

May 11, 2021

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

**RE: REQUEST FOR INVESTIGATION OF RACIALLY DISPARATE DECISIONS  
REGARDING THE USE OF TEMPORARY PROTECTED STATUS**

Dear President Biden:

On behalf of the undersigned 154 state, local, and national immigrant, labor, faith, civil rights, and legal organizations, we write to urge that the U.S. Department of Homeland Security (DHS), in consultation with the U.S. Department of State and U.S. Citizenship and Immigration Services (USCIS): (a) conduct a comprehensive audit and investigation of the administration's internal regulatory and sub-regulatory policies regarding the utilization of Temporary Protected Status (TPS), which has led to disparate racial impacts in how and which countries are designated and when; and (b) designate or redesignate, at minimum, the following countries for Temporary Protected Status (TPS): Burkina Faso, Colombia, the Democratic Republic of the Congo, El Salvador, Ethiopia, Guatemala, Guinea, Haiti, Honduras, Lebanon, Mali, Mauritania, Nepal, Nicaragua, and Sierra Leone. All are currently experiencing country conditions that satisfy one or more of the qualifying conditions for a designation of TPS under 8 U.S.C. § 1254(a), extensively documented by conditions experts and advocates.<sup>1</sup> These countries and others should receive their timely due diligence for initial designation and redesignation for TPS. We have also shared this request with the Inspector Generals for both DHS and State in the hopes that they conduct independent investigations into the apparent racialization and politicization of TPS designation decisions.

**I. Concerns of Racially and Politically Motivated TPS Decisionmaking**

Notably, we are concerned that the State Department and White House senior advisors are in effect promoting anti-immigrant policies, including usurping the authority of (and subsequently preventing) DHS from making individualized country determinations on TPS, including the failure to use TPS to protect human life, keep families together, and serve other key domestic and foreign policy interests.<sup>2</sup> While we are extremely supportive of the recent TPS designation for Ukraine, and later Afghanistan and Cameroon, **we are deeply concerned that the administration's processes regarding which countries are considered for TPS, and for how long, has led to a disturbing and undeniable outcome: the administration has thus far practiced a *de facto* policy of refusing or delaying designation of TPS**

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<sup>1</sup> For previous requests and country conditions analysis, see "Country-Specific Campaigns," Temporary Protected Status and Deferred Enforced Departure Administrative Advocacy Coalition, accessed January 26, 2021, <https://www.tpsdedaac.org/countryspecific-campaign-resources>.

<sup>2</sup> Ted Hesson, "Biden's immigration goals fade after setbacks at the U.S.-Mexico border," *Reuters*, January 20, 2022, <https://www.reuters.com/world/us/bidens-immigration-goals-fade-after-setbacks-us-mexico-border-2022-01-20/>; Nick Miroff and Sean Sullivan, "Biden's border woes expose White House divisions as centrists assert more control," *The Washington Post*, November 8, 2021, [https://www.washingtonpost.com/national/biden-border-divisions/2021/11/07/e87c8630-3b24-11ec-a67c-d7c2182dac83\\_story.html](https://www.washingtonpost.com/national/biden-border-divisions/2021/11/07/e87c8630-3b24-11ec-a67c-d7c2182dac83_story.html); Jonathan Blitzer, "The Disillusionment of a Young Biden Official," *The New Yorker*, January 28, 2022, <https://www.newyorker.com/news/the-political-scene/the-disillusionment-of-a-young-biden-official>.

**for Black- and Brown-majority countries that clearly meet the statutory requirements.** Additionally, the media and general public are becoming more and more acutely aware of the disparity in how TPS decisions differ based on the racial makeup of a country.<sup>3</sup>

We are especially disappointed by this apparent racial bias in granting TPS to countries that clearly and unequivocally meet the statutory requirements. While non-Black majority countries are processed with appropriate urgency, as was the case with Ukraine, the U.S. Department of State has consistently failed to review, delayed review, or issued factually incorrect determinations on Black and Brown countries. For example, Ukraine’s humanitarian crisis sparked action within eight days, while Cameroon required years of sustained, forceful advocacy to finally break the Department’s inertia and achieve the necessary TPS designation. Advocates have requested that Ethiopia be evaluated for TPS for the majority of your administration due to severe armed conflict and extraordinary conditions—yet the Department of State has continued to stall TPS. Similarly, Brown-majority countries in Central America, including Honduras, El Salvador, Guatemala, and Nicaragua, continue to have their TPS designations languish. **Thus, we request an investigation into possible racial bias in the TPS-decision making within the White House, DHS, and the Department of State.**

## **II. TPS Must Be Revitalized and Fairly Utilized**

The previous administration failed to even consider the use of initial designations and redesignations, resulting in four years’ worth of accrual of countries and people who should be eligible for TPS. While the Biden administration has rightfully designated or redesignated a number of countries for TPS since our last letter,<sup>4</sup> many more are needed to alleviate the previous misuse of the program and respond to current humanitarian crises. We have observed that this administration, like previous administrations, continues to apply the TPS criteria too narrowly. Deportations to dangerous conditions have continued, even as evidence has mounted for these countries’ eligibility for humanitarian relief. TPS is a valuable and underused executive tool that would protect millions of people from being returned to untenable country conditions—in accordance with congressional intent—while simultaneously providing immigration relief to people in our country who have lived for decades without legal status or protection.

