



October 8, 2021

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

The Honorable Antony Blinken
Secretary
U.S. Department of State
Harry S. Truman Building
2201 C Street, NW
Washington, D.C. 20520

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue, NW
Washington, D.C. 20395

RE: REQUEST AND RECOMMENDATION FOR STRATEGIC USE OF TPS AND DED TO PROTECT AFGHAN NATIONALS

Dear President Biden, Secretary Mayorkas, and Secretary Blinken:

The below 104 organizations request an immediate 18-month designation of Deferred Enforced Departure (DED) or Temporary Protected Status (TPS) for Afghanistan as well as recommend the ongoing use of these blanket protections, including frequent review and adjustment of dates, to safeguard human life. Specifically, we ask that the administration regularly revisit the use of DED and TPS for Afghanistan, including iterative redesignations or new DED memos that update the cut-off date as evacuated Afghans continue to arrive. The U.S. Department of State describes Afghanistan as extremely dangerous, as “terrorist organizations, extremist groups and organized criminal syndicates are active throughout the country, and the security situation remains volatile and unpredictable.”¹ The chaos leading up to and following the Taliban’s rule has resulted in thousands of Afghan refugees who do not have a clear path to stable legal status when they enter the United States.

As blanket protections, DED and TPS fill in the gaps for those who may slip through the cracks of other individual protections, such as asylum, but are still in need of life-saving protection. Further, these protections provide a safety net for all Afghan nationals in the United States, allowing them to support their families and ensure that they will not be forced to return to unsafe conditions. We believe the strategic and ongoing use of DED or TPS to protect evacuees and parolees will be critical to ensuring the United States lives up to its promises to Afghans.

I. Deferred Enforced Departure for Afghanistan

DED was established to provide the president with a vital tool in U.S. foreign policy by protecting foreign nationals in the United States from civil, political, and humanitarian crises in their home country that make it unsafe for them to return, or whose suspension of deportation serves other United States foreign policy or domestic interests.² DED provides similar protections as TPS, but DED does not require a registration process with USCIS and is triggered

¹ “Afghanistan Travel Advisory,” U.S. Department of State, Bureau of Consular Affairs, August 31, 2021, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/afghanistan-advisory.html>.

² Ibid.

when an individual is identified for removal. In this way, a DED designation uses minimal resources administratively and has an immediate effect for those who qualify.

President Biden made a promise: “There is a home for you in the United States if you so choose, and we will stand with you just as you stood with us.”³ While the administration approved 2,500 Special Immigrant Visas (SIV), and identified U.S. facilities outside of the continental United States, as well as in third countries, to host Afghan allies, more protection is needed for the 117,000 Afghans who were evacuated and all Afghans currently living in the United States.⁴ As Afghan allies and their families continue to arrive, President Biden can and should extend and update DED cut off dates as many times as necessary to provide protection.

II. Temporary Protected Status for Afghanistan

TPS allows people from a designated country to remain in the United States while conditions in their home country make safe return impossible.⁵ The Secretary of Homeland Security can designate a country for TPS if the country is experiencing ongoing armed conflict, natural disaster, or other extraordinary and temporary conditions.⁶ TPS allows its beneficiaries to stay in the United States during the designation period and receive work permits.⁷ Like DED, TPS is a life-saving, blanket protection, especially for those who are ineligible for or who have been denied asylum.

As demonstrated in the country conditions analysis below, the conditions in Afghanistan fall squarely under the statutory requirements for a TPS designation, specifically ongoing armed conflict and extraordinary and temporary conditions. The statute also provides for the “periodic review” of a country’s designation which may lead to a country’s designation to be extended if new or previous unsafe conditions persist.⁸ In this instance, the cut off date for arrival can be moved forward (“redesignation”) to allow those who arrived later to also qualify for protection.⁹ So long as conditions continue that make return unsafe, there is no limit to the number of times a country can be extended or redesignated. There is also no limit to the frequency of such extensions and redesignations as long as the decision is made a minimum of 60 days before the end of the current designation period.¹⁰ As above, Afghanistan can and should be redesignated as many times as is necessary to extend protection to people as they arrive.

III. Afghanistan’s Ongoing and Devolving Armed Conflict Makes Safe Return Impossible

The State Department set Afghanistan’s travel advisory at Level 4 due to civil unrest, armed conflict, crime, terrorism, kidnapping, and COVID-19.¹¹ Extremist groups across Afghanistan continue to utilize tactics to expand their territorial influence, including suicide attackers,

³ “Remarks by President Biden on the Drawdown of U.S. Forces in Afghanistan,” The White House, July 8, 2021, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/08/remarks-by-president-biden-on-the-drawdown-of-u-s-forces-in-afghanistan/>.

⁴ Michael Levenson, “Evacuations From Kabul Wind Down as U.S. Prepares to Pull Last Troops,” *The New York Times*, August 28, 2021, <https://www.nytimes.com/2021/08/28/world/asia/afghanistan-evacuations.html>.

⁵ Wilson, *Temporary Protected Status*, 2.

⁶ *Ibid.*

⁷ *Ibid.*, 3.

