



6 Everett Street
Cambridge, MA 02138
617- 384-8165
hirc@law.harvard.edu

March 1, 2021

Denise McNerney
Clerk's Office
United States Supreme Court
1 First Street, NE
Washington, DC 20543

Re: Brief of *Amicus Curiae* Harvard TPS Coalition in Support of Petitioners in
No. 20-315, *Sanchez v. Mayorkas*.

Dear Ms. McNerney:

Enclosed please find the Brief of *Amicus Curiae* Harvard TPS Coalition in Support of
Petitioners in No. 20-315, *Sanchez v. Mayorkas*.

We would like to acknowledge Alev Erhan and Beshoy Shokralla, Harvard Law School students
who provided valuable assistance. We would also like to acknowledge the following Harvard
TPS recipients who shared the stories that were fundamental to this brief: Julio Perez, Doris
Landaverde, Julia Rivas, Jose Bonilla, Marvin Carranza, Jose Portillo, and Jorge Chavez.

Thank you for your courtesy in this matter. Please let us know if you have any questions or
concerns. I can be reached at (617) 384-0088 and sahmed@law.harvard.edu.

Very truly yours,

Sameer Ahmed
Harvard Immigration and Refugee Clinical Program
Harvard Law School
6 Everett Street
Cambridge, MA 02138

Enclosures

No. 20-315

In the
Supreme Court of the United States



JOSE SANTOS SANCHEZ AND SONIA GONZALEZ,
Petitioners,

v.

ALEJANDRO N. MAYORKAS, SECRETARY,
UNITED STATES DEPARTMENT OF HOMELAND SECURITY, ET AL.,
Respondents.

On Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

**BRIEF OF *AMICUS CURIAE*
HARVARD TPS COALITION
IN SUPPORT OF PETITIONERS**

SAMEER AHMED
COUNSEL OF RECORD
SABRINEH ARDALAN
HARVARD IMMIGRATION AND REFUGEE CLINICAL PROGRAM
HARVARD LAW SCHOOL
6 EVERETT STREET
CAMBRIDGE, MA 02138
(617) 384-8165
SAHMED@LAW.HARVARD.EDU

MARCH 1, 2021

COUNSEL FOR AMICUS CURIAE

SUPREME COURT PRESS



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INTEREST OF AMICUS CURIAE

Amicus curiae Harvard TPS Coalition (“HTC”) is a group of Harvard University workers, students, faculty, and supporters who want permanent residency for people with Temporary Protected Status (“TPS”) and Deferred Action for Childhood Arrivals (“DACA”).¹ HTC advocates on behalf of approximately two hundred Harvard University employees, students, and affiliates with TPS. Many of these Harvard TPS recipients have spent years building their lives in the United States. They are married, have children, have purchased homes, and are productive members of their communities. Many Harvard TPS recipients are eligible or will become eligible to adjust their status through a family member. The Respondents’ (the “Government’s”) position in this case threatens *Amicus* because it significantly restricts the ability of these Harvard TPS recipients to obtain permanent residency and a path to U.S. citizenship. Under the Government’s interpretation, these Harvard TPS recipients would have to leave the United States, return to a country deemed to pose a serious threat to their personal safety, and be subject to multi-year time bars before being allowed to re-enter the United States. This would significantly disrupt their lives and the lives of their families. HTC,

¹ Pursuant to Supreme Court Rule 37.6, counsel for amicus states that no counsel for a party authored this brief in whole or in part, and no person other than amicus or their counsel made any monetary contribution intended to fund the preparation or submission of this brief. Pursuant to Supreme Court Rule 37.3(a), all parties have provided consent to the filing of this amicus curiae brief.

therefore, has a significant interest in the proper resolution of the issues presented in this case. Allowing eligible TPS recipients to adjust their status to become permanent residents would also strengthen the Harvard community by ensuring that Harvard TPS recipients can continue to thrive and by ensuring that families who have built their lives around the Boston-Cambridge area can continue to contribute to Harvard University, their communities, and the United States as a whole.



INTRODUCTION AND SUMMARY OF THE ARGUMENT

For nearly two decades, over 400,000 people have relied on TPS to safeguard them against the humanitarian crises in their countries of origin and to allow them to pursue their American dreams.² Many TPS recipients came to the United States in their late teens—early adult years to provide for a better life for themselves and their families and often escape the dangerous conditions of their countries of origin. TPS helped them to find work, get their driver’s licenses, and find footing in a new country while they waited for conditions to improve at home. As time went on, however, and conditions continued to preclude the possibility of return, TPS recipients found themselves attached to their local communities and the United States. They joined local houses of worship, got married, had children, bought houses,

² Cong. Rsch. Serv., RS20844, *Temporary Protected Status: Overview and Current Issues* 5 (2020).

started businesses, and finished their education. Over 88.5% of TPS recipients are employed,³ significantly higher than the 61.5% average civilian labor force participation rate.⁴ In short, they have become integral members of their communities.

