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November 17, 2023,

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VIA ELECTRONIC MAIL

The Honorable Antony J. Blinken
Secretary of State
U.S. Department of State
Washington, DC 20520

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Re: Request for Temporary Protected Status (TPS) and Deferred Enforced Departure (DED) for Palestine

Dear Secretaries Blinken and Mayorkas:

In light of the severe escalation of violence, destruction, and civilian death in Gaza following the Israeli declaration of war on Gaza, Palestine, the American-Arab Anti-Discrimination Committee (ADC) and 93 signatories urge you to designate the Palestinian territories for Temporary Protected Status (TPS) and/or authorize Deferred Enforced Departure (DED) for Palestinians present in the United States.

TPS and DED offer temporary relief from removal and work authorization for eligible foreign nationals who are unable to return safely to their home countries or part of a country.¹ Under 8 U.S.C. § 1254a, the Department of Homeland Security may designate any foreign state or part of a foreign state for Temporary Protected Status if there is an ongoing armed conflict within the state and, due to the conflict, requiring the return of nationals to that state or part of a state would pose a serious threat to their personal safety. Consistent with President Biden's stated commitment to protecting Palestinian civilians,² Palestinians already in the United States should not be forced to return to the Palestinian territories where they will likely be subject to death, starvation, dehydration, homelessness, and inhabitable and inhumane living conditions.

¹ A TPS designation may be due to natural disasters, armed conflicts, or other extraordinary and temporary conditions. INA § 244; The authority to extend DED arises from the President's constitutional authority to conduct the foreign relations of the United States and may include situations of armed conflict where it is dangerous for individuals to return.

² Washington Post, Yasmeen Abutaleb, *Biden, shifting tone, stresses need for Palestinian state after war* (Oct. 25, 2023) <https://www.washingtonpost.com/politics/2023/10/25/us-fears-escalation-israel-gaza-war/>.

According to UNICEF, as of November 8, at least 10,515 Palestinians have been killed.³ This includes more than 4,800 children, which, according to Save the Children, is more than the number of children killed in all of the world's armed conflicts on an annual basis since 2019.⁴ The United Nations reports that as of October 30, 1.4 million of Gaza's population of 2.2 million have been displaced⁵ of which "[s]ome 689,000 internally displaced people (IDPs) are sheltering in 150 UNRWA [United Nations Relief and Works Agency for Palestinian Refugees in the Near East] installations across the Gaza Strip."⁶ Further, the Gaza Ministry of Housing reports that at least 42 percent of all housing units in the Gaza strip have been damaged or destroyed since October 7, calling into question the ability of Palestinians to return to their homes.⁷ Due to Israel's siege of Gaza and what U.N. officials describe as a "trickle of aid," food, water, medication, and fuel trucks are largely blocked from the area.⁸ Thousands are unable to access clean water and nutrition; access to medical care has become increasingly difficult, with some health facilities in Gaza hit by bombardment and many others crippled by a lack of fuel for electricity.⁹ In the West Bank, protests and settler violence has resulted in the deaths

³ CNN, *UNICEF defends accuracy of Gaza death toll as horror unfolds in ravaged enclave* (Nov. 8, 2023), <https://www.cnn.com/2023/11/07/world/gaza-death-toll-accuracy-unicef-intl-hnk/index.html>. See also Reuters, *Gaza death toll tops 10,000; UN calls it a children's graveyard* (Nov. 6, 2023), <https://www.reuters.com/world/middle-east/pressure-israel-over-civilians-steps-up-ceasefire-calls-rebuffed-2023-11-06/>.

⁴ Save the Children, *Gaza: 3,195 Children Killed in Three Weeks Surpasses Annual Number of Children Killed in Conflict Zones since 2019* (October 29, 2023), <https://www.savethechildren.net/news/gaza-3195-children-killed-three-weeks-surpasses-annual-number-children-killed-conflict-zones>.

⁵ United Nations, *Amid Increasingly Dire Humanitarian Situation in Gaza, Secretary-General Tells Security Council Hamas Attacks Cannot Justify Collective Punishment of Palestinian People* (Oct. 24, 2023), <https://press.un.org/en/2023/sc15462.doc.htm>

⁶ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Hostilities in the Gaza Strip and Israel | Flash Update #25* (Oct. 31, 2023) <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-25#:~:text=Displacement.in%2072%20non%20UNRWA%20schools>.