The Biden administration promised to “order an immediate review of Temporary Protected Status (TPS) for vulnerable populations who cannot find safety in their countries ripped apart by violence or disaster,” working to “heal the wounds inflicted on immigrant communities and restore America’s moral leadership.”<sup>5</sup> We also highlight one of the president’s first executive orders, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.”<sup>6</sup> To keep that promise, TPS should be used broadly and boldly to

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<sup>3</sup> [Ukraine got it. Afghanistan and Cameroon didn't. - POLITICO](#); [U.S. relief for Ukrainians exposes glaring immigration inequality; As Ukrainians receive legal protections in the US and EU, Black and brown asylum seekers are left behind, advocates say](#); [Is There a Double Standard in Refugee Treatment?: A Voices Crossover Conversation | Black Voices | Chicago News | WTTW](#)

<sup>4</sup> Letter from Organizations to President Joseph R. Biden, White House, and Secretary Alejandro Mayorkas, U.S. Department of Homeland Security, “Request to Designate and Redesignate 18 Countries for Temporary Protected Status and Protect 2.3 Million Immigrants,” March 5, 2021, <https://bit.ly/2YT5K78>.

<sup>5</sup> “The Biden Plan for Securing Our Values as a Nation of Immigrants,” Biden Harris Campaign, accessed January 26, 2021, <https://joebiden.com/immigration/>.

<sup>6</sup> White House, “Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

safeguard lives, keep families together, boost the U.S. economy, and send a decisive foreign policy message that the United States will not send people back to conditions where their lives and freedom will be threatened. The administration should immediately use its clear executive authority to provide TPS protection warranted under the law and by morality.

**With the continuing delay and possible failure to pass meaningful immigration reform via Congress, it is more important than ever for the administration to use the full breadth of its executive power to provide essential humanitarian protections.** If the Biden administration wants to keep its campaign promises to build a better immigration system, TPS is one of the few remaining tools for bold and immediate change. We reiterate that there is no numerical limit on the number of people who can hold TPS. The statute also includes an explicit bar prohibiting non-constitutional legal challenges regarding the Secretary's decision to designate, terminate, and extend designations for countries for TPS, adding another layer of protection for the Secretary of Homeland Security's discretion.<sup>7</sup> While other administrative actions from the Biden administration may have been slowed by the courts, TPS is in the best position to carry out administrative (and Congressional) intent without being enjoined. Congress created TPS as a mechanism to provide immediate relief to those who cannot and should not be returned to dangerous conditions. Bold use of TPS remains in line with both the letter and spirit of the program. These designations will not only benefit millions of individuals in the United States, but also their families, employers, and communities here and in their countries of origin.

Please do not allow your commitment to ensuring that the United States meets its responsibilities as both a nation of laws and a nation of immigrants to be compromised by political motivations.

If you have any questions regarding this letter, please feel free to contact Daniel Tse at [dtse@haitianbridge.org](mailto:dtse@haitianbridge.org) and Lora Adams at [lora@masadc.com](mailto:lora@masadc.com).

Sincerely,

**National**

ACER, Inc  
Adorers of the Blood of Christ, US Region  
Advocating Opportunity  
African Communities Together  
African Diaspora for Good Governance  
Alianza Americas  
Asylum Seeker Advocacy Project (ASAP)  
AsylumConnect  
Black Alliance for Just Immigration (BAJI)  
Border Organizing Project  
Bridges Faith Initiative  
Cameroon Advocacy Network  
CASA  
Center for Gender & Refugee Studies  
Church World Service  
Climate Refugees

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<sup>7</sup> 8 U.S.C. § 1254a(b)(5)(A) (“[t]here 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.”).