TPS recipients have also significantly strengthened the Harvard community. It is estimated that approximately two hundred TPS recipients are Harvard employees, students, and affiliates, and they serve important roles at Harvard. As expressed in a letter sent by some Harvard TPS recipients to then-Harvard University President Drew G. Faust, “[b]etween feeding Harvard students and cleaning Harvard offices, we are the first to greet the students at breakfast and the last to see departing researchers each evening [W]e cook, clean and provide for American children that dream of more opportunity than we had back home.”⁵ Harvard University has also expressed its strong support for Harvard TPS recipients and their need for permanent residency. Referring to Harvard TPS recipients as “highly valued and productive colleagues,”⁶ and “family members, friends, and

³ Cecilia Menjivar, *Temporary Protected Status in the United States: The Experiences of Honduran and Salvadoran Immigrants*, Ctr. for Migration Rsch. (2017), http://ipsr.ku.edu/migration/pdf/TPS_Report.pdf.

⁴ U.S. Bureau of Lab. Stat., *Civilian Labor Force Participation Rate*, <https://www.bls.gov/charts/employment-situation/civilian-labor-force-participation-rate.htm> (last visited Feb. 19, 2021).

⁵ *Letter from Harv. TPS Coal. to Drew G. Faust, President, Harv. Univ.* (Jan. 26, 2018) (on file with author).

⁶ *Letter from Drew G. Faust, President, Harv. Univ. to Speaker Ryan and Leaders McConnell, Schumer, and Pelosi, U.S. Congress* (Feb. 2, 2018) (on file with author).

neighbors of our students, faculty, and staff,”⁷ President Faust and current Harvard University President Lawrence Bacow have both requested that the federal government ensure Harvard TPS recipients can continue living, working, and thriving in the United States.⁸

Like those across the United States, Harvard TPS recipients have made a place for themselves in the United States through hard work and by overcoming the many obstacles before them. Many risked their lives to come to the United States for a better life for themselves and their families. Prior to obtaining TPS, they found what work they could and often maintained multiple jobs not only to sustain themselves, but also to support their families back in their countries of origin. Thanks to TPS, many who had no lawful immigration status were able to come out of the shadows and find significantly better jobs to support themselves and their families.

Despite their now-longstanding ties to the United States, Harvard TPS recipients remain in a constant state of anxiety and fear without permanent residency. For many years they understood that, while TPS provided them with an incredible opportunity to build a life in the United States, it could be taken away at

⁷ Drew Gilpin Faust & Christopher L. Eisgruber, *Letter in support of those affected by TPS policy changes*, Harv. Univ.: Office of the President (May 16, 2018), <https://www.harvard.edu/president/news-faust/2018/letter-in-support-of-those-affected-by-tps-policy-changes/>.

⁸ *Id.*; Lydialyle Gibson, *The Time Is Now*, HARVARD MAGAZINE (Feb. 19, 2021), <https://harvardmagazine.com/2021/02/president-bacow-joins-leaders-calling-for-immigration-reform>.

any moment. As Harvard TPS recipient Jose Portillo puts it, “we were always thinking about the fact that this is a temporary status and that one day they were probably going to take it away from us.” In 2017, the Trump Administration did just that when it rescinded TPS for hundreds of thousands.⁹ Suddenly, TPS recipients and their communities were under attack. One such community was the Harvard community, where Harvard TPS recipients faced the prospect of losing their jobs and their livelihoods, and destroying their children’s futures.

That threat of losing TPS further demonstrates why as many eligible TPS recipients as possible should be able to safely and quickly adjust their status to become permanent residents and eventually U.S. citizens. To many Harvard TPS recipients, the United States is also their home, and they desire to make their investments in this country permanent. Allowing more TPS recipients to do so would not only strengthen Harvard University, but the United States as a whole.

⁹ Miriam Jordan, *Trump Administration Says That Nearly 200,000 Salvadorans Must Leave*, N.Y. TIMES (Jan. 8, 2018), <https://www.nytimes.com/2018/01/08/us/salvadorans-tps-end.html>.



ARGUMENT

I. HARVARD TPS RECIPIENTS HAVE DEEP ROOTS IN THEIR COMMUNITIES, AND SUPPORT HARVARD UNIVERSITY, THEIR FAMILIES, THEIR LOCAL ECONOMIES, AND THE NATION.

The following are stories of only a handful of the many inspiring TPS recipients who play an integral role in strengthening the Harvard community:

- JULIO PEREZ, a team leader and custodian at Harvard University, has spent more than half of his life in Boston, Massachusetts. Julio and his wife Marina, also a TPS recipient, live in Boston with their sixteen-year-old son, a U.S. citizen. Julio attends his local Catholic church and has served his local parish. When the Trump Administration rescinded TPS for Salvadorans, he chose to commit all of his free time to protecting his family and thousands like it from having to uproot their lives and leave the United States. He joined both national and local campaigns to ensure TPS recipients remain protected. Thanks to the Harvard Bridge Program, Julio was able to receive his GED and finish his high school education. Now, he has his eyes set on continuing his education. “I hope that I can still achieve my dreams of going to college,” Julio says. “Even [if] it will be the last days of my life, I want to have that privilege.”