⁷ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Hostilities in the Gaza Strip and Israel | Flash Update #15* (Oct. 21, 2023) <https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-15>

⁸ New York Times, *First Humanitarian Aid Reaches a Hard-Pressed Gaza* (Oct. 21, 2023), <https://www.nytimes.com/2023/10/21/world/middleeast/humanitarian-aid-gaza-israel-cairo.html>.

⁹ United Nations Office of the High Commissioner for Human Rights, *Latest: Occupied Palestinian Territory/Israel* (Oct. 17, 2023) <https://www.ohchr.org/en/press-briefing-notes/2023/10/latest-occupied-palestinian-territoryisrael>.

of more than 150 Palestinians¹⁰ and the forcible displacement of hundreds more.¹¹

U.S Senator Richard Durbin and over 100 other Members of Congress have called for humanitarian protections for Palestinians in the United States.¹² 18 members of Congress, led by Cori Bush (MO-01), have led a resolution urging the Biden Administration to call for an immediate de-escalation and ceasefire in Israel and occupied Palestine, to send humanitarian aid and assistance to Gaza, and to save as many lives as possible.¹³

Despite these staggering statistics and international pressure for “humanitarian pauses”, Israel continues to besiege and bomb the Gaza Strip with more than 25,000 tons of explosives, equivalent to two nuclear bombs.¹⁴ The Israeli Air Force has targeted evacuation routes¹⁵, residential areas and refugee camps,¹⁶ hospitals, mosques and schools.¹⁷ The Israeli government and settlers have escalated violence and displacement against Palestinians in the West Bank.¹⁸¹⁹

¹⁰ CNN, *Blinken Meets Palestinian Authority President Abbas in West Bank Amid Growing Settler Violence* (Nov. 5, 2023), <https://www.cnn.com/2023/11/05/world/blinken-abbas-west-bank-intl/index.html>.

¹¹ PBS, *Biden condemns retaliatory attacks by Israeli settlers against Palestinians in the West Bank* (Oct. 25, 2023), <https://www.pbs.org/newshour/politics/biden-condemns-retaliatory-attacks-by-israeli-settlers-against-palestinians-in-the-west-bank>.

¹² Reuters, *Democrats urge Biden to grant protected status to Palestinians in US amid war* (November 9, 2023) <https://www.cbsnews.com/chicago/news/dick-durbin-gaza-ceasefire-israel-hamas-war/>

¹³ *Reps. Bush, Tlaib, Carson, Lee, Ramirez Lead Colleagues in Call for Immediate Ceasefire* (Oct. 16, 2023), <https://bush.house.gov/media/press-releases/rebs-bush-tlaib-carson-lee-ramirez-lead-colleagues-in-call-for-immediate-ceasefire>.

¹⁴ Euro-Med Human Rights Monitor, *Israel Hits Gaza Strip with the Equivalent of Two Nuclear Bombs* (Nov. 2, 2023), <https://euromedmonitor.org/en/article/5908/Israel-hit-Gaza-Strip-with-the-equivalent-of-two-nuclear-bombs#:~:text=Geneva%20%2D%20Israel%20has%20dropped%20more.a%20press%20release%20issued%20today>.

¹⁵ CNN, *They followed evacuation orders. An Israeli airstrike killed the next day* (Oct. 17, 2023), <https://www.cnn.com/2023/10/16/middleeast/israel-palestinian-evacuation-orders-invs/index.html>.

¹⁶ AP News, *US and Arab Partners disagree on the need for a cease-fire as Israeli airstrike kill more civilians* (Nov. 4, 2023), <https://apnews.com/article/israel-hamas-war-gaza-news-11-4-2023-baf5a858e29aa6a4b8100e3afc5afdf2#>.

¹⁷ Al Jazeera, *Israel ramps up attacks in Gaza, striking schools, hospitals and mosques* (Nov. 4, 2023), <https://www.aljazeera.com/news/2023/11/4/israeli-strikes-target-schools-hospitals-mosques-on-gaza>. See also Reuters, *Israel strikes ambulance near Gaza hospital, 15 reported killed* (Nov. 3, 2023), <https://www.reuters.com/world/middle-east/health-ministry-gaza-says-israel-targeted-convoy-ambulances-leaving-al-shifa-2023-11-03/>

¹⁸ United Nations, *Rise in Intimidation, settler violence in the West Bank, Warns OCHA* (Nov. 1, 2023), <https://news.un.org/en/story/2023/11/1143087>.

