were not linked to either party. The passing of the highest number of restrictive policies was under a Republican-controlled Congress between 2005-2006, but the next was a Democratic-controlled Congress between 2007-2008 (Fennelly et al. 2015). This shows that parties did not necessarily align their policies goals with that of an ideology. Rather they aligned their goals with those of their party, further polarizing any immigration policy proposals. While this research showed the trends in Congress, the research in this paper will shed some light on how immigration is handled in the executive branch and will determine if the president uses their ideology or political polarization to make decisions.

Modern Political Polarization in the US

Political polarization was not always the largest factor in passing laws in the United States, and it was slightly lower under George W. Bush than it had been under Clinton. Under President Clinton there was an entire impeachment process that stayed within party lines (Devin 2009). Polarization increased with the disputed results of the 2000 presidential election, but after 9/11, “rally around the flag” became a new norm in American politics, shown by Bush winning the 2004 election despite losing the popular vote in 2000. But both before and after the 2004 election, Bush, and his Vice President Dick Cheney, participated in the overextending of executive power. Before the 2004 election more people were complacent in the overbearing moves of the government, such as the PATRIOT Act. This act would allow the government to heavily monitor citizens, and anyone suspected of being a terrorist and was passed as bipartisan legislation with 213 Republicans and 144 Democrats in favor (Vote Smart 2001). Liberals are said to despise government interference in the matters of private citizens, yet the more liberal of the two parties still had 144 people vote for the passing of an act that would give the government near-absolute surveillance privileges over the citizenry (USA PATRIOT Act of 2001 2001; Ellis and Stimson 2012). This policy alone shows that when there is a common enemy the nation can come together and when possible, differing ideologies can come together, even if this is not the case for very long.

As the nation began to heal from the effects of September 11, 2001, they began to see how invasive the PATRIOT Act and the actions of President Bush were, but this did not mean they could stop him. Comparisons were drawn between power dynamics between the Nixon and Bush Administrations. During the Nixon Administration, he tried to extend his power through his advances in Southwest Asia and domestically through expanding the scope of executive

privilege (Devin 2009). The difference between Nixon and Bush was that Congress worked to limit Nixon's power expansion. What had differed between the presidents' power was the level of polarization in Congress. Congress was willing to work together and investigate Nixon and enact reforms after his resignation, but the parties could not come together and limit Bush's power as the parties would rather blame each other than look at what was really happening (Devin 2009). When Congressional gridlock from partisanship is strong, presidents have a greater ability to exercise executive unilateralism through the use of executive orders and extend their power as far as they can because Congress cannot work together to perform their Congressional duty in keeping the president in check. Thus, partisanship only worsens.

This return to partisanship was shown under President Barack Obama. During his time in office, he sought to sign a bill that would allow for immigration reform that would allow the children of immigrants to be given protection in the United States, but the parties in Congress could not agree on any terms of the bill. Thus, Obama signed the Deferred Action for Childhood Arrivals Executive Order in 2012. This prompted many Latinx voters to vote for him in his reelection campaign (Fennelly et al. 2015). This action taught Republicans that they have to be more willing to work together with Democrats in Congress in order to not lose the Latinx vote. This has changed now after Republicans learned that there is a conservative Latinx population, such as Cubans in Florida, who do support hard-right policies. Either way, the 2012 election showed the degree of political polarization in the United States.

Then, political polarization seemed to reach a new height under President Trump. In the 2016 election, Trump won the electoral vote but lost the popular vote. As a man with strong opinions and an even stronger online presence, much of what he did was under intense scrutiny by the Democrats. And because his opinions were so strong and so well-known, many

Democrats refused to work with him or his party. These issues were shown through the 2019 government shutdown, Mueller investigation, two House impeachments, Trump's war against Obamacare, and the legacy of "hyper-partisanship" that he left the nation with (Smith 2021). The government shutdown was on account of Democrats refusing to give Trump money for his border wall and Democrats and Republicans' inability to agree on a budget. The Mueller investigation was a two-year investigation encouraged by Democrats in Congress who believed that Russia may have interfered with the 2016 presidential election—no collusion was found at the end. And the two House impeachments, the only time a president has been impeached twice, were almost exclusively along party lines. The exception in the first impeachment was Senator Mitt Romney being the only Republican to vote guilty, and in the second, seven Republican Senators voted guilty (United States Senate 2020; United States Senate 2021). Trump's four years in office were turbulent, to say the least, and showed the American public how divided they can become.

