



The MIGRANT CENTER

At the Church of St. Francis of Assisi

135 W. 31st Street. New York, NY 10001 • 212-736-8500 ext. 377

migrantcenter@stfrancisnyc.org

A Primer on TPS for the Philippines

By Cristina A. Godinez, Esq.*

What is TPS?

Temporary Protected Status (TPS) is a blanket humanitarian relief granted to migrants in the U.S. who cannot return to their home country due to the following temporary conditions:

- Ongoing armed conflict posing serious threat to personal safety (such as civil war);
- Environmental disaster (such as earthquake or hurricane), or an epidemic; or
- Other extraordinary and temporary conditions preventing migrants from returning.¹

What are the benefits of being granted TPS?

During the designated TPS period (typically granted for an initial period of between six (6) to 18 months), beneficiaries found eligible²:

- Are not deportable
- May obtain work authorization
- May obtain travel authorization

Who will benefit from the TPS designation of the Philippines?

TPS designation will potentially benefit nearly 600,000 Filipinos in the U.S. This includes over 300,000 Filipino non-immigrants (visitors, students or temporary workers)³ in the U.S. and about 270,000 undocumented Filipinos⁴.

Is TPS the same as amnesty for undocumented migrants?

No. TPS is a temporary benefit that does not lead to permanent legal resident (or green card) status nor does it give any other immigration status.

However, a TPS beneficiary may apply for other non-immigrant status, permanent residency, or any other immigration benefit s/he may be eligible for separately.

Although typically granted for 18 months only, the DHS may extend a foreign country's TPS designation for as long as the conditions that led to the TPS designation persist.

Honduras was first granted TPS designation in 1999 and is now on its eleventh extension⁵, while El Salvador was designated for TPS in March 2001 and is now on its ninth extension.⁶

Can Filipinos apply for TPS?

Not yet. Although Typhoon Haiyan clearly created an unprecedented humanitarian crisis, Filipinos do not qualify because the Philippines has yet to be designated for TPS by the Secretary of Homeland Security.

¹ <http://www.uscis.gov/humanitarian/temporary-protected-status-deferred-enforced-departure/temporary-protected-status#>

² Ibid.

³ <https://www.dhs.gov/yearbook-immigration-statistics-2012-nonimmigrant-admissions>. (Table 26). Philippine nonimmigrant admissions from 2003 to 2012 is roughly 300,000 per year. In 2012, over 320,000 Filipino nonimmigrants came to the U.S.

⁴ http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_p_e_2009.pdf

⁵ <https://www.federalregister.gov/articles/2013/04/03/2013-07673/extension-of-the-designation-of-honduras-for-temporary-protected-status>

⁶ <https://www.federalregister.gov/articles/2013/05/30/2013-12793/extension-of-the-designation-of-el-salvador-for-temporary-protected-status#h-9>

How can the Philippines obtain TPS designation for its nationals in the U.S.?

Under the law⁷, the Secretary of Homeland Security, in consultation with the Secretary of State, may grant TPS designation for the Philippines based on:

- A finding that an environmental disaster resulted in a substantial, but temporary, disruption of living conditions in the area affected;
- The Philippines is temporarily unable to handle the return of its nationals adequately; and
- The Philippines has officially requested TPS designation.

The official request for TPS designation was conveyed on December 13, 2013 by Philippine Ambassador Jose Cuisia to the U.S. State Department.⁸

During his visit in the ravaged city of Tacloban three days later, Secretary of State John Kerry expressed the U.S. government's commitment to help however long it takes.⁹

Why should the DHS designate the Philippines for TPS?

On November 8, 2013, the strongest typhoon on record hit the Philippines, leaving over 6,000 dead, more than 28,000 injured and more than 1,700 still missing. Roughly 14 million people were left homeless and displaced. It is the strongest storm recorded at landfall.¹⁰

⁷ Sec. 244. 1/ [8 U.S.C. 1254]. Under the Homeland Security Act of 2002, the authority to grant TPS was transferred from the Attorney General to the Secretary of Homeland Security.

⁸ "Recognizing the intense desire of the Filipino-American Community to more effectively assist victims, we would like to formally request that eligible Filipino nationals in the US be granted Temporary Protected Status under Section 244 of the US Immigration and Nationality Act," said the letter signed by Ambassador Cuisia and addressed to Acting Secretary of Homeland Security Rand Beers.

⁹ Sec. Kerry remarked that the devastation in Tacloban was "unlike anything I've seen" and likened the area to a war zone. http://www.washingtonpost.com/world/in-visit-to-philippines-kerry-vows-us-help-for-however-long-it-takes/2013/12/18/1604bd70-67ca-11e3-ae56-22de072140a2_story.html

¹⁰ <http://reliefweb.int/sites/reliefweb.int/files/resources/NDRRMC%20Update%20re%20Sit%20Rep%2092%20Effects%20of%20%20TY%20%20YOLANDA.pdf>

The economic cost will be the largest ever in terms of Philippine typhoon losses.¹¹ The UN Office for the Coordination of Humanitarian Affairs reports that "(t)wo months after the storm, the scale and spread of humanitarian needs is still daunting."¹²

The Philippines' National Economic and Development Authority (NEDA) said the total damage and loss from Typhoon Yolanda (Haiyan) has been initially estimated at PhP571 billion or \$13 billion.