- DORIS LANDAVERDE, a custodian at Harvard University and a leader of SEIU Local 32BJ, has lived in the United States since 2000. Doris is married and has three daughters, all of whom are U.S. citizens. As a proud union member, Doris helped create the Harvard TPS Coalition. She has organized Harvard TPS recipients and has garnered support among Harvard faculty, students, and administrators. Through the Harvard Bridge Program, she obtained her high school diploma in only six months. She dreams of pursuing a psychology degree in college, and hopes to see her daughters follow their dreams and one day attend Harvard University.
- JULIA RIVAS, a housekeeper at Harvard University, has spent twenty-one years, more than half of her life, in Boston, Massachusetts. She is married with two sons, ages three and nine-months, who are U.S. citizens. Julia attends Catholic Mass with her family and is involved in her local parish. She hopes to become a U.S. citizen one day, and dreams of watching her children grow up and pursue their dreams here in the United States.
- JOSE BONILLA, an assistant cook at Harvard University, came to the United States when he was seventeen; Jose's wife is also a TPS recipient. Together, they have three children, ages eighteen, five, and four. Jose and his family own a home in Roslindale, a residential neighborhood in Boston, Massachusetts, where they also attend church. He dreams of one day starting his own restaurant.

- MARVIN CARRANZA, an assistant cook at Harvard University, came to the United States when he was twenty years old. He goes to Catholic Mass on Sundays and attends community meetings to help others with matters involving TPS. He hopes to become a U.S. citizen one day so that he can continue working and living in the United States without fear of deportation.
- JOSE PORTILLO, a custodian at Harvard University, has lived in the United States since 1998. He lives with one of his sisters, one of his brothers, and his father, all of whom have TPS. The four of them send weekly remittances to their eight siblings and mother who live in their country of origin. Jose is currently being initiated into a Catholic church in Boston. He hopes to one day become a U.S. citizen so that he can more confidently invest in his future in the United States, including purchasing a home for him and his family and starting a business.

Like countless other TPS recipients, these men and women are integral members of the Harvard community, the Boston community, and our nation. They now struggle and fight for their American dream and for the opportunity to stay in the United States as permanent residents and, one day, U.S. citizens. As Julio Perez put it: "This is our country. This is our home. What we have is the privilege to live in a democracy that allows us to defend ourselves. And that's what I'm fighting for, and that is our dream, to achieve permanent residency."

A. Harvard University Is Dependent on Many TPS Recipients to Provide Critical Support Across the University.

Harvard University depends on TPS recipients to provide critical support in multiple departments across the University. According to Doris Landaverde, approximately 200 TPS recipients work either directly for Harvard or through a sub-contractor. TPS recipients include Harvard custodians, cooks, housekeepers, bus drivers, software developers, and so much more. They perform essential functions that help keep the University running, and serve the student body, faculty, and the administration alike. As the HTC has stated, “[b]etween feeding Harvard students and cleaning Harvard offices, [Harvard TPS recipients] are the first to greet the students at breakfast and the last to see departing researchers each evening. Like many from Haiti and El Salvador across the country, we cook, clean and provide for American children that dream of more opportunity than we had back home.”¹⁰

For example, Jose Portillo works as a custodian in Boylston Hall and Harvard Hall. He began working at Harvard in 2001, soon after he received work authorization, and has remained at the University for over twenty years. Jose has enjoyed his time at Harvard; his co-workers are professional, his supervisors are kind, and the students are respectful. Like him, many TPS recipients have remained with Harvard for their entire careers. Marvin Carranza is another example. Prior to having TPS, he worked at a restaurant in Boston and a temporary job at Fenway Park. In 2005, after acquiring TPS, he began working

¹⁰ Letter from Harv. TPS Coal, *supra* note 5.

as an assistant prep cook for a Harvard contractor. He was then promoted to cook's assistant and is now an assistant cook. Marvin enjoys his job and is proud of the food that he cooks for students.

Like Marvin, Julio Perez also worked his way up to obtain a permanent job at Harvard. After acquiring TPS, he began working for a hotel in Cambridge. In 2008, after getting his commercial license, Julio began driving for a company that had contracts with universities and colleges. Through that position, Julio became acquainted with Harvard, often driving for class reunions and graduations. In 2012, he was hired by a Harvard contractor as a part-time custodian. He subsequently became a full-time custodian and was promoted to lead a team of custodians. Julio appreciates his job, the University's support of his activism, and its support of his desire to attend college.

Harvard University itself has repeatedly recognized the importance of its TPS recipient employees, students, and affiliates. For example, former Harvard University President Faust penned multiple letters to Congress in support of Harvard TPS recipients. President Faust described TPS as “emblematic of the American ideals of hope and opportunity,” and recognized the many Harvard TPS recipients as “highly valued and productive colleagues.”¹¹ President Faust, along with Princeton University President Christopher Eisgruber, also pled with Congress to act to protect the many TPS recipients “who contribute as employees at [their] institutions.”¹² In that letter,

¹¹ Drew G. Faust, *supra* note 6.

¹² Drew Gilpin Faust & Christopher L. Eisgruber, *supra* note 7.

President Faust described Harvard TPS recipients as “family members, friends, and neighbors of our students, faculty, and staff . . . [who] have made a home in the United States and benefitted our economy and our nation.”¹³

Harvard’s advocacy and support for Harvard TPS recipients has continued under current President Bacow. In a recent letter to President Biden, he advocated for a more permanent solution for TPS recipients “to ensure that these individuals do not lose the right to live and work in the United States, including many at Harvard.”¹⁴ In a recent summit on comprehensive immigration reform, President Bacow added that “Congress must end the uncertainty and provide the broadest possible relief for those who are undocumented, including those who enjoy temporary protected status.”¹⁵

Harvard’s recognition of the importance of Harvard TPS recipients goes beyond the University’s own advocacy. The University also has been supportive of its employees’ activism and fight for permanent resident status for TPS recipients. For example, Julio Perez has expressed his gratitude to Harvard for allowing him to take two months off in order to drive the bus “On the Road to Justice” across the United States and organize local TPS communities. The University has also provided Harvard TPS recipient employees

¹³ *Id.*

¹⁴ Lawrence S. Bacow, *Letter to President-elect Biden*, HARV. UNIV.: OFFICE OF THE PRESIDENT (Dec. 11, 2020), <https://www.harvard.edu/president/news/2020/letter-to-president-elect-biden/>.