An important thing to note about the relationship between ideology and political parties is that they are always changing. Before Trump, the ideal Republican who held the strongest conservative values was Ronald Reagan (Ellis and Stimson 2012). Trump was a very popular figure for the Republicans. He had such a following that anyone in the Republican party that disagreed with him was considered a traitor to the party, so through his powerful stances, and his time in office, he became a new model for the Republican party (Smith 2021). Unlike his conservative predecessors, Trump did not justify his decisions through religious values, nor did he go into depth on his religious beliefs, though he is a Christian, so this could be interpreted as a shift in Conservatism ideology. But nevertheless, because Trump's policies were so clearly counter to Obama's—*the* liberal, he was able to utilize social media through his lack of political

formality and mobilize his supporters. Because of his large supporter base, his ideology became seen as an extreme conservative ideology.

Because the nation was so divided under Trump, Biden ran his campaign on reuniting the American public. Thus far he has been able to pass the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law with 69 Senators in favor and only 31 against (United States Senate, 2021). This legislation will invest trillions of dollars into US infrastructure and its passing under the Biden Administration, is a step in the right direction in working toward an end in political polarization. It is especially surprising that it passed as conservatives are typically skeptical of spending large sums of government money. So, Congress is getting better about working with each other for the greater good, but this does not change Biden's ideas on TPS. As he was running for president, he promised to grant TPS to Venezuelans (BBC 2021). Biden saw that liberals wanted a TPS designation for Venezuelans and promised to give it to them. He has only continued designating countries as he has also given status to Haitians, Burmese, Ukrainians, Afghans, Sudanese, and Cameroonians.

So, the question of what motivates presidents to designate and terminate countries for TPS is considered more heavily between Presidents Trump and Biden. Both presidents considered Venezuela for status and while Trump denied status, Biden granted status despite the similar country conditions throughout the years. Furthermore, Trump terminated Haitian TPS in 2017, though Haitians' status has been extended pending a lawsuit over the termination, but Biden decided to designate the country in 2021 though there has been little change in the political and economic situation in the country since Trump's termination (USCIS 2022). The case of Venezuelan TPS is the reason why I hypothesized that right-wing presidents are less likely to designate a country for TPS than left-wing presidents.

I have previously studied some factors that may have determined why designations were granted, but I was unable to find any conclusive answers. The variables I used were the presidential term, the amount of people who were estimated to be eligible, which party asked for the designation to be considered- whether it be an international organization, people in the US government, or the country itself, and the conditions under which the country was designated. I used the same presidents and the same time period. Overall, I was unable to find a definitive reason as to why presidents chose to designate countries for TPS. I was able to conclude that rather than a specific variable that went into the decision, it was the individual who was responsible for the determinations (Drewniak 2021).¹ That paper looked into the external influences that the president would have to consider before making a designation. This paper seeks to look into the president themselves and see if there may be a pattern within the president's ideology that can explain the designations.

Method

In order to determine if ideology has an effect on Temporary Protected Status designations, I had to obtain data that would rank presidential ideology. I took this data from voteview.com. This website uses a method created by Keith T. Poole and Howard Rosenthal in the 1980s that measures members of Congress and the presidents on a liberal-conservative scale ranging from -1 (far left) to +1 (far right) using roll call votes for Congresspersons and through a synthetic "pseudovote" for presidents based on the way they express their position on bills and the ideological space they share with members of Congress (Bonica et al. 2013; Boche et al. 2018). This information was then split into dimensions. The first dimension is "interpreted in

¹ Figure 5

most periods as government intervention in the economy or liberal-conservative in the modern era” (Carroll et al. 2015). So, these scores were used for Presidents George W. Bush, Obama, Trump, and Biden.

