

Nos. 25-1083; 25-1084

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In the  
**Supreme Court of the United States**

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MARKWAYNE MULLIN, ET AL., *Petitioners*,

*v.*

DAHLIA DOE, ET AL., *Respondents*.

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DONALD J. TRUMP, ET AL., *Petitioners*,

*v.*

FRITZ EMMANUEL LESLY MIOT, ET AL., *Respondents*.

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On Writs of Certiorari Before Judgment to the U.S.  
Courts of Appeals for the District of Columbia and  
the Second Circuits

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**BRIEF OF U.S. SENATOR TED CRUZ AS  
AMICUS CURIAE IN SUPPORT OF  
PETITIONERS**

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**INTEREST OF *AMICUS CURIAE*<sup>1</sup>**

*Amicus* U.S. Senator Ted Cruz sits on the Senate Foreign Relations Committee, which has jurisdiction over matters of immigration and foreign policy. Senator Cruz is also Chairman of the Senate Judiciary Committee's Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights, which has jurisdiction over matters involving judicial review of agency action. Senator Cruz therefore has a strong interest in ensuring that federal courts (1) faithfully interpret the Immigration and Nationality Act ("INA"), including the INA's bars on judicial review, and (2) avoid entanglement in questions of foreign affairs committed to the political branches.

Those interests are at their zenith here. The district court decisions below bypassed plain statutory limits on judicial review to second-guess decisions about foreign countries that the U.S. Constitution reserves to the political branches.

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<sup>1</sup> No party's counsel authored this brief in whole or in part, and no person or entity other than *amicus* or his counsel made a monetary contribution intended to fund its preparation or submission.

## INTRODUCTION

Article III of the U.S. Constitution authorizes courts to exercise “neither FORCE nor WILL but merely judgment.” The Federalist No. 78, at 465 (A. Hamilton) (Clinton Rossiter ed., 1961). Not for the first time, however, the district courts below exercised lots of will and little judgment.

These cases are about the INA’s Temporary Protected Status (“TPS”) program. Under the TPS program, the Secretary of Homeland Security “may designate a foreign state” for TPS only if the Secretary finds one of three types of conditions satisfied, including a catchall for “extraordinary and temporary conditions in the foreign state that prevent aliens ... from returning to the state in safety, unless the [Secretary] finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.” 8 U.S.C. § 1254a(b)(1). While the designation lasts, eligible nationals of the designated countries may get a temporary work permit and avoid removal. *Id.* § 1254a(a)(1). TPS, however, doesn’t provide a pathway “for adjustment to lawful ... resident alien status.” *Id.* § 1254a(h).

As the name indicates, a country designation is meant to be temporary: “not more than 18 months.” *Id.* § 1254a(b)(2). The Secretary must periodically review the designation, and “shall terminate the designation” if the Secretary finds that the foreign country no longer satisfies the statutory criteria. *Id.* § 1254a(b)(3).

That’s what the Secretary did here for both Haiti (originally designated in 2010) and Syria (originally designated in 2012). *Termination of the Designation of*

*Haiti for Temporary Protected Status*, 90 Fed. Reg. 54,733 (Nov. 28, 2025); *Termination of the Designation of Syria for Temporary Protected Status*, 90 Fed. Reg. 45,398 (Sept. 22, 2025).

Given the affairs of state implicated by TPS country designations, it is no surprise that the INA expressly “preclude[s] judicial review” of the Secretary’s TPS-designation terminations. 5 U.S.C. § 701(a)(1). In a section called “Judicial Review,” Congress said as follows:

There is no judicial review of any determination of the [Secretary] with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

8 U.S.C. § 1254a(b)(5)(A).

District courts around the country, however, had other ideas. Despite two stays from this Court, district courts have repeatedly blown past this bar on judicial review and stayed recent TPS terminations, including the terminations at issue here. In doing so, district courts have inserted themselves deep into questions of foreign affairs and national security, and substituted their views of the “national interest” for those of the Executive Branch. *See Miot v. Trump*, No. 25-CV-02471, 2026 WL 266413, at \*27–29 (D.D.C. Feb. 2, 2026), *cert. granted before judgment*, No. 25-1084, 2026 WL 731087 (U.S. Mar. 16, 2026). By transgressing clear limits on their judicial authority and ignoring this Court’s repeated stays, these courts have exercised will, not judgment.

Enough. The Court should restore judicial order.

## SUMMARY OF ARGUMENT

The INA expressly precludes judicial review of all Administrative Procedure Act (“APA”) claims challenging the Secretary’s TPS designation determinations. 8 U.S.C. § 1254a(b)(5)(A). The modern presumption of reviewability applied by the lower courts, requiring a narrow construction of *express* review bars, is wrong, and should be abandoned. But regardless, the presumption cannot authorize courts to read a review bar out of existence. That is what happened here. The review bar also applies to plaintiffs’ putative constitutional claims. That is unobjectionable because TPS designations are a public right that Congress and the President can terminate without judicial involvement. *See, e.g., Stern v. Marshall*, 564 U.S. 462, 488–89 (2011). Last, plaintiffs’ APA claims are nonjusticiable regardless because the TPS terminations they challenge are “committed to agency discretion by law.” 5 U.S.C. § 701(a)(2).

## ARGUMENT

### I. The Review Bar Applies

The district courts below applied the presumption in favor of judicial review of agency action to bypass the review bar.<sup>2</sup> That was wrong for three reasons. First, no presumption of reviewability should apply to the interpretation of an *express* review bar, which already manifests an intent to preclude review. Instead, an express review bar should be given its fair reading. Second, even if the presumption applies to the review bar, the statutory text overcomes it here. Third, it doesn't matter that plaintiffs allege (meritless) constitutional claims of "animus" based upon materials far outside the administrative record, such as social media posts. TPS designations are public rights that can be constitutionally committed entirely to the political branches.

#### A. Express Review Bars Should Receive Their Fair Reading

The judicial review provisions of the APA don't apply when "statutes preclude judicial review." 5 U.S.C. § 701(a)(1). This is such a case. 8 U.S.C. § 1254a(b)(5)(A). Once Congress has expressly precluded judicial review, as here, Congress has made its preclusive intent clear, and a review bar should receive its fair reading, consistent with principles of textualism and faithful agency, not a cramped reading.

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<sup>2</sup> See, e.g., *Miot*, 2026 WL 266413, at \*9 (quoting *Kucana v. Holder*, 558 U.S. 233, 251 (2010)); see also *Nat'l TPS All. v. Noem*, 166 F.4th 739, 755–57 (9th Cir. 2026).

This Court’s modern reviewability cases, however, often call for “clear and convincing evidence” of an intent to preclude judicial review even when Congress has *expressly* done so. These cases assert that express review bars must be read to permit judicial review so long as a statute is “reasonably susceptible” to such a reading. *Kucana v. Holder*, 558 U.S. 233, 251–52 (2010) (quoting *Reno v. Cath. Soc. Servs., Inc.*, 509 U.S. 43, 64 (1993), and *De Martinez v. Lamagno*, 515 U.S. 417, 434 (1995)).

As applied to express review bars, there are reasons to “doubt the soundness of this modern presumption,” as it elevates “the supposed purpose or ‘spirit’ of the APA over the statute’s text.” *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 243 (2020) (Thomas J., dissenting); cf. *Biden v. Nebraska*, 600 U.S. 477, 509 (2023) (Barrett, J., concurring). Nothing in the APA’s text authorizes a cramped reading of review bars. *Guerrero-Lasprilla*, 589 U.S. at 243 (Thomas. J., dissenting). The APA recognizes a default rule that “final agency action for which there is no other adequate remedy in a court [is] subject to judicial review.” 5 U.S.C. § 704. But that default rule is overcome when, as here, a statute “preclude[s] judicial review.” *Id.* § 701(a)(1). And preclusion need not even be expressly stated, but may be derived by implication from the statutory scheme. See *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 350–51 (1984).

Some plaintiffs in these cases try to derive a “clear-statement” rule from 5 U.S.C. § 559, which provides that a “[s]ubsequent statute may not be held to supersede or modify ... [the APA] ... except to the extent that it does so expressly.” This argument is a red herring. Applying an exception recognized in the APA

for “statutes [that] preclude judicial review,” 5 U.S.C. § 701(a)(1), doesn’t “modify” the APA, it just applies an exception recognized by the APA. And in any event, the review bar here does bar judicial review “expressly.”

The clear-statement version of the presumption is also ahistorical. The presumption of reviewability arose shortly after enactment of the APA in deportation cases, but it didn’t resemble the modern formulation.

The first case is *Heikkila v. Barber*, 345 U.S. 229 (1953). Before the APA, “habeas corpus was the only remedy by which deportation orders could be challenged in the courts.” *Id.* at 230. After Congress enacted the APA, an alien sought to challenge a final deportation order through an action for declaratory and injunctive relief under the APA, arguing that a statutory provision providing for the deportation of Communist Party members was unconstitutional. *Id.* Nothing in the INA expressly barred judicial review, but the Immigration Act of 1917 provided that deportation orders are “final.” *Id.* at 232. In *Heikkila*, the Government argued that the word “final” impliedly precluded judicial review under the APA. *Id.* at 231–32.

This Court agreed. The Court acknowledged that the House Committee Report on the APA said that “[t]o preclude judicial review under this bill a statute, *if not specific in withholding such review*, must upon its face give clear and convincing evidence of an intent to withhold it.” *Id.* at 232 (quoting S. Doc. No. 248, 79th Cong., 2d Sess., 212, 275) (emphasis added). And the Court further acknowledged that the word “final” in the 1917 Act was ambiguous: “Read alone, it might

refer to the doctrine requiring exhaustion of administrative remedies before judicial process can be invoked.” *Id.* at 233. But given the “history” of committing deportation orders exclusively to the political branches, the fair reading of “final” in the 1917 Act was that Congress meant to preclude judicial review. *Id.* at 233–35. So the APA’s “first exception” applied, and even Heikkila’s constitutional claims were unreviewable by implication. *Id.* at 235. Thus, this Court’s very first immigration case applying the presumption in favor of judicial review is inconsistent with the modern formulation of the presumption.<sup>3</sup> The Court applied the presumption as a modest check to avoid preclusion by implication, not to misread express review bars, and even facially ambiguous text could bar review in context. That was the Court’s “traditional approach.” *Guerrero-Lasprilla*, 589 U.S. at 242 (Thomas, J., dissenting); see also Nicholas Bagley, *The Puzzling Presumption of Reviewability*, 127 Harv. L. Rev. 1285, 1307–09 (2014) (reviewing early cases and the early understanding).

The phrase “clear and convincing evidence” next appeared in passing in *Rusk v. Cort*, 369 U.S. 367, 380 (1962). There, this Court held that a person could bring an APA challenge to the Secretary of State’s determination that he was not a citizen on account of fleeing the United States to avoid military service, as no statute expressly barred review of the Secretary of State’s citizenship determinations. *Id.* at 375. The

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<sup>3</sup> Other early cases similarly address whether review should be barred by implication. *Shaughnessy v. Pedreiro*, 349 U.S. 48, 51 (1955) (holding that “final” in the INA should not be read to bar judicial review of deportation orders); *Brownell v. We Shung*, 352 U.S. 180, 184–85 (1956) (same as to exclusion).

Court rejected the Government’s argument that a potential means of collaterally challenging the Secretary of State’s determination before the Attorney General was exclusive. *Id.* Nothing in *Rusk*, however, contemplated anything like a clear-statement canon for express review bars, and *Rusk* did not purport to announce a novel standard by borrowing the words “clear and convincing evidence” from the legislative history of the APA.<sup>4</sup>

Over time, however, *Rusk*’s “clear and convincing” formulation borrowed from a snippet of legislative history became somewhat of an accidental landmark. This Court’s modern cases, particularly in immigration matters, have sometimes applied that language to give *express* review bars something other than their single best reading. *Guerrero-Lasprilla*, 589 U.S. at 229.

That modern version of the presumption is wrong. It also opens the floodgates by articulating a vague “clarity” standard. “How clear is clear?” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 408 (2024) (citation omitted). No one really knows. *Id.* Courts eager to reach the merits will therefore manufacture statutory ambiguities to bypass review bars. This places an unwarranted burden on Congress to anticipate every possible evasion maneuver that the inventive immigration bar will come up with to avoid statutory preclusion.

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<sup>4</sup> This phrase doesn’t even make sense in the context of interpreting legal text: “clear and convincing evidence” refers to “a heightened standard” of evidentiary proof used in “rare” civil cases. *E.M.D. Sales, Inc. v. Carrera*, 604 U.S. 45, 47 (2025). But preclusion is a question of law, not fact.

These cases illustrate the problem with the modern approach. Congress could not have been clearer, and yet here we are. Express review bars should be given their fair reading.

### **B. The Review Bar’s Text Overcomes the Presumption**

Even if the Court applies the modern presumption of reviewability, the presumption cannot allow the manifest statutory misconstruction that the district courts engaged in here.

The district courts below read the review bar out of existence, framing direct APA challenges to a termination as somehow “collateral” to a termination. *Miot*, 2026 WL 266413, at \*11. To illustrate, one district court allowed plaintiffs to directly challenge the Secretary’s termination of the TPS designation for Haiti on the ground that “the Secretary failed to consult; engaged in a pattern or practice of terminating TPS writ large; preordained the outcome of her review; engaged in both unreasoned and unsupported decision making; and, among other failures, acted with discriminatory animus.” *Id.* at \*10. In other words, the district court engaged in full-scale APA review of a TPS termination.

You might wonder, what then, does the review bar do? In the district court’s view, the review bar only applies to claims seeking to compel the Secretary to “arrive at a particular substantive outcome.” *Id.* at \*11. According to this district court, therefore, the statute merely forecloses a district court’s authority to “modify” the Secretary’s substantive conclusion. *Id.* at \*13 (“The TPS statute’s language here bars the Court

from modifying the Secretary’s determination—and so at a minimum, is not superfluous on this score.”).

The set of claims that the district court imagined would still be barred is a null set. The APA doesn’t authorize a district court to assume the role of Secretary and “modify” the Secretary’s discretionary findings. Rather, the proper remedy for agency error is a remand. *INS v. Orlando Ventura*, 537 U.S. 12, 16–17 (2002) (per curiam). So the district court gave the review bar no effect.

Needless to say, blue-penciling the review bar is not a faithful, or even a reasonable, reading of the review bar. Contrast that reading with the actual text: “There is no judicial review of any determination of the [Secretary] with respect to the ... termination ... of a designation, of a foreign state under this subsection.” 8 U.S.C. § 1254a(b)(5)(A). The word “any” “bespeaks breadth.” *Encino Motorcars, LLC v. Navarro*, 584 U.S. 79, 88 (2018). It means “of whatever kind.” *Patel v. Garland*, 596 U.S. 328, 338 (2022) (quoting *Webster’s Third New International Dictionary* 97 (1993)). Coupled with the word “determination,” “any determination” covers review of any justifications given by the Secretary in support of a termination. *EPA v. Calumet Shreveport Ref., LLC*, 145 S. Ct. 1735, 1750 (2025) (defining agency “determination”). The phrase “with respect to” has a further “broadening effect” on the bar, covering “not only its subject but also matters relating to that subject.” *Patel*, 596 U.S. at 339. To put that together, any of the Secretary’s justifications having a connection to the TPS termination are unreviewable. This text cannot reasonably be read as solely limited to remedies directing the Secretary to “arrive at a particular substantive outcome.” *Miot*,

2026 WL 266413, at \*11. That re-writes the text entirely.

There may be edge cases relating to the review bar, but this is not one of them. The plaintiffs here *directly* challenge the Secretary’s TPS termination by seeking a stay and vacatur of the termination. The plaintiffs argue that the Secretary’s *reasons* for terminating TPS—i.e., the Secretary’s unreviewable determinations—were arbitrary and capricious and pretextual. These claims fall within the heartland of the review bar. Nor may plaintiffs directly challenge a termination by alleging inadequate “consultation with appropriate agencies of the Government.” 8 U.S.C. § 1254a(b)(3)(A). The Secretary determined that the agency’s consultation was adequate when publishing the termination, and that determination falls within the review bar’s broad sweep, faithfully construed. *Id.*

Holding otherwise would place an insurmountable burden on Congress. What more does Congress need to say?

### **C. The Review Bar Applies to the Putative Constitutional Claims**

The review bar also renders plaintiffs’ constitutional claims unreviewable. The bar’s unequivocal text contains no hint of an exception for constitutional claims.

That raises no serious constitutional question whatsoever because TPS designations are a “public right.” Rights that are “integrally related to particular Federal Government action” are public rights, not private rights. *Stern*, 564 U.S. at 490–91. Public rights exist “between the Government and persons subject to its authority in connection with the performance of

the constitutional functions of the executive or legislative departments.” *Crowell v. Benson*, 285 U.S. 22, 50 (1932). “[T]he Framers expected that Congress would be free to commit such matters completely to nonjudicial executive determination.” *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 68 (1982) (plurality opinion). As a result, this Court has repeatedly held that “congress may” bar all review of “matters, involving public rights” in “the courts of the United States, as it may deem proper.” *Stern*, 564 U.S. at 488–89 (quoting *Murray’s Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. 272, 284 (1855)). That is what Congress did when it enacted the review bar for TPS designations and terminations.

A TPS designation is a quintessential public right. It is “integrally related to particular Federal Government action,” *id.* at 490–91, namely, the Secretary’s determination that the conditions enumerated in 8 U.S.C. § 1254a(b)(1) do or do not exist in a particular foreign country. And the Secretary makes these determinations “in connection with the performance of the constitutional functions of the executive or legislative departments,” *Crowell*, 285 U.S. at 50, namely, the Executive and Legislative Branches’ shared constitutional authority over foreign affairs and aliens. Further, plaintiffs’ constitutional claims “derive[] from a federal regulatory scheme”—the discretionary TPS program—and accordingly seek a benefit that exists “only by grace of the other branches.” *Stern*, 564 U.S. at 490, 493 (citations omitted).

Still more, there is no due process issue, because TPS inherently applies on a country- or area-wide level, making it even more unlike a private right. Every TPS determination considers only conditions

shared throughout a whole country or area of a country and applies to all nationals of that country or area without consideration of any individual’s particular circumstances. As a result, the Constitution permits Congress to bar the courthouse doors to constitutional claims challenging TPS determinations. *Cf. Bi-Metallic Inv. Co. v. State Bd. of Equalization*, 239 U.S. 441, 445 (1915).

This public-rights analysis explains the outcome in *Heikkila*, where the Court held that a review bar impliedly precluded a constitutional challenge to a deportation order, citing a long history of committing deportation decisions to the political branches. 345 U.S. at 233–35.

Some later cases such as *Johnson v. Robison*, 415 U.S. 361 (1974), and *Webster v. Doe*, 486 U.S. 592 (1988), are wrong to the extent they suggest that the Constitution requires judicial review of “colorable” constitutional claims involving public rights, *Webster*, 486 U.S. at 603. Although those cases involved classic public rights,<sup>5</sup> they only expressed a general uncertainty about precluding constitutional arguments, without any analysis of the nature of the rights at stake. *Webster*, 495 U.S. at 603; *Robison*, 415 U.S. at 373–74 (demanding “clear and convincing” evidence of congressional intent to preclude review of constitutional claims and finding none). They are not persuasive.

Indeed, this Court held in a case that postdates both *Robison* and *Webster* that “an alien unlawfully in

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<sup>5</sup> *Webster* involved termination of public employment, 486 U.S. at 594, and *Robison* involved denial of veterans’ educational benefits, 415 U.S. at 363–64.

this country has no constitutional right to assert selective enforcement”—a constitutional claim—“as a defense against his deportation” and “the doctrine of constitutional doubt” does not apply to such an alien. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 487–88 (1999). This Court can and should hold the same in the context of aliens bringing constitutional claims involving TPS relief.

The Court should apply the review bar as written and hold that it denies federal courts authority to hear all of plaintiffs’ claims, statutory and constitutional alike.

## **II. The Challenged TPS Terminations Are Committed to Agency Discretion**

Plaintiffs’ APA claims are also unreviewable because the TPS terminations they seek to challenge are “committed to agency discretion by law.” 5 U.S.C. § 701(a)(2). This exception to reviewability applies to “certain categories of administrative decisions that courts traditionally have regarded as ‘committed to agency discretion,’” *Dep’t of Com. v. New York*, 588 U.S. 752, 772 (2019) (quoting *Lincoln v. Vigil*, 508 U.S. 182, 191 (1993)), when “the relevant statute is drawn so that a court would have no meaningful standard against which to judge the agency’s exercise of discretion.” *Weyerhaeuser Co. v. U.S. Fish & Wildlife Serv.*, 586 U.S. 9, 23 (2018) (quoting *Lincoln*, 508 U.S. at 191). This narrow exception applies here because temporary relief for aliens has traditionally been a matter of agency discretion, and the relevant statute, 8 U.S.C. § 1254a(b)(1)(C), provides no manageable judicial standard.

Prior to Congress’s creation of TPS in 1990, the history of temporary relief for aliens was a tale of unfettered Executive Branch discretion. That history begins in 1960 when the Attorney General (acting through the Immigration and Naturalization Service (“INS”)) conferred “extended voluntary departure” (“EVD”) status on Cuba, even though no statute or regulation granted the Executive Branch authority to confer blanket relief from immigration enforcement on all nationals of a specific country. Lynda J. Oswald, Note, *Voluntary Departure: Limiting the Attorney General’s Discretion in Immigration Matters*, 85 Mich. L. Rev. 152, 157 (1986). No lawsuit challenged this designation, or the 1966 termination, of Cuba’s EVD status. *Id.* at 158–61. Over the next two decades, INS granted and terminated EVD status for eleven other countries, and still no one sought judicial review. *Id.* at 158 & n.40.

Finally, in 1983, a predominantly Salvadoran labor union sued to challenge the Attorney General’s refusal to grant EVD status to El Salvador despite calls from Congress and the public to do so. *Id.* at 161 (discussing *Hotel & Rest. Emps. Union, Loc. 25 v. Smith*, 846 F.2d 1499 (D.C. Cir. 1988) (en banc) (per curiam)). The D.C. Circuit, rightly, held that the Attorney General’s choice was “unreviewable under 5 U.S.C. § 701(a)(2) as having been committed to the agency’s discretion.” *Hotel & Rest. Emps. Union*, 846 F.2d at 1520 (opinion of Silberman, J.); *see id.* at 1510 (opinion of Mikva, J.). Although that court drew a distinction between enforcement and nonenforcement decisions, at least where “an individual’s liberty or property rights” are concerned, the court nonetheless concluded that “withholding of EVD status” “implicates only the kinds of policy choices and allocations left to

the Executive Branch and none of the individual rights and concerns that make judicial review desirable and possible.” *Id.* at 1520 (opinion of Silberman, J.) (citation omitted). In other words, EVD status involves public, not private rights, so judicial review of an EVD *termination* would be no more appropriate. The Executive Branch continued administering EVD without judicial interference until Congress replaced EVD with TPS in the Immigration Act of 1990. *Ramos v. Wolf*, 975 F.3d 872, 879 (9th Cir. 2020), *reh’g en banc granted, opinion vacated*, 59 F.4th 1010 (9th Cir. 2023); Pub. L. No. 101-649, 104 Stat. 4978 (1990).

This old soil of untrammelled executive discretion proves that TPS belongs to a category of administrative actions that has “traditionally” been regarded as “committed to agency discretion.” *Lincoln*, 508 U.S. at 191 (citation omitted).

In keeping with that tradition, the relevant INA’s text provides “no meaningful standard against which to judge” the TPS decisions here. *Id.* (citation omitted). The relevant text allows the Attorney General to provide TPS if, “after consultation with appropriate agencies,”

the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

8 U.S.C. § 1254a(b)(1)(C). These guidelines are not “judicially manageable standards” that would allow a

court “to evaluate agency action.” *Heckler v. Chaney*, 470 U.S. 821, 830 (1985).

In terminating TPS for Haiti and Syria, the Secretary determined that there were no longer “extraordinary and temporary conditions” that prevent those countries’ nationals “from returning in safety” and that, in any event, continuing these TPS designations would be “contrary to the national interest.” *Termination of the Designation of Haiti for Temporary Protected Status*, 90 Fed. Reg. at 54,735–38; *Termination of the Designation of Syria for Temporary Protected Status*, 90 Fed. Reg. at 45,399–402. In particular, the Secretary found that “the lack of access to verifiable information” from the Syrian government meant that “the United States cannot adequately vet Syrian nationals for identity, criminal history, or potential terrorist affiliations, posing an ongoing threat to public safety and national security.” *Termination of the Designation of Syria for Temporary Protected Status*, 90 Fed. Reg. at 45,401. Such “judgments on questions of foreign policy and national interest ... are not subjects fit for judicial involvement.” *Dist. No. 1, Pac. Coast Dist., Marine Eng’rs’ Beneficial Ass’n v. Mar. Admin.*, 215 F.3d 37, 42 (D.C. Cir. 2000) (citation omitted) (applying 5 U.S.C. § 701(a)(2)).

These are inherently political questions with often irreversible foreign relations implications. Here, as with other immigration matters, the Nation must “speak with one voice,” *Zadvydas v. Davis*, 533 U.S. 678, 680 (2001), and “the President alone has the power to speak or listen as a representative of the nation.” *United States v. Curtiss-Wright Exp. Corp.*, 299 U.S. 304, 319–20 (1936). The cacophonous voices of nearly 700 federal district judges won’t do.

**CONCLUSION**

This Court should reverse.

Respectfully submitted,

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