¹⁵ Lydialyle Gibson, *supra* note 8.

with opportunities to obtain their high school diplomas and continue their education.¹⁶ Julio Perez, Doris Landaverde, Jose Bonilla, and Marvin Carranza have all benefitted from the Harvard Bridge Program. The broader Harvard community itself also has provided significant support to Harvard TPS recipients. Students, faculty, and staff have all advocated on behalf of Harvard TPS recipients and have supported their fight for permanent status, declaring that “Harvard TPS workers have built their entire lives here in America, . . . [t]hey too are Harvard, and deserve as much, if not more, support from the University as any other member of this community.”¹⁷

The importance of TPS recipients to Harvard’s workforce and community cannot be understated. Evidenced by the strong support from the Office of the University President, the faculty, the students, and the staff, Harvard recognizes that it relies on TPS recipients, not just as employees, but as members of its community.¹⁸ Providing its community members with a safe and clear pathway to permanent residency helps solidify the investment the University has made in its TPS recipients and prevents the detrimental consequences that a possible loss of TPS would pose

¹⁶ Cristela Guerra, *Harvard service workers learn English between shifts*, BOS. GLOBE (Apr. 4, 2018), <https://www.bostonglobe.com/lifestyle/2018/04/04/harvard-service-workers-squeeze-classes-between-shifts/PjcnajBKTr02U7uijFwafI/story.html>.

¹⁷ Editorial, *Calling for Permanent, Not Temporary, Protected Status*, THE HARV. CRIMSON (Feb. 6, 2018), <https://www.thecrimson.com/article/2018/2/6/editorial-permanent-not-temporary/>.

¹⁸ Faust & Eisgruber, *supra* note 6.

to both the Harvard community and to the University's workforce.

B. Harvard TPS Recipients Have Children and Spouses, Many of Whom Are U.S. Citizens, That Are Dependent on Their Remaining in the Country.

Harvard TPS recipients not only contribute to the Harvard community but also materially and emotionally support their families in the United States. There are roughly 270,000 U.S.-citizen children under the age of 18 who live in households with family members who hold TPS.¹⁹ In contemplating the consequences of losing their TPS status, or even having to return to their countries of origin to apply for permanent residency, parents face unfathomable options. These include returning to their country of origin alone and leaving their children behind or taking their U.S.-citizen children with them to a country that their children do not know, where their safety cannot be ensured, and where their future life prospects are significantly diminished.

For example, many Harvard TPS recipients are from El Salvador and are afraid of returning to El Salvador to raise their children, due in large part to the challenges to ensuring their safety and providing comparable opportunities for their families there. The State Department has advised against returning nationals to the country, as "El Salvador remains

¹⁹ Leila Schochet & Nicole Prechal Svajlenka, *How Ending TPS Will Hurt U.S.-Citizen Children*, CTR. FOR AM. PROGRESS (2019), <https://cdn.americanprogress.org/content/uploads/2019/02/07053255/Children-of-TPS-Holders-factsheet.pdf>.

unable, due to ongoing security and economic conditions, to handle adequately the precipitous return of its nationals. . . . including a significant amount of children, most of whom are dual U.S.-Salvadoran nationals. . . . Parents in many communities in El Salvador fear boys may be targeted for gang recruitment and girls may be forced into sexual relations with gang members. Many parents in El Salvador refuse to even send their children to school out of fear of the gangs.”²⁰ The State Department warns against travel to the country due to high levels of crime, as “El Salvador has one of the highest homicide levels in the world.”²¹ Forcing TPS recipients to uproot their lives and return to countries like El Salvador where they may face significant harm in order to obtain permanent resident status in the United States is contrary to the purpose of TPS in the first place, which is to ensure the safety of TPS recipients and their families.

Harvard TPS recipients are deeply concerned about how conditions in their countries of origin like El Salvador would affect themselves and their children. In addition to the significant safety risks, opportunities for work are limited, and the jobs that do exist pay very little compared to what Harvard TPS recipients earn in the United States. For example, although Jose Bonilla and his wife, who is also a TPS recipient,

²⁰ U.S. Dep’t of State, *Recommendations Regarding TPS for Haiti, Honduras, and El Salvador* (Oct. 31, 2017), <https://tinyurl.com/TPS-St-Dept>.

²¹ U.S. Dep’t of State, *El Salvador Travel Advisory* (Sept. 14, 2020), <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/ElSalvador.html>.

own some land in El Salvador that he might be able to cultivate, he does not know how he would raise his three children on the \$8 per day wage he may expect to earn through this labor. Marvin Carranza explains that in El Salvador, despite making very little money, he likely would be forced to pay significant “rentas” to gangs for protection. In addition to exercising territorial control over neighborhoods and extorting residents, gangs are also known to forcibly recruit children and sexually abuse women, girls, and lesbian, gay, bisexual and transgender people.²² Julia Rivas explained that she is working for “a better future for my kids and for my family. The future of my children is here [in the United States], their studies are going to be here, their lives are here, and I can’t imagine being separated from my kids if they were to send me back to my country. I always want to be with them, to watch them grow up and be involved in their lives.”