The test used in this research was a chi square test. The specific score of the president was less important than which side of zero their score lay on, meaning if they had a positive or negative score. Chi square tests are used to test the correlation between the data provided. In this case, presidents with a negative score were considered liberal and presidents with a positive score were considered conservative regardless of how liberal or conservative they may have been. These scores were then placed accordingly on the observed table with their relation to the designated and not designated countries.² The presidents’ ideology is the independent variable while the designation or non-designation is the dependent variable. These numbers are used to determine the expected outcomes of presidents with right ideologies. The observed and expected values are then compared and this determines if conservative presidents are less likely to designate countries for TPS. If my hypothesis is correct, there should be a direct linear relationship between the right ideology and not designated categories. Furthermore, if the p-value is less than .05, this will suggest that there is an association between ideology and TPS designations.

Results

As for the information that was obtained, both George W. Bush and Donald Trump had positive scores (.69 and .40, respectively) while Obama and Biden had negative scores (-.36 and

² Information about countries considered but not designated for TPS may not be complete as there is no data available for countries denied status. The only information about this is from various news and informative websites.

-.32, respectively). Throughout his time as president, W. Bush had given status to three countries and denied status to four. Obama granted status to eight and denied status to four countries.

Trump granted status to zero and denied two countries. And Biden thus far has granted status to seven and has denied two countries. Altogether there have been 18 designations with 15 being from presidents who lean left ideologically and 3 from presidents who lean right ideologically.

So, the observed data looks like this:

Observed (O)			
	Left Ideology	Right Ideology	
Designated	15	3	18
Not Designated	6	6	12
	21	9	30

Figure 1

From this data we are able to find the expected data:

Expected (E)			
	Left Ideology	Right Ideology	
Designated	12.6	5.4	
Not Designated	8.4	3.6	

Figure 2

Then we compare the observed and expected to perform the chi square test:

(O-E) ² /E			
	Left Ideology	Right Ideology	
Designated	0.457142857	1.066666667	
Not Designated	0.685714286	1.6	

Figure 3

And finally, obtain the statistical significance of the study:

X ²	3.80952381
df	1
p-value	0.050961937
	0.050961937

Figure 4

Discussion

The p-value of this study was .051, meaning that the results were not technically statistically significant and thus the null hypothesis cannot be rejected. Conversely, my hypothesis that conservative presidents are less likely to designate countries for Temporary Protected Status cannot completely be confirmed. This is not to say that my data is not still important and valuable in the field of research. As an important caveat, it should be noted that with the small sample size and the p-value is so close to .05, this may be considered borderline significant. While technically my hypothesis cannot be statistically significant, it still gives evidence to show the possible correlation between ideology and TPS designations. Future research should better isolate the factors involved in making a TPS designation. Furthermore, isolation on how liberal and conservative a president is on their immigration policies rather than in their general policies may better shed light on how ideology affects TPS designations. This could be seen in the differences between Presidents Bush and Trump. While President Bush was more right-leaning than President Trump overall, his immigration stance was more liberal than Trump's. Trump's immigration policies seemed to be among some of the most conservative in the modern era. TPS may be better evaluated in the realm of immigration stances rather than political stances as a whole.

From the data we can see that liberal presidents did designate more countries for TPS than conservative ones, but they also denied the same number of countries. Furthermore, conservative presidents had considered 10 fewer countries than liberal presidents. So, ignoring the chi square test, my hypothesis would appear to be correct. Though something to consider is that someone has to request for a country to be given status and this happened 10 fewer times with conservative presidents.

This may itself say something about the designations. It may be the case that because there is a conservative president, international organizations, congresspersons, and countries are less likely to request a designation as they presume the president would be more likely to deny their request. After all, Biden has only been in office for 15 months and he has already had nine requests compared to Trump who was in office for 48 months and had only two requests, and W. Bush who was in office for 96 months and had only seven requests.