Comunidad Maya Pixan Ixim  
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces  
Congregation of Saint Joseph  
Disciples Refugee & Immigration Ministries  
Doctors for Camp Closure  
Dominican Sisters of Mission San Jose  
Dominican Sisters of Sparkill  
Envision Freedom Fund  
Ethiopian Community Development Council (ECDC)  
First Focus on Children  
Haiti Response Coalition  
Haitian Bridge Alliance  
Institute for Justice & Democracy in Haiti  
International Refugee Assistance Project (IRAP)  
Justice Action Center  
Justice Committee Albany Province of the Sisters of St. Joseph of Carondelet  
Justice for Migrant Women  
Leadership Conference of Women Religious  
Leadership Team of the Felician Sisters of North America  
Muslim Anti-Racism Collaborative (MuslimARC)  
Mutual Aid Immigration Network  
National Advocacy Center of the Sisters of the Good Shepherd  
National Council of Churches  
National Employment Law Project  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project (NIPNLG)  
National Partnership for New Americans  
Office of Peace, Justice, and Ecological Integrity, Sisters of Charity of Saint Elizabeth  
Path With Heart  
Presente.org  
Quixote Center  
RAICES  
Robert F. Kennedy Human Rights  
SFVI  
Sisters of Charity Federation  
Sisters of Charity of Nazareth Congregational Leadership  
Sisters of Charity of Nazareth Western Province Leadership  
Sisters of Mercy of the Americas  
Sisters of Notre Dame de Namur EW  
Sisters of St Joseph of Carondelet  
Sisters of St. Joseph, Rochester, NY  
Student Clinic for Immigrant Justice  
Tahirih Justice Center  
The United Methodist Church General Board of Church and Society  
U.S. Federation of the Sisters of St. Joseph  
UndocuBlack Network  
Unitarian Universalist Service Committee  
Witness at the Border  
World Education Services, Inc.  
Youthaiti

## **State and Local**

Adhikaar  
Al Otro Lado  
American Friends Service Committee, Colorado  
Arizona Justice For Our Neighbors  
Association of Mexicans in North Carolina, Inc. (AMEXCAN)  
Buen Vecino  
Cabrini Immigrant Services of NYC, Inc.  
California Immigrant Policy Center  
Catholic Charities of Diocese of St. Augustine, FL  
Catholic Charities of SW Kansas  
Centro Romero  
Chacón Center for Immigrant Justice at Maryland Carey Law  
Church of Our Saviour/La Iglesia de Nuestro Salvador Episcopal  
Church of the Ascension, NYC  
Church Women United in New York State  
Cleveland Jobs with Justice  
CLUE VC and UUJMCA  
CLUE Ventura County  
Columbia Legal Services  
Community Asylum Seekers Project  
Connecticut Shoreline Indivisible  
Dominican Sisters of Hope  
Dominican Sisters Springfield IL JPIC Committee  
Felician Sisters of San Antonio, Texas  
Florence Immigrant & Refugee Rights Project  
Florida Immigrant Coalition  
Friends of Broward Detainees  
Greater Cleveland Immigrant Support Network  
Hope Border Institute  
Human Rights Initiative of North Texas  
Human Rights Observation/Honduras  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Action Alliance  
Immigrant ARC  
Immigrant Defenders Law Center  
Immigrant Hope-Clifton NJ  
Immigrant Legal Advocacy Project  
Immigrant Legal Center of Boulder County  
Interfaith Welcome Coalition  
International Institute of New England  
InterReligious Task Force on Central America  
Jewish Voice for Peace, Atlanta chapter  
Just Neighbors Ministry  
Justice for Our Neighbors El Paso  
Kentucky Coalition for Immigrant and Refugee Rights  
Long Island Immigration Clinic, Sisters of St. Joseph, Brentwood, NY  
Mississippi Center for Justice  
New Jersey Alliance for Immigrant Justice  
New York Immigration Coalition

New York Justice for Our Neighbors, Inc.  
New York Legal Assistance Group (NYLAG)  
Ohio Immigrant Alliance  
RAYS OF FREEDOM ORG  
Rian Immigrant Center  
Rocky Mountain Immigrant Advocacy Network  
San Bernardino Community Service Center, Inc  
Seattle Immigrant Rights Action Group  
SFV Indivisible  
Sisters of Charity of Leavenworth Office of Justice, Peace, and Integrity of Creation  
Sisters of Saint Joseph  
Sisters of Saint Joseph of Chestnut Hill, Philadelphia, PA  
Sisters of St. Dominic of Blauvelt, New York  
Sisters of St. Francis of Oldenburg  
Sisters of St. Joseph of Boston  
Sisters of St. Joseph of Carondelet, LA  
Sisters of St. Joseph of Springfield  
Sisters of the Humility of Mary  
Sisters of the Most Precious Blood  
Sisters, Home Visitors of Mary  
Social Justice Coalition  
Social Justice Coalition of Central Lutheran Church, Portland  
St. Walburg Monastery  
The Legal Aid Society (New York)  
Thompson Psychological Services, PLLC  
TRUE ALLIANCE CENTER INC  
Venezuelans and Immigrants Aid (VIA)  
Wallingford Indivisible  
Wayne Action for Racial Equality  
Wesley Foundation Serving UCLA  
Wilco Justice Alliance (Williamson County, TX)  
Wind of the Spirit Immigrant Resource Center

**cc:** The Honorable Antony Blinken, Secretary of State  
The Honorable Alejandro Mayorkas, Secretary of Homeland Security  
The Honorable Diana R. Shaw, Senior Official Performing the Duties of the Inspector  
General, Department of State  
The Honorable Joseph V. Cuffari, Inspector General, Department of Homeland Security