The Trump Administration’s plan to rescind TPS for many countries put Harvard TPS recipients in the very difficult position of preparing their families for the possibility of their losing legal immigration status. Julio Perez, one of HTC’s co-founders, had his children in mind as he began to fight for protection of fellow TPS recipients. He shared, “I cannot imagine my son in my country, trying to make a living, deported along with his parents to live there when he’s a U.S. citizen and was born here. Here, he is a good student, he is dedicated, and he can achieve so

²² Historically, security forces have committed extrajudicial executions, sexual assaults, enforced disappearances, and torture. They remain largely ineffective in protecting the population from gang violence. Hum. Rts. Watch, *El Salvador Events of 2020*, <https://www.hrw.org/world-report/2021/country-chapters/el-salvador>.

many dreams. He can be someone better than what I could be when I was his age.”

Doris Landaverde came to the United States when she was twenty-two to seek work that would allow her to pay for her medicine she could not afford in El Salvador. She also knew that with higher wages she would be able to send money to help her sick mother and pay for her siblings to finish high school. Now a mother of three U.S.-citizen daughters, Doris initially tried to shelter her children from concern about her immigration status, but her oldest daughter became frightened after reading in the news about the Trump Administration’s plan to rescind TPS. Her daughter began to call her every morning to make sure that Doris made it safely to work, and every afternoon to make sure she safely made her way home. Attempting to allay her daughters’ fears, Doris has brought them to HTC events, and they have been active in promoting Harvard TPS recipients’ fight for permanent residency as active members of HTC’s youth group.²³ Doris shares the frustration of other Harvard TPS recipient parents with children: “We are adults, and we decided to come to this country But I feel like they punish our kids. They are citizens, they are born here, they have the right to live in this country, [and] they have a right to a good education. When [the Government] decides to take away TPS, they don’t think about them.”

²³ Children of TPS recipients also have put on a play in Boston about their experiences. Denise Delgado, *Children Of TPS Recipients Bring Stories Of Uncertainty To The Stage With ‘The Last Dream’*, WBUR (Dec. 20, 2018), <https://www.wbur.org/artery/2018/12/20/the-last-dream-children-tps-el-salvador>.

The concerns described by Harvard TPS recipients are shared by hundreds of thousands of other TPS recipient parents across the country. The children of TPS recipients bear an incredible emotional toll as they face the uncertainty of either being separated from their parents or moving with them to a country they may have never seen. Many studies have detailed the detrimental impacts on children's health caused by the threat of being separated from their parents through detention or deportation. Many children experience serious mental health problems, including depression, anxiety, self-harm, and regression.²⁴ Children's concerns about their parents' immigration status can also impair their socioemotional and cognitive development.²⁵ Even without the threat of the Trump Administration's rescission of TPS, Harvard TPS recipients and their children continue to face the significant uncertainty of their temporary immigration status. The Government's position would further restrict their ability to obtain permanent resident status and, in so doing, would inflict immeasurable damage to Harvard TPS recipients and their families.

²⁴ Wendy Cervantes et al., *Our Children's Fear: Immigration Policy's Effects on Young Children*, Ctr. Law & Soc. Pol'y (Mar. 2018), <https://tinyurl.com/ChildFears>.

²⁵ Hirokazu Yoshikawa, *Immigrants Raising Citizens: Undocumented Parents and Their Young Children* 120-36 (2011).

C. Harvard TPS Recipients Contribute Significantly to Local, State, and Federal Economies Through Their Taxes and Spending Power, and Could Contribute Even More If They Became Permanent Residents.

As Julio Perez explained, “we are members of this society; we have contributed to this country” for many years. TPS recipients have contributed financially to their communities and the United States for decades. By granting work authorization to TPS recipients, the Government empowered them to make higher wages and contribute even more to their local economies and every level of government. In fact, the revenue that TPS recipients provide to the country has a significant positive impact on the economy, especially crucial industries where TPS recipients make up a significant amount of the work force. And, a safe and easier path to permanent residency would increase TPS recipients’ wages and spending power to allow them to contribute even more to the economy.

Locally, Harvard TPS recipients contribute significantly to their counties and the state of Massachusetts. The approximately 7,178 TPS recipients who reside in Massachusetts contributed nearly \$20 million in state and local taxes, and \$31 million in federal taxes.²⁶ This is on top of the \$166.6 million in spending power that they contribute to their local economy,²⁷ and the

²⁶ New Am. Econ. Rsch. Fund, *Overcoming the Odds: The Contributions of DACA-Eligible Immigrants and TPS Holders to the U.S. Economy* (2019), https://research.newamericaneconomy.org/report/overcoming-the-odds-the-contributions-of-daca-eligible-immigrants-and-tps-holders-to-the-u-s-economy/#_ftn19.

