

THE LEDE

# THE GREAT DELEGALIZATION

*More than a million immigrants are seeing protections that granted them safe lives in the U.S. suddenly swept away.*

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In early 2010, an earthquake devastated Haiti—but, even as Haitians in the U.S. had far less to return to, they received a new opportunity to stay. Reasoning that it was no longer safe to deport anyone back to Haiti, the Obama Administration allowed them to apply for Temporary Protected Status, which meant a U.S. work permit and a written assurance that they wouldn't be deported. They might not be able to go home again, but they could make a new one. And tens of thousands of them did.

Many found steady jobs: an estimated thirteen thousand Haitian T.P.S. holders currently work as nursing assistants. If they had children, the older ones grew up among Americans; the younger children were native-born citizens. (Nearly four hundred thousand U.S.-born children have at least one parent with T.P.S.) In theory, each T.P.S. grant lasted eighteen months, at the end of which the U.S. could tell the immigrants benefitting from it to go home—but, when the first Trump Administration tried to do just that, a federal judge stopped it. The longer the U.S. extended T.P.S. protections, the more remote the prospect of losing them seemed.

Until it wasn't. In July, 2025, the second Trump Administration announced that it would end Temporary Protected Status for Haiti. In February, as rumors spread of coming U.S. Immigration and Customs Enforcement sweeps through Haitian communities, a federal judge blocked the Administration from carrying out the termination, ruling that the Department of Homeland Security was likely motivated by racism and not, as federal law requires, by current conditions in Haiti. This decision left Haitian T.P.S. holders with work permits that would remain valid as long as the court ruling held. Then, on June 25th, the Supreme Court ruled 6–3 that the Trump Administration could move

forward with stripping protections from three hundred and thirty thousand Haitians living in the U.S. under T.P.S., along with some four thousand Syrians. The Court found, among other things, that the Administration cannot be sued for violations of the law governing T.P.S.

The subsequent weeks brought chaos. The Trump Administration kept declaring expiration dates for Haitian T.P.S.-based work permits, even though the federal courts hadn't completed the paperwork implementing the Supreme Court's ruling. Some employers—who are on the hook for insuring the legality of their workers—fired Haitians who had T.P.S. protections. ICE's Ohio field office called Haitians in to fit them with ankle monitors.

These are people who had official documentation allowing them to work, and live, in the U.S. But their status in the United States was always subject to the discretion of the executive branch. The Trump Administration has exploited such ambiguities over and over again. Since January, 2025, the White House has stripped more than a million people of T.P.S. and similar protections. Call it the Great Delegalization.

People with Temporary Protected Status were never, precisely, safe. Instead, they lived in the chasm between most Americans' assumptions about immigration status and what the law actually requires. T.P.S. status provides no legal mechanism to apply for a green card, or any other immigration status. Instead, people have had to spend time and money just to remain in place. By now, a Haitian who has had T.P.S. since 2010 has submitted their fingerprints to D.H.S. on nine different occasions—and has paid a total of seven hundred and five dollars to do so. The things that the public might colloquially consider “good citizenship”—living somewhere for a long time, becoming integrated in the community, creating jobs, learning English—count for approximately nothing in these cases.

There are, of course, many people who have been in the U.S. for just as long as the longest-resident T.P.S. holder, and have never held a work permit or been able to sleep untroubled by fears of immigration authorities. Many, if not most, of them would happily have submitted an application form and their biometric data if given the opportunity. But, conversely, the people who had that opportunity, and took it, now find themselves no safer than anyone else. If ICE comes for them, or happens upon them, it is legally entitled to hold them in detention or simply send them home—or to one of the three dozen countries that have signed agreements with the U.S. to accept deportees from elsewhere.

The second Trump Administration came into office warning that people with T.P.S. could lose it at any time. It has followed through by refusing to extend every major T.P.S. grant that has come up for renewal—and has sometimes even moved up the termination date that the Biden Administration had previously set. Nearly six hundred and eighty thousand people from six countries—Venezuela and Honduras, most commonly, but also Afghanistan, Cameroon, Nepal, and Nicaragua—have already lost Temporary Protected Status. The T.P.S. designations of Burma, Ethiopia, Somalia, South Sudan, and Yemen have been on life support, thanks to federal lawsuits. Now, because of the Supreme Court's June decision, judges will likely act in the coming weeks to allow the Administration to carry on with its terminations.

Meanwhile, D.H.S. has removed protections from people who entered under a Biden-era program that gave two-year work permits to applicants from Cuba, Haiti, Nicaragua, and Venezuela. (Many of these people were then allowed to apply for T.P.S., meaning that they've essentially been delegalized twice). It also stripped parole and work permits from asylum seekers who came to the U.S.-Mexico border after making an appointment at a port of entry—another Biden initiative, intended to discourage people from entering the U.S. illegally.

In September, the last of the major T.P.S. designations is poised to expire. Since

2001, a hundred and seventy thousand Salvadoran nationals have been protected under T.P.S.—making their status older than the department that now holds their fate in its hands. Federal law obligated D.H.S. to announce by July 11th whether T.P.S. for El Salvador would continue. The department did not do this, and so federal law should now obligate it to issue a six-month extension. But if the Administration chooses to ignore federal law, and summarily announce, in September, that T.P.S. for El Salvador has ended, who will stop them? The Supreme Court has just said that such actions are not subject to judicial review. Between El Salvador and the few other remaining T.P.S. countries, including Ukraine, nearly two hundred and seventy-five thousand more immigrants could be delegalized by the end of 2026.

**I**t used to be easier for longtime residents to “get legal.” For most of the twentieth century, people who had arrived before a date set by Congress, often fifteen to twenty years in the past, could simply register for permanent status; those caught by immigration agents could ask a judge for status on the basis of their length of residence and community ties. The registry date currently on the books is January 1, 1972. Congress last advanced it in 1986, when it paired a retroactive “amnesty” with more aggressive border enforcement—which ended up doing less to deter new entrants than to discourage them from ever leaving. The last major changes to the immigration system—the various visas and benefits that are formally established by Congress—were made in 1990. And, in 1996, Congress made it more difficult for people who had ever been undocumented to attain official status. Arguably, the immigration system has been out of equilibrium ever since, with an increasingly large and settled population of “unauthorized” immigrants, whose chances of becoming “legal immigrants” are dimmer than ever before.

The only remaining options have been forms of administrative discretion—the executive branch’s authority to grant temporary protection from deportation in particularly compelling cases. Temporary Protected Status, which was created

in the 1990 bill, is one such tool. Parole is another: George W. Bush, for example, allowed Cubans who were stuck in legal-immigration backlogs to come to the U.S. and live with their relatives while their cases were pending. Deferred action, which the Obama Administration used to protect a generation of immigrants who'd grown up in the United States—the so-called Dreamers—is a third. Faced with the choice between offering some protections to a group of sympathetic or vulnerable immigrants and offering none at all, Presidents have again and again acted with short-term compassion.

Congress has rarely directly addressed the reality that millions of so-called “unauthorized” immigrants are, in fact, actively complying with the requirements of the U.S. government. When legislators attempted to pass immigration reform, during the second terms of both George W. Bush and Barack Obama, they did so on the same premise as in 1986: retroactive legalization for the people who were “living in the shadows,” in exchange for more enforcement to stop other people from coming in. Since 2014, with a single exception—passing a law during the first Trump Administration that legalized a few thousand Liberian immigrants—representatives have sat on their hands and let the executive branch take the flak.

This strategy almost failed in 2017 and 2018, when Donald Trump first tried to kill T.P.S.—but the federal courts stepped in to preserve the status quo instead. Now the Supreme Court has effectively sidelined the judicial branch, and the failures of the immigration system to allow people to “get legal” are finally obvious.

There is some legislative movement. In April, House members forced a bill to the floor to restore T.P.S. for Haiti, and passed it; a similar campaign is under way for a bill that would legalize T.P.S. holders writ large. But there's no indication such proposals have the veto-proof majorities that they would presumably require. Some Republicans at the state and local level—including

Mike DeWine, the governor of Ohio—have been sounding the alarm about losing thousands of members of their workforce at once, but those complaints have yet to create a sense of urgency in Washington.

The last immigrants standing in the age of delegalization are the Dreamers—traditionally regarded by both parties as politically sympathetic. In 2017, when Trump’s first Attorney General, Jeff Sessions, declared an end to Deferred Action for Childhood Arrivals, or DACA, there was some momentum to pass immigration legislation—but by the time the Supreme Court ruled that the way in which the Administration tried to cancel the program was unlawful, talks in Congress had fallen apart. A federal case over the program’s legality could eventually make its way to the Supreme Court—perhaps that, finally, might shock Congress into action. In the meantime, the Trump Administration is slow-walking DACA applications, allowing recipients to lose their protections while waiting for their next renewals. The Great Delegalization, in ways big and small, continues apace. ♦