Furthermore, this research proves to be important because it continues to show the inconsistencies in designations. As I previously mentioned, this was a continuation of my previous work in which I would look into the president rather than the external factors they had to consider when making a designation. Because there was no consistency with the external factors that went into a designation, this research was supposed to find some consistency in designations. These findings suggest only partial consistency. This topic needs to be evaluated further and broken down to find a statistically significant correlation with isolated factors. There is more that goes into a designation than a president's ideology and figuring out an actual reason for designations should be explored in addition to the single factor discussed in this paper. Future research could also look into the specific beliefs of people who lean ideologically right that would answer why they appear to designate fewer countries. This research gave an overview of the ideologies but rather than diving into their specific stances, this research was meant to find some relationship rather than why the relationship exists. Figuring out why the relationship exists and what specific factors that turn conservative presidents away from designations may offer insight into which countries may be designated at any given time and provide some consistency in the lives of people who live in "legal limbo."

Aligning with the results of my past research, this research cannot confirm consistency in TPS designations. This research shows that while there are no criteria to designate, people also cannot solely rely on a person or party with either ideology to make a decision that would align with their own. Because my data was close to being considered significant, it appears that citizens can vote for liberal presidents with a slightly better chance of having a country, or countries, designated for TPS, but they cannot rely on ideology to get designations. Both liberal and conservative presidents denied status to countries. Seemingly, this data reaffirms the arbitrariness of designations. Overall, migrants who came to the US searching for a safe haven cannot necessarily gauge what the president will decide to do in terms of designating a country, though they may have a better chance of designation with a president whose ideology is left leaning.

This information only furthers the notion that TPS as a law needs to be revisited. As of March 2021, there were 320,000 TPS holders in the United States, and now there are an estimated 588,335 more eligible for the status with the designations of Afghanistan, Myanmar, Ukraine, and Venezuela (Roy and Felter 2022). This is an estimated 908,335 who have to live their lives under uncertain conditions because this is all Congress in 1990 was willing to give them. Their designations could end at any point, and at which time they will have to either stay in the US without status and fear deportation or go back to a place that may not have the resources, infrastructure, jobs, schools, or anything for them.

Based on the research that I have done and that of scholars referenced in this paper, the federal government has two options for those with TPS: creating specific criteria for countries so that people can predict whether or not a country will be designated or scrapping current TPS law and recreating the policy in a completely different, more individualized, manner.

The European Model

This paper confirms past research and proves that Temporary Protected Status, as it stands, is not as effective as it can be to protect those in need of a safe haven. After all, it only protects those who are from a certain country, and who have been residing in the US since the arbitrary date set by the Secretary of Homeland Security (Segerblom 2007). So, in reality, the law is only protecting a fraction of the people that it could and should. The presidential discretion influenced by their ideologies only worsens the danger migrants face. TPS is a policy that can save many lives, yet the level of discretion given to presidents who may not have the migrants' best interests in mind proves the need for a policy that is void of any personal bias. Such as the policy that the European Union has.

While Europe has its own version of TPS, they also have a status called subsidiary protection that the US should seriously consider implementing. This status is determined on an individualized level (Bergeron 2018; Frelick 2020). The European Commission says that this status is for a person:

Who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to their country of origin, or in the case of a stateless person to their country of former habitual residence, would face a real risk of suffering serious harm (Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) 2011)

Under European Union laws, the person also receives more rights than in the US. Subsidiary protection was not offered until 2004, 14 years after the US introduced Temporary Protected

Status, so they had the opportunity to learn from the flaws within TPS. EU law specifically says, “It is necessary to introduce common criteria on the basis of which applicants for international protection are to be recognized as eligible for subsidiary protection” (Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) 2011). A policy such as this in the United States would prevent much of the political bias that currently prevents a person from having a safe haven. The EU makes it clear that this needs to be a bureaucratic process in which people are given status based on their conditions matching the criteria rather than allowing an individual to make the decision arbitrarily. The EU also recognizes that the family members of recipients are vulnerable to persecution so they say that this can be criteria for receiving the status (Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) 2011). In the US, if a parent has TPS and the child later comes to join their parent, they cannot receive TPS as they had not resided in the US prior to the designation (Segerblom 2007). Family unification is a priority in the EU, and it should be in the US as well.