²⁷ *Id.*

\$645 million they contribute to the state's GDP.²⁸ Furthermore, as of 2017, Salvadoran TPS recipients alone have contributed anywhere from \$2.2 million to \$3.7 million in Massachusetts property taxes, which go directly towards improving schools and communities across the state.²⁹ Jose Bonilla is one such contributor; he purchased his home in 2005—only four years after he obtained TPS.³⁰

On a national level, TPS recipients paid a combined \$1.54 billion in state and federal taxes in 2017, and had a remaining \$5.3 billion in spending power.³¹ They have contributed \$4.5 billion to the GDP annually as well as \$6.9 billion to Social Security and Medicare contributions over the course of a decade.³² Furthermore, an estimated 61,100 TPS

²⁸ Ctr. for Am. Progress, *TPS Holders in Massachusetts*, https://cdn.americanprogress.org/content/uploads/2017/10/19130146/101717_TPSFactsheet-MA.pdf.

²⁹ Zillow Research, *TPS-Protected Salvadoran Homeowners Paid Approx. \$100M in Property Taxes Last Year*, <https://www.zillow.com/research/salvadoran-immigrant-homeowners-17868/#:~:text=Salvadoran%20immigrant%20homeowners%20previously%20granted,paid%20in%20California%20and%20Texas>.

³⁰ Some TPS recipients own multiple homes, and help the housing market by renting their other property. Eduardo Porter, *Harvard Is Vaulting Workers Into the Middle Class With High Pay. Can Anyone Else Follow Its Lead?*, N.Y. TIMES (Sept. 8, 2018), <https://www.nytimes.com/2018/09/08/business/economy/harvard-living-wage.html?module=inline>.

³¹ New Am. Econ. Rsch. Fund, *supra* note 26.

³² Amanda Baran et al., *Economic Contributions by Salvadoran, Honduran, and Haitian TPS Holders*, Immigrant Legal Res. Ctr. (2017), https://www.ilrc.org/sites/default/files/resources/2017-04-18_economic_contributions_by_salvadoran_honduran_and_haitian_tps_holders.pdf.

recipients across the country own homes and have mortgages,³³ contributing at least \$96 million in property taxes nationwide in 2017.³⁴ Given their uncertain immigration status, some TPS recipients fear making such long-term financial commitments to the United States, which is an additional reason why they need a path to permanent residency.

TPS recipients, including those at Harvard, also contribute on an international level. Many TPS recipients came to the United States initially to flee dangerous conditions in their countries of origin and help support their families through remittances. As noted above, Doris Landaverde came to the United States to earn money to help her sick mother and her siblings in El Salvador. Jose Portillo also sends money to his eight siblings and mother back in El Salvador. Along with other Salvadoran TPS recipients, they contributed over \$600 million in remittances to El Salvador in 2017, or approximately 2% of the country's GDP.³⁵ With permanent resident status, TPS recipients would be able to contribute even more to their families and communities in their countries of origin, which would hopefully improve the conditions there as well.

Governments are not the only entities that would benefit if more TPS recipients had permanent resident status and a path to U.S. citizenship. Without such

³³ *Id.*

³⁴ Zillow Research, *supra* note 29.

³⁵ Nurith Aizenman, *What You May Not Realize About The End Of TPS Status of Salvadorans*, NPR (Jan. 9, 2018), <https://www.npr.org/sections/goatsandsoda/2018/01/09/576583550/what-you-may-not-realize-about-the-end-of-tps-status-for-salvadorans>.

status, many continue to live in fear of deportation because their TPS could be rescinded at any time. If that were to occur, mortgage-lenders would face mass-defaults from homeowners who have lost their TPS, and employers would suffer approximately \$967 million in turnover costs.³⁶ This estimate does not include losses from disruption arising out of losing significant numbers of employees. For instance, California construction firms would lose approximately 8,400 Salvadoran and Honduran workers;³⁷ Texas construction firms would lose 8,200.³⁸ Other industries that could suffer sizeable losses include restaurants and other food services, landscaping services, child day care services, and grocery stores.³⁹

Permanent resident status, and later citizenship, would allow TPS recipients to contribute even more to their local communities and to the country. With permanent resident status, TPS recipients would be assured that their investments in America will not be stripped from them one day due to a hostile administration. This means many could feel empowered to return to school and pursue a college education, take a risk and open a restaurant, or even simply purchase a home knowing that they will be around when the mortgage is paid off. Julio Perez and Doris Landaverde hope to pursue college degrees; Jose

³⁶ *Id.*

³⁷ Am. Immigr. Council, *Workers with Temporary Protected Status in Key Industries and States* (2019), <https://www.americanimmigrationcouncil.org/research/workers-temporary-protected-status-key-industries-and-states>.

³⁸ *Id.*

³⁹ *Id.*

Portillo hopes to buy a house with his father and siblings if they are granted permanent residency; Jose Bonilla hopes to open a food mart or restaurant one day if given permanent residency. Their hesitance to pursue these dreams now in the face of recent attacks on TPS and the ease with which the program can be rescinded is shared by many TPS recipients across the country. A path to permanent residency helps to erase that hesitation and allows them to take risks in the hopes of bettering themselves and their circumstances. By bettering themselves, they increase their contributions to their communities and the United States, thereby bettering the nation as a whole.

The contributions of TPS recipients, including those at Harvard, cannot be overstated. While only making up a small portion of the total population, they represent a substantial benefit to the United States economy. Despite the significance of their contributions, their future in the country remains in limbo. Even if the Biden Administration currently has no plans to rescind TPS, TPS recipients have no protection if a future administration attempts to strip them of their legal status again. They, therefore, require a safe, reliable method of adjusting to permanent resident status that allows them to continue to grow and contribute to their communities and averts a potential economic disaster if they were forced to leave.

II. HARVARD TPS RECIPIENTS NEED A SAFE AND ACCESSIBLE PATHWAY TO PERMANENT RESIDENCY.

While TPS allows individuals to remain in the United States, TPS recipients still face significant hardships, such as continuously renewing their status and employment authorization, high renewal costs,

and the uncertainty of losing their discretionary protection altogether. While many Harvard TPS recipients would like to make greater investments in building their lives in the United States through further education, purchasing homes, and starting businesses, it is difficult to undertake such long-term goals when their future continues to remain uncertain. The Government's position in this case prevents many TPS recipients from having a safe and accessible pathway to permanent residency. TPS recipients eligible for permanent resident status should not have to expend significant resources to travel outside of the United States, return to countries that continue to pose a risk to their personal safety, and be subject to multi-year bars that may prevent them from reuniting with their families in the United States.

A. The Temporary Nature of TPS Presents Undue Financial and Emotional Costs for Harvard TPS Recipients.

Harvard TPS recipients have built their lives in the United States based on a temporary and discretionary immigration status that only protects them from imminent removal. While TPS status provides work authorization, Harvard TPS recipients still face many hardships and uncertainties due to the "temporary" designation of their immigration status. Harvard TPS recipients face significant risks if they leave the United States and are not automatically permitted to re-enter. They cannot petition for family members to join them in the United States. They continuously live in fear that their TPS status may be rescinded. And, they have to repeatedly apply for and pay high fees to maintain their work authorization. These costs are a significant burden for individuals

who have spent decades of their lives contributing to this country.

Each time TPS is extended for a designated country, TPS recipients from that country are required to re-register if they wish to maintain TPS status. In addition to re-registering, TPS recipients must reapply for work authorization to continue working lawfully in the United States. *See* USCIS, *Temporary Protected Status*, available at <https://www.uscis.gov/humanitarian/temporary-protected-status>. These processes are expensive and time consuming. TPS recipients from El Salvador, for example, must pay a \$495 application fee every 18 months. *See* USCIS, *I-821, Application for Temporary Protected Status*, available at <https://www.uscis.gov/i-821>. This process is even more expensive for those who do not have access to free legal services.

For both Julio Perez and Jose Bonilla, who have spouses that are TPS recipients, these costs are doubled. While Jose is thankful that Harvard University provides him a day off to go through the process of getting fingerprinted and preparing his documentation to reapply for TPS and his work authorization, it is much harder for his wife to ask for time away from work. Julia Rivas lives in fear of what might happen if she was no longer able to pay the renewal costs: “What happens if we lose our job at the wrong time? . . . After twenty-plus years of renewing TPS we still have no hope of getting something better. One of my biggest fears is not having the money to be able to renew. What happens if we lose a job and can’t survive here?”

In addition to the financial burden of maintaining their TPS status and work authorization, TPS

recipients live in constant fear that their status may be rescinded and they will be forced to return to their countries of origin, despite the fact they have lived in the United States for decades and have built lives and families here. That fear came into fruition when the Trump Administration attempted to rescind TPS for hundreds of thousands of individuals. It was only through rapid mobilization that TPS recipients and their allies were able to secure a nationwide injunction to temporarily halt the rescission of TPS. *See Ramos v. Nielsen*, No. 18-cv-01554 (N.D. Cal. Oct. 3, 2018). That injunction was later vacated by the Ninth Circuit, and TPS for those subject to the injunction—including TPS recipients from El Salvador, Haiti, Nicaragua and Sudan—has been extended only through October 4, 2021. Therefore, the uncertainty and fear remain.

For Doris Landaverde, the rescission of TPS brought to light the pressing need to fight for permanent residency in the United States:

It's like we woke up. In some way the good thing that happened is that we realized, [TPS] is not forever. It was bad in one way and it was hard. But otherwise, if this wasn't happening we would go to work like normal and think that everything is fine, but we would always face the renewal process every 18 months. Now we have a hope that one day maybe we will have something permanent. This is what we're fighting for now. We're not fighting to be under TPS. We hope we can have something more permanent so our kids can have a more normal life.

Permanent resident status would provide Harvard TPS recipients the opportunity and security to invest

in themselves, their families, and this country. Many have dreams that they are unable to pursue without the knowledge that they will be able to continue living and working in this country. For example, purchasing a home or business is a long-term investment, one that many more TPS recipients would like to make. Almost one-third of TPS recipients own their own home, only half the proportion of homeowners in the general U.S. population.⁴⁰ Jose Bonilla would like to buy a home for his family and has been dreaming of starting his own business by opening his own Salvadoran restaurant in Boston. And, Doris Landaverde, who found time to study in the early mornings and late at night while continuing to work, was able to finish her high school diploma in just six months through the Harvard Bridge Program and would like to pursue her dream of getting a college degree in psychology.

B. Eligible TPS Recipients Should Not Be Required to Disrupt Their Lives and Return to Unsafe Conditions in Their Countries of Origin to Obtain Permanent Residency.

Certain Harvard TPS recipients are eligible now to apply for permanent residency through qualifying family members, such as U.S.-citizen spouses or children. Others will become eligible in the near future. Because some TPS recipients accrued “unlawful presence” in the United States before obtaining TPS status, they would be subject to three- and ten-year bars from returning to the United States if they leave. 8 U.S.C. § 1182(a)(9)(B). Therefore, the question

⁴⁰ Menjivar, *supra* note 3, at 19.

the Court will decide significantly affects whether those TPS recipients must be required to disrupt their lives, return to unsafe conditions in their countries of origin, and be subject to multi-year bars from returning to the United States just to apply for permanent residency. Given the significant harm and burden of doing so, the Court should reject the Government's position and hold that their TPS status itself is an admission that would allow eligible TPS recipients to adjust their status without being forced to leave the United States.

Previously, certain eligible TPS recipients could qualify as “inspected and admitted or paroled” by leaving and returning to the United States using a process called “advance parole.” In August 2020, however, USCIS changed its position and now contends that returning to the United States with advance parole no longer means that a person was “inspected and admitted or paroled” under 8 U.S.C. § 1255.⁴¹ This change in policy makes it even more important that TPS recipients not be forced to leave the United States to become permanent residents. For example, Marvin Carranza was planning to travel outside the United States with advance parole in 2017 but needed to delay the trip for a surgery. Given pandemic-related travel restrictions, he does not know when such a trip might become possible again.⁴² And,

⁴¹ See *USCIS Policy Memorandum PM 602-0179, Matter of Z-R-Z-C*, Adopted Decision 2020-02 (AAO) (Aug. 20, 2020).

⁴² Currently the Center for Disease Control and Protection has listed El Salvador as having a “very high” number of cases, and advises against any travel to the country. Ctr. for Disease Control and Prevention, *Covid-19 in El Salvador*, <https://wwwnc.cdc.gov/travel/notices/covid-4/coronavirus-el-salvador>.

because the new USCIS policy remains in effect, even if he were to be able to travel on advance parole and return to the United States, that trip would no longer meet an important eligibility requirement to allow him potentially to adjust his status to become a permanent resident in the future.

Therefore, unless the Court holds that TPS itself satisfies the “inspected and admitted” requirement, the only way certain TPS recipients may be permitted to apply for permanent residency is if they leave the United States, travel to their country of origin, apply for an immigrant visa at a U.S. consulate, and return to the United States as an immigrant. Many TPS recipients would be subject to mandatory multi-year time bars before re-entering the country. By definition, a TPS designation means that returning to one’s country of origin would “pose a serious threat to an [individual’s] personal safety,” that a disaster has resulted in a “substantial” disruption and the country is “unable” to “handle adequately” the return of its citizens, or that other extraordinary circumstances exist that prevent its nationals “from returning to the state in safety.” 8 U.S.C. § 1254a(b).

Harvard TPS recipients would, therefore, have to uproot their lives, put themselves and their families at serious risk of harm, and could be prevented from returning to the United States for years just to be eligible to apply for permanent residence under the Government’s position. As discussed above, many Harvard TPS recipients are from El Salvador and are afraid of returning there to raise their children out of fears regarding their safety and having sufficient economic opportunities to provide for them and their families. *See supra* pp. 13-15.

And, even if USCIS reverts back to its old policy and permits travel on advance parole to meet the eligibility requirement for some (but not all) TPS recipients, advance parole is still onerous, expensive, and inaccessible for many Harvard TPS recipients. The filing fee for an application for advance parole costs \$575. *See* USCIS, *I-131, Application for Travel Document*, available at <https://www.uscis.gov/i-131>. That does not include attorneys' fees, airfare, or other travel-related expenses. Moreover, the COVID-19 pandemic has made international travel especially unsafe and difficult during this time. Advance parole does not guarantee re-entry into the United States, and a TPS recipient who leaves could be barred from returning to live with their families if a Customs and Border Protection ("CBP") officer at a port of entry deems them to be inadmissible for a host of reasons.⁴³

For example, Doris Landaverde spent hundreds of dollars to obtain advance parole to visit her sick mother and sister who was having surgery in El Salvador. When she returned to Boston Logan Airport with her children, she was asked to wait and be inspected in a separate room. Her heart was racing as she feared what may happen if they did not let her back in the United States. TPS recipients should not have to live with such fear simply to allow them the right to apply for and obtain the permanent resident status they need and deserve.

⁴³ *See* USCIS, *Advance Parole*, available at <https://www.uscis.gov/green-card/green-card-processes-and-procedures/travel-documents>.



CONCLUSION

For the foregoing reasons, the Court should hold that a grant of TPS authorizes eligible noncitizens to obtain lawful permanent resident status. Doing so would significantly benefit Harvard TPS recipients, Harvard University, and communities, institutions, companies, and governments across the United States. Without a safe and accessible path to permanent residency, Harvard TPS recipients, as well as those across the country, will continue to live in fear of deportation due to their temporary status, negatively affecting the lives that they have built in the United States for themselves and their families, as well as the nation as a whole.

Respectfully submitted,

SAMEER AHMED

COUNSEL OF RECORD FOR AMICUS CURIAE

SABRINEH ARDALAN

HARVARD IMMIGRATION AND
REFUGEE CLINICAL PROGRAM

HARVARD LAW SCHOOL

6 EVERETT STREET

CAMBRIDGE, MA 02138

(617) 384-8165

SAHMED@LAW.HARVARD.EDU

ALEV ERHAN

BESHOY SHOKRALLA

HARVARD LAW SCHOOL STUDENTS

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