¹⁹ NBC News, *Israeli settlers drive a new wave of anti-Palestinian violence in the Occupied West Bank* (Nov. 3, 2023), <https://www.nbcnews.com/news/world/israel-gaza-west-bank-settler-violence-palestinians-rcna123311>.

Human Rights Watch recently confirmed multiple war crimes committed by Israel against Palestinians since October 7. Using white phosphorus in Gaza, one of the most densely populated areas in the world, increases the unnecessary risk of harm to civilians and is a war crime.²⁰ Engaging in the collective punishment of Gaza's civilian population by cutting off access to food, water, electricity, and fuel, is a war crime. Restricting access to humanitarian aid and relief is a war crime. Ordering the permanent displacement of Gaza's population is a war crime. All of these atrocities have been perpetrated against innocent Palestinians since October 7 and are now being investigated by the Prosecutor for the International Criminal Court in The Hague.²¹

Given these conditions, it is no surprise that the U.S. Department of State extended a Level 4 Travel Advisory for Gaza due to "terrorism, civil unrest and armed conflict" and a Level 3 Travel Advisory for the West Bank earlier this month for terrorism and civil unrest.²² Providing TPS and/or authorizing DED would protect Palestinians in the United States from being forced to return to these clearly dangerous conditions.

There is precedent for analogous designations to portions of countries. In 1998, there was a designation of only the Province of Kosovo in light of ongoing armed conflict.²³ Montserrat was designated for TPS in 1997 when volcanic eruptions caused nearly two-thirds of its population to flee.²⁴ At the time, Montserrat was a colony of the United Kingdom, and Montserratians did not enjoy British residency rights or citizenship. Similarly, DED is currently authorized to defer the removal of certain residents of Hong Kong present in the United States.²⁵

²⁰ Human Rights Watch, *Israel: White Phosphorus Used in Gaza, Lebanon* (Oct. 12, 2023) <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon>.

²¹ Human Rights Watch, *How Does International Humanitarian Law Apply in Israel and Gaza?* (Oct. 27, 2023), <https://www.hrw.org/news/2023/10/27/how-does-international-humanitarian-law-apply-israel-and-gaza>.

²² U.S. Department of State, *Israel, the West Bank and Gaza Travel Advisory* (Oct. 14, 2023) <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/israel-west-bank-and-gaza-travel-advisory.html>.

²³ U.S. Department of Justice, Immigration and Nationality Service, Federal Register Notice, *Designation of the Province of Kosovo in the Republic of Serbia in the State of the Federal Republic of Yugoslavia (Serbia-Montenegro) Under Temporary Protected Status* (Jun. 9, 1998) <https://www.govinfo.gov/content/pkg/FR-1998-06-09/pdf/98-15209.pdf>.

²⁴ U.S. Department of Justice, Immigration and Naturalization Service, Federal Register Notice, *Designation of Montserrat Under Temporary Protected Status* (Aug. 28, 1997) <https://www.justice.gov/sites/default/files/eoir/legacy/2002/09/09/fr28au97N.pdf>.

²⁵ White House, *Memorandum on Extending and Expanding Eligibility for Deferred Enforced Departure for Certain Hong Kong Residents*, (Jan. 26, 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/01/26/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-certain-hong-kong-residents/>.

Furthermore, there is precedent for granting TPS to Palestinians in the U.S. who last resided in Syria. When TPS was extended for another 18 months to Syrians in the U.S. in August of 2016, the language of the statute included “persons without nationality who last habitually resided in Syria.”²⁶ At that time, Syria was home to 560,000 Palestinian refugees.²⁷

When Ukraine was designated for TPS just last year, Secretary Mayorkas explained in the Federal Register Notice that the situation in Ukraine met the threshold due to these “extraordinary and temporary conditions” being present: “Ongoing Armed Conflict and Human Rights Abuses,” “Humanitarian Situation,” “Destruction of Infrastructure and Scarce Resources,” “Lack of Access to Healthcare,” and “Displacement.” We are now seeing these exact same deplorable conditions in Palestine and must take the same action to protect Palestinians currently in the United States from having to put their lives at risk by returning home.²⁸

U.S. Department of State statistics indicate that 7,241 nonimmigrant visas were issued to individuals holding Palestinian Authority (PA) travel documents in 2022,²⁹ the most recent year for which such data is available. While the number of non-immigrant visas issued cannot provide an exact approximation of the number of Palestinians that would be eligible for TPS or DED, it makes clear that the number of beneficiaries would be small, while the benefit could be lifesaving. TPS or DED would enable Palestinians currently present in the U.S., including students, tourists, and workers, to be protected from a dangerous return to their homeland while affording them the ability to remain safely in the U.S. and to work legally to support themselves and their families.

As such, we urge you to use your authority to designate the Palestinian territories for TPS and/or to authorize DED for Palestinians in the United States without delay. Thank you for your consideration of this request.

²⁶ United States Citizenship and Immigration Services, *DHS Announces 18-Month Redesignation and Extension of Temporary Protected Status for Syria* (August, 1, 2016) <https://www.uscis.gov/archive/dhs-announces-18-month-redesignation-and-extension-of-temporary-protected-status-for-syria>.

²⁷ Center for Immigration Studies, *TPS for Palestinians?* (August 15, 2016), <https://cis.org/Rush/TPS-Palestinians>.

²⁸ Department of Homeland Security, Federal Register Notice, *Designation of Ukraine for Temporary Protected Status* (Apr. 19, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-04-19/html/2022-08390.htm>.

²⁹ U.S. Department of State, *Nonimmigrant Visas Issued by Classification (including Border Crossing Cards): Fiscal Years 2018-2022*, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/nonimmigrant-visa-statistics.html>.

Respectfully,

A handwritten signature in black ink, appearing to be 'Abed Ayoub', written in a cursive style.

Abed Ayoub
Executive Director
American-Arab Anti-Discrimination Committee (ADC)

Signatories:

Abbas Law PLLC
Abdelhadi & Kaur Law Group
Adhikaar
African Communities Together (ACT)
Al Otro Lado
Alianza Americas
Amal Law Group
American Friends Service Committee (AFSC)
American Muslim Empowerment Network
Arab Resource & Organizing Center
Asian American Legal Defense and Education Fund (AALDEF)
Asian Americans Advancing Justice | AAJC
Asian Americans Advancing Justice | AAJC
Asylum Seeker Advocacy Project (ASAP)
Ayuda
BEDAAH CORPORATIONS
CAIR New Jersey
CAIR-Chicago
California Immigrant Policy Center
California Immigrant Policy Center
Caribbean Community Service Center (CCSC)
Carolina Migrant Network
Carreon Immigration Law
Catholic Legal Immigration Network, Inc. (CLINIC)
Center for Law and Social Policy (CLASP)
Church World Service (CWS)
Climate Refugees
Communities United for Status & Protection (CUSP)

Council on American-Islamic Relations (CAIR)
DRUM - Desis Rising Up & Moving
Exodus Refugee Immigration
Families for Freedom
First Friends of New Jersey & New York
Florida Immigrant Coalition
Florida Immigrant Coalition
Free Migration Project
Ghalib Law
Haitian Bridge Alliance
Haitian Bridge Alliance
Hope Border Institute
IMAN Advocates
Immigrant Defenders Law Center
Immigrant Legal Resource Center
Immigration Hub
Institute for Justice & Democracy in Haiti
International Refugee Assistance Project (IRAP)
International Refugee Assistance Project (IRAP) Rutgers
Islamophobia Studies Center
Jewish Activists for Immigration Justice
Las Americas Immigrant Advocacy Center
Law Office of Maria Karj
Law Offices of Jose R Santiago
Massachusetts Immigrant and Refugee Advocacy Coalition
Mobile Pathways
Motlagh Law Office P.C.
MPower Change
Muslim Advocates
Muslim Alliance of Indiana
Muslim Bar Association of Chicago
National Immigration Project
National Network for Arab American Communities (NNAAC)
National Network for Immigrant and Refugee Rights (NNIRR)
Nemani Law
New York Immigration Coalition
Oasis Legal Services
Pangea Legal Services
Pax Christi New Jersey
Philadelphia Alliance of Muslim Mothers

Project ANAR
Puentes de Cristo a Presbyterian Borderlands Ministry
Queer Crescent
Rasoul Law Office
Rutgers Muslim Law Students Association
Salah Law Offices
Sara B. Kohgadai
Sarah Hasan
Sisters in the Struggle
Social Workers for Immigration Justice and Human Rights
Society of the flora, fauna & friend
Sