

Granting Refuge: Temporary Protected Status (TPS) for Haitians in the United States

Following the devastating earthquake which struck Haiti on January 12, Homeland Security Secretary Janet Napolitano on [January 15](#) [1] announced “the designation of Temporary Protected Status (TPS) for Haitian nationals who were in the United States as of January 12, 2010.” The “designation will allow eligible Haitian nationals in the United States to continue living and working in our country for the next 18 months.” This means that the [100,000-200,000](#) [2] Haitian immigrants whom the Department of Homeland Security (DHS) estimates are now in the United States on a temporary basis or without authorization will not be subject to removal as long as there is no functioning country to which they can return, and provided that they do not have criminal records. However, Haitian nationals who qualify for TPS are not receiving permanent residence in the United States or an “amnesty” if they were unauthorized. There are currently [535,000](#) [3] Haitian immigrants in the United States, with most living in Miami and New York, as well as Boston, Orlando, and Atlanta.

TPS as Humanitarian Relief

Temporary Protected Status (TPS) is a temporary, humanitarian form of relief from deportation that does not include the granting of permanent residence in the United States, nor the granting of “amnesty” to unauthorized immigrants.

- The Congressional Research Service (CRS), writing in a [2008 report](#) [4], describes TPS as “the statutory embodiment of safe haven for those aliens who may not meet the legal definition of refugee but are nonetheless fleeing—or reluctant to return to—potentially dangerous situations.”
- TPS is a form of humanitarian relief “that may be granted under the following conditions: there is ongoing armed conflict posing serious threat to personal safety; a foreign state requests TPS because it temporarily cannot handle the return of nationals due to environmental disaster; or there are extraordinary and temporary conditions in a foreign state that prevent aliens from returning, provided that granting TPS is consistent with U.S. national interests.”

The Secretary of Homeland Security, “in consultation with the Secretary of State, can issue TPS for periods of 6 to 18 months and can extend these periods if conditions do not change in the designated country.”

- In order to obtain TPS, an eligible national of the affected country must report to U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS), pay a processing fee, and meet certain eligibility requirements. TPS status entitles the recipient to work authorization.
- The major requirements for TPS is compliance with nationality and physical presence criteria such as evidence of a passport issued by the designated country, continuous physical presence in the United States since the date TPS went into effect, timely registration, and being otherwise admissible as an immigrant.

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- The TPS regulation also “specifies grounds of inadmissibility that cannot be waived, including those relating to criminal convictions and the persecution of others.”

Among the other countries which have received TPS designations, both currently active and expired, are:

- Sudan (November 1997-November 2011; ongoing armed conflict)
- Somalia (September 1991-March 2011; ongoing armed conflict)
- El Salvador (March 2001-September 2010; continuing effects of earthquake in 2001)
- Honduras (December 1998-July 2010; continuing effects of hurricane in 1998)
- Nicaragua (December 1998-July 2010; continuing effects of hurricane in 1998)
- Burundi (November 1997- May 2009; armed conflict)
- Liberia (March 1991-October 2007; armed conflict)
- Sierra Leone (November 1997-May 3, 2004; armed conflict)
- Angola (March 2000-March 2003; armed conflict)
- Bosnia-Herzegovina (August 1992-February 2001; armed conflict)
- Kosovo Province of Serbia (June 1998-December 2000; armed conflict)
- Rwanda (June 1995-December 1997; armed conflict)
- Lebanon (March 1991-March 1993; armed conflict)
- Kuwait (March 1991-March 1992; armed conflict)

TPS for Haitians

- The January 15 designation of TPS for Haitians emphasizes “that TPS will apply only to those individuals who were in the United States as of January 12, 2010. Those who attempt to travel to the United States after January 12, 2010 will not be eligible for TPS and will be repatriated.”

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[1] http://www.dhs.gov/ynews/releases/pr_1263595952516.shtm

[2]

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=e54e60f64f336210VgnVCM100000082ca60aRCRD&vgnnextchannel=e54e60f64f336210VgnVCM100000082ca60aRCRD>

[3] <http://www.migrationinformation.org/USfocus/display.cfm?id=770>

[4] http://assets.opencrs.com/rpts/RS20844_20080918.pdf

[5] http://www.immigrationpolicy.org/sites/default/files/docs/Granting_Refuge_012210.pdf