Moreover, the system in the European Union provides more stability for migrants after they receive the status. Recipients are given status for at least 1 year, and 2 years in the case of renewal, which has to be permitted. With this status they are to be given the same benefits as refugees and are even given special considerations for social assistance programs as they take

into account the difficulties of adjusting to this new lifestyle. Other benefits include the ability to travel, work, receive an education, and receive healthcare (Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) 2011). Because the EU is a collective of many countries, each country has different lengths of time in which permits are given, different specificities of family reunification, different levels of social benefits given, and different lengths of time they are required to stay before adjustment of status (MacGregor 2021). But there is a path to permanent residency, unlike in the US. Subsidiary protection is different from TPS in that subsidiary protection literally is to fill in the gaps of international refugee law. The court is presented the facts of the case and then decides which status will be given to the applicant. In the US, a person who applies for asylum and is denied can be referred to apply for TPS if they qualify, but TPS is not necessarily an alternative to asylum as much as subsidiary protection is.

A program such as subsidiary protection may prove to be a good alternative or addition to Temporary Protected Status. It would fill in more gaps in refugee law and would fix the current issues with inconsistency and uncertainty as it would set out specific criteria for the applicant. The disadvantage is that because the applicant is being evaluated individually, their case takes longer to process and thus it will take longer for them to receive the status (Bergeron 2018). To be eligible they have to have a well-founded fear of persecution so they will need to prove that it is unsafe for them to return home and these facts have to be evaluated by the court during the application and renewal processes. If the court finds that the conditions under which the person was given status are no longer present, the state may not renew the status, but they may still

assist in the repatriation process (Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) 2011). So even though the process may take longer, it would allow for more people to receive protection and it will allow the applicant to tell their story and explain why they need protection rather than just taking it for an uncertain amount of time because of where they were born.

Conclusion

Throughout this paper we have explored Temporary Protected Status and its origins as well as how it is practiced, ideology, political parties, political polarization, and how ideology can affect policy making. Then I provided my research which consisted of putting presidential ideology into a table that I could run a chi square test on to figure out if presidents who lean ideologically right would be less likely to make TPS designations. The result of my experiment partially provided these results. My results were found to be statistically insignificant, but by such a close margin that they may well be considered significant in proving that there is a relationship between ideology and TPS designations.

This prompts future research into how TPS designations are made as well as raises questions about the policy itself. Researchers should look into why some presidents are asked to make designations while others are not requested as much. They should also look into different factors that influence TPS designations and isolate factors to find some consistency, if there is any, in TPS designations.

Finally, we looked into an alternative status for migrants: subsidiary protection. This is the model provided by the European Union which covers more gaps in refugee law and gives more people the protection they need even if they do not fit into the rigid criteria of a refugee. The most important part of subsidiary protection that TPS lacks: it allows for adjustment of status. This means that the person can decide if they want to stay in their new home or go back to their old one.

Reform to TPS law is not only something that *should* happen but it's something that *must* happen. As it has been shown in this paper, and many others, the law as it stands does not live up to its original intentions. Thus, it needs to be changed. The United States has a responsibility to respect those fleeing terrible conditions as this is what the country is built on. If we were to forget that identity, we would only lose the moral authority that is so important to us.

Appendix

Country	Yr Determined	Pres Determined	Designated	Pres Term	Est. Eligible	Who asked	Rationale	Conditions
El Salvador	2001	W. Bush	Y		1 150,000	Ctry	ED	Eq Jan 13, 2001, 2 more Feb 13&17, 2001
Liberia	2002	W. Bush	Y		1 15,000-20,000	N/A	AC	Fighting, instability, human rights abuses, deteriorating security
Colombia	2003	W. Bush	N		1 141,000**	Ctry, US, IOs	AC	FARC and ELN, extrajudicial killings and disappear
Liberia*	2004	W. Bush	Y		1 3,792	N/A	AC	AC done, but extraordinary temporary conditions
Haiti	2004	W. Bush	N		1 76,000**	Ctry	ED	2004 Natural disasters-- killed 2,000 and left 200,000 homeless, civil conflict
Guatemala	2005	W. Bush	N		2 370,000	Ctry	ED	Hurricane Stan in 2005- affect 75% national territory
Guatemala	2008	W. Bush	N		2 430,000	Ctry	ED	Tropical Storm Agatha, arbitrary or unlawful deprivation of life, disappearances
Guatemala	2010	Obama	N		1 520,000	Ctry	ED	Pacaya Volcano, unlawful killings by sec forces, widespread violence
Pakistan	2010	Obama	N		1 26,000**	US	ED	Jul 2010- Flooding-- 20,000,000 people affected 1/5 property destroyed, 2,000 ppl died
Haiti	2010	Obama	Y		1 100,000-200,000	US, IOs	ED	Jan 12, 2010 7.0 mag eq, destroyed capital, critical infrastruc affected, food w water scarce, fuel short
South Sudan	2011	Obama	Y		1 340	N/A	AC	Human rights abuses, food & water insecurity
Syria	2012	Obama	Y		1 2,500-3,000	N/A	ETC	Both sides of conflict terrorize population, deterior security situation
Philippines	2013	Obama	N		2 270,000***	Ctry	ED	Super Typhoon Yolanda (Haiyan)- Nov 2013-- killed >6,000, displaced 4 mill, affect 12 mill
Guatemala	2013	Obama	N		2 560,000***	Ctry	ED	Eq in 2012, police and military commit serious crimes, impunity, loss of freedoms
Guinea	2014	Obama	Y		2 2,000	N/A	ETC	Ebola
Liberia	2014	Obama	Y		2 4,000	N/A	ETC	Ebola
Sierra Leone	2014	Obama	Y		2 2,000	N/A	ETC	Ebola
Yemen	2015	Obama	Y		2 500-2,000	N/A	AC	Airstrikes and ground killing, damaged infrastructure, security concerns, food insecurity
Nepal	2015	Obama	Y		2 10,000-25,000	N/A	ED	Apr. 25, 2015- 7.8 mag eq, May 12- 7.3 mag eq, damaged infrastructure, incoming monsoon season
Guatemala	2018	Trump	N		1 730,000	Ctry	ED	Fuego Volcano Eruption- 100 dead, <200 dead, corruption, loss of freedoms
Venezuela	2019	Trump	N		1 200,000	US	ETC	Unlawful and arbitrary killings, police abuse, political prisoners, lack freedoms, impunity
Haiti	2021	Biden	Y		1 155,000	IOs	AC	Political crisis, violence and increase in human rights abuses, food insecurity, economic situation
Burma (Myanmar)	2021	Biden	Y		1 1,600	N/A	AC	Feb 1, 2021 coup, oppression, violence, human rights abuses, lack freedoms
Venezuela	2021	Biden	Y		1 323,000	N/A	ETC	Political and economic crisis, human rights abuses, collapse of basic services, food insecurity
Mauritania	2021	Biden	N		1 N/A	US, IOs	ETC	Slavery- 90,000-680,000 ppl, loss freedoms, food insecurity- 700,000 ppl
Ethiopia	2021	Biden	N		1 N/A	US, IOs	AC	Human rights violations, famine, drought displaced 351,062 ppl
Sudan	2022	Biden	Y		1 3,090		ETC	Humanitarian crises, violence, illness, internal displacement
Ukraine	2022	Biden	Y		1 59,600	US	AC	Russian Invasion
Afghanistan	2022	Biden	Y		1 N/A	US, IOs	AC	Taliban, killing, lack freedom
Cameroon	2022	Biden	Y		1 N/A	US, IOs	AC	Fighting since late 2016, 1 mill ppl displaced, civil deaths 4,000, 1 mill face food insecurity

Figure 5

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