TPS designation is needed to provide a safe haven for many Filipinos who cannot return to the Philippines because of the national crisis that followed the massive devastation brought by the typhoon.

What is the legal basis for the TPS designation of the Philippines?

Granting the Philippines TPS designation follows the established principle that "no person, regardless of status or conduct, may be returned in any manner whatsoever to a country where his or her life or integrity would be at risk."¹³ The human right of migrants to a safe haven is implicitly recognized in international law and in U.S. immigration law.

How can Typhoon Haiyan relief efforts benefit from the TPS designation of the Philippines?

According to a World Bank report¹⁴, almost 10 percent of the Philippines' Gross Domestic Product comes from remittances. In 2012, Filipinos all around the world sent home a new high of \$23.8 billion. Of this amount, more than 40 percent or \$9.5 billion comes from Filipinos in the United States¹⁹.

Remittances from U.S.-based Filipinos already constitute more than 70 percent of the funds needed to cover the \$13 billion damage brought about by Typhoon Haiyan.

¹¹ CEDIM Forensic Disaster Analysis Group (FDA), Super Typhoon Haiyan / Yolanda – Report, 13.11.2013 – Report No. 2, Focus on Philippines – 18:00 GMT.

¹² <https://docs.unocha.org/sites/dms/Documents/16%20Jan%2014%20USG%20Statement%20Philippines%202%20mths.pdf>

¹³ <http://www.unhcr.org/4a1e4d8c2.pdf>

¹⁴ <http://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS>

By granting Philippines TPS designation, the Filipino American community can continue boosting the recovery effort in the Philippines.

Also, granting the TPS designation would allow Filipino breadwinners in the United States to travel and be with families even for a brief period and temporarily, in these times of great need.

What countries are under TPS designation?

Designated Country	Most Recent Designation Date	Current Expiration Date
El Salvador	March 9, 2001	March 9, 2015
Haiti	July 23, 2011	July 22, 2014
Honduras	January 5, 1999	January 5, 2015
Nicaragua	January 5, 1999	January 5, 2015
Somalia	September 18, 2012	March 17, 2014
Sudan	May 3, 2013	November 2, 2014
South Sudan	May 3, 2013	November 2, 2014
Syria	October 1, 2013	March 31, 2015

El Salvador has the highest number of TPS beneficiaries with 217,000. This is followed by Honduras with 66,000 then Haiti with 48,000.¹⁵ Roughly 3,000 were estimated to benefit from Syria's recent TPS designation.¹⁶

Are there other countries awaiting TPS designation?

Guatemala has requested TPS designation in June 2010 in light of the crisis brought by a volcanic eruption followed by a major storm¹⁷. The Guatemalan government had formally requested the U.S. for TPS

designation¹⁸. Then Senator John Kerry issued a letter in July 2010 in support of TPS designation for Guatemala¹⁹.

Pakistan also sought TPS designation in January 2011 after floods in July 2010 killed almost 2,000 people and caused extensive damage. It is not clear whether a formal request was made by the Pakistani government but the Pakistani community in the U.S. had the support of Rep. Al Green (D-Texas) who filed a bill in support of Pakistan's TPS designation.

When will the DHS designate the Philippines for TPS?

There is no specific timeline for the DHS to decide, but national and local government officials have already urged the immediate designation of the Philippines for TPS. These supporters include 20 U.S. senators from both sides of the aisle.²⁰ H.R. No. 3602 was also introduced in the House of Representatives seeking TPS designation for the Philippines.²¹

In New York, U.S. Senator Charles Schumer and Cardinal Timothy Dolan have jointly called for the immediate grant of TPS status for Filipinos,²² while at the New York City Council, Councilman Danny Dromm (D-Jackson Heights), chairman of the Committee on Immigration, and Councilman Mathieu Eugene (D-Brooklyn) also expressed support²³. The New York City Council has passed a resolution calling upon the DHS to designate the Philippines for TPS.²⁴

** Cristina A. Godinez is an immigration attorney who serves as the ad hoc Chair of the Stand Up for Migrants Project of the Migrant Center at the St. Francis of Assisi Church in New York City.*

¹⁸ <http://global.christianpost.com/news/guatemala-awaits-us-decision-to-grant-tps-86646/>

¹⁹ http://www.boston.com/news/local/massachusetts/articles/2010/07/15/kerry_urged_tps_for_guatemalan_immigrants/

²⁰ <http://www.aila.org/content/fileviewer.aspx?docid=46491&linkid=269000>

²¹ <http://beta.congress.gov/bill/113th-congress/house-bill/3602/cosponsors>

²² <http://www.schumer.senate.gov/record.cfm?id=349249&>

²³ http://www.qchron.com/editions/western/dromm-seeks-tps-for-filipino-nationals/article_6636c4ca-4752-5dcc-9f7f-133d2351df54.html

²⁴ <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1531334&GUID=16A5486B-DEB3-4E3F-8F66-836229B5E628&Options=&Search=>

¹⁵ Congressional Research Service compilation of USCIS data, December 13, 2011.

¹⁶ http://www.nytimes.com/2012/03/24/us/syrians-in-the-us-are-given-protected-immigration-status.html?_r=0

¹⁷ <http://www.aljazeera.com/indepth/opinion/2012/12/2012122695435408482.html>