⁸ 8 U.S. Code § 1254b(3)(a).

⁹ Wilson, *Temporary Protected Status*, 3.

¹⁰ 8 U.S. Code § 1254b(3)(c).

¹¹ “Afghanistan,” U.S. Department of State, Bureau of Consular Affairs, August 21, 2021, <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Afghanistan.html#/>.

vehicle-borne explosive devices, magnetic explosive devices, indirect fire (rockets and mortars), and direct fire (shootings and rocket propelled grenades). Military and security personnel, Afghan government buildings, foreign embassies, non-government organization offices, and soft targets, such as hotels, markets, schools, hospitals, and public gatherings, are common targets. The Taliban also cut mobile phone service in many of the areas they have captured, preventing information from emerging.¹²

The current level of violence against civilians has escalated beyond all previous levels.¹³ The total number of civilians killed and injured in the first half of 2021 increased 47 percent from the same time period last year.¹⁴ More women and children were killed and wounded in the first half of 2021 than in the same period of any year since the UN began keeping count in 2009.¹⁵ All civilians in Afghanistan are potential targets, including non-governmental organization employees, aid workers, clergy, medical workers, journalists, teachers, and tourists.¹⁶ The recent escalation and current rise of the Taliban creates a new and emergent set of conditions in Afghanistan and a sharp increase in displaced civilians.

IV. Extraordinary and Temporary Conditions Make Safe Return Impossible

Not only are Afghanistan's current conditions making safe return impossible, there is also fear that resistance and fighting between factions will worsen the conflict, further damaging essential infrastructure and completely decimating what is left of the safety net in Afghanistan.¹⁷

Due to civil conflict, population displacement, and a looming economic crisis, the food security situation has also worsened in recent months. Between November 2020 and March 2021, about 13.15 million people in Afghanistan were estimated to be in severe acute food insecurity and require urgent humanitarian assistance according to U.S. intelligence.¹⁸ Medical supplies are being blocked from reaching civilians, as both the World Health Organization (WHO) and UNICEF report that five hundred tons of medical supplies due to be delivered to Afghanistan the last week in August were prevented from arriving at the Kabul airport.¹⁹ Even prior to the Taliban takeover, Afghanistan already faced a looming health crisis.²⁰ Subsequent deliberate Taliban-led attacks on healthcare facilities, rising COVID-19 cases, and the departure of international humanitarian aid organizations is expected to strain Afghanistan's already limited healthcare resources even further.²¹

¹² "Afghanistan: Shameful failure of UNHRC special session to address escalating human rights crisis," Amnesty International, August 24, 2021, <https://www.amnesty.org/en/latest/news/2021/08/afghanistan-shameful-failure-of-unhrc-special-session-to-address-escalating-human-rights-and-humanitarian-crisis/>.

¹³ "Afghanistan," U.S. Department of State.

¹⁴ *Afghanistan 2021 Midyear Update on Protection of Civilians in Armed Conflict*, UN Assistance Mission in Afghanistan, July 26, 2021, https://unama.unmissions.org/sites/default/files/unama_poc_midyear_report_2021_26_july.pdf.

¹⁵ Ibid.

¹⁶ "Afghanistan," U.S. Department of State.

¹⁷ Jacon Shapiro, "Op-Ed: Now the Taliban is at war with itself," *The Los Angeles Times*, August 26, 2021, <https://www.latimes.com/opinion/story/2021-08-26/taliban-afghanistan-factions-moderates-extremists>

¹⁸ "The World Factbook: Afghanistan," Central Intelligence Agency, August 23, 2021, <https://www.cia.gov/the-world-factbook/countries/afghanistan/>.

¹⁹ Dr Ahmed Al-Mandhari and George Laryea-Adjei, "Amidst Kabul airport blockage, WHO and UNICEF call for assistance to deliver critical health supplies to Afghanistan," news release, August 22, 2021, <http://www.emro.who.int/media/news/amidst-kabul-airport-blockage-who-and-unicef-call-for-assistance-to-deliver-critical-health-supplies-to-afghanistan.html>.

²⁰ Congressional Research Service, "U.S. Military Withdrawal and Taliban Takeover in Afghanistan: Frequently Asked Questions," August 27, 2021, <http://crsreports.congress.gov/product/pdf/R/R46879>.

²¹ Ibid.



Additionally, since the beginning of 2021 over 558,000 Afghans have been internally displaced by the armed conflict. Some 80 percent of these newly displaced are women and children.²² The United Nations High Commissioner for Refugees estimates that the number of displaced individuals will rise, both internally and across borders.²³ A potential worst-case scenario envisages over 515,000 newly displaced refugees fleeing across the borders.²⁴ New arrivals in surrounding countries will join over 2.2 million registered refugees from previous waves of violence and a further three million Afghans who have been generously hosted in Iran and Pakistan.²⁵

V. Conclusion

In conclusion, we respectfully urge the administration to: (1) immediately designate DED or TPS for Afghanistan, (2) to publish a timely Federal Register Notice, and (3) to launch a public information campaign to notify the impacted community of the decision and any actions they must take. Again, we call for the ongoing use of these blanket protections, including frequent review and adjustment of dates, to safeguard human life, honor our promises, and live our values.

Please contact the following individuals with any questions:

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Joseph Azam, Joseph@afghanamericans.org
Board Member of the Afghan American Foundation (AAF)

Jill Marie Bussey, JBussey@lirs.org
Director for Public Policy at Lutheran Immigration and Refugee Service (LIRS)

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Advocacy Director at Catholic Legal Immigration Network, Inc. (CLINIC)

Thank you.

Sincerely,

ADL (Anti-Defamation League)
Advocating Opportunity
Afghan-American Chamber of Commerce (AACC)
Afghans For A Better Tomorrow

²² *Afghanistan Situation: Regional Refugee Preparedness and Response Plan* (July - December 2021), UN Office for the Coordination of Humanitarian Affairs, August 28, 2021, <https://reliefweb.int/report/afghanistan/afghanistan-situation-regional-refugee-preparedness-and-response-plan-summary-and>.

²³ "Will the Taliban's takeover lead to a new refugee crisis from Afghanistan?," UN Office for the Coordination of Humanitarian Affairs, September 2, 2021, <https://reliefweb.int/report/afghanistan/will-taliban-s-takeover-lead-new-refugee-crisis-afghanistan>.

²⁴ *Ibid.*

²⁵ *Afghanistan Situation*, UNHCR.



African Communities Together
Alianza Americas
Alianza Sacramento
America's Voice
American Immigration Lawyers Association
American Muslim Bar Association (AMBA)
American Muslim Empowerment Network (AMEN)
American-Arab Anti-Discrimination Committee (ADC)
Amnesty International USA
Armenian-American Action Network
Asian Americans Advancing Justice | AAJC
Asylee Women Enterprise
Caminando Juntos - Presentation Sisters Hispanic Ministry
Catholic Legal Immigration Network, Inc.
Center for Gender & Refugee Studies
Central American Resource Center of Northern CA - CARECEN SF
Centro Legal de la Raza
Chacon Center for Immigrant Justice, Maryland Carey Law School
Chemonics International
Christian Reformed Church Office of Social Justice
Church of Our Saviour/La Iglesia de Nuestro Salvador
Church Women United in New York State
Church World Service
Colorado Jobs with Justice
Common Defense
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Congregation of Sisters of St. Agnes
Connecticut Shoreline Indivisible
Disciples Immigration Legal Counsel
Disciples Refugee & Immigration Ministries
Eagle Online Academy
Emerald Isle Immigration Center
Empowering Pacific Islander Communities (EPIC)
End Domestic Abuse Wisconsin
Erie County Bar Association Volunteer Lawyers Project, Inc.
Faith in Public Life
Family Action Network Movement (FAMN)
Friends of Broward Detainees



Global Partnership for Afghanistan
Grey Nuns of the Sacred Heart
HIAS
Hispanic Federation
Hts. Friends of Immigrants
Human Rights Initiative of North Texas
ICNA Council for Social Justice
Immigrant Action Alliance
Immigrant Legal Resource Center
Immigration Legal Assistance Program, Ascentria Care Alliance
Institute for Economic Empowerment of Women
International Refugee Assistance Project (IRAP)
InterReligious Task Force on Central America and Colombia
Iowa Migrant Movement for Justice
Jewish Coalition for Immigrant Justice Northwest
Jewish Voice for Peace, Atlanta Chapter
Justice Action Center
Law Office of Stephanie D. Delia
Leadership Conference of Women Religious
Legal Aid Justice Center
Lutheran Immigration and Refugee Service
Lutheran Social Services of New York
MAPS-AMEN (American Muslim Empowerment Network)
Mina's List
Mississippi Center for Justice
National Advocacy Center of the Sisters of the Good Shepherd
National Immigration Law Center
National Network for Arab American Communities (NNAAC)
National Network for Immigrant & Refugee Rights
New Sanctuary Movement of Atlanta
New York Immigration Coalition
Nicaragua Center for Community Action
OneAmerica
Oxfam America
Pennsylvania Council of Churches
Rian Immigrant Center
RIVER MOUNTAIN IMMIGRATION
Seattle Immigrant Rights Action Group



Sisters of St. Francis of Philadelphia
Sisters of Mercy of the Americas Justice Team
Sisters of the Presentation of the Blessed Virgin Mary New Windsor, NY
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
St. James Cathedral Immigrant Assistance
Susanne E. Jalbert, Ph.D., former Chief of Party for USAID-Afghanistan Promote Women in Government
Syrian American Council
Tennessee Immigrant & Refugee Rights Coalition
The Legal Aid Society (New York)
The Legal Project
U.S. Committee for Refugees and Immigrants (USCRI)
UCSF Health and Human Rights Initiative
Union for Reform Judaism
United Stateless
Venezuelans and Immigrants Aid, Inc.
Ventura County (CA) Clergy and Laity United for Economic Justice
Veterans for American Ideals
Wallingford Indivisible
WESPAC Foundation, Inc.
Win Without War
Wind of the Spirit Immigrant Resource Center
Women's Alliance for Theology, Ethics, and Ritual (WATER)
Yemeni American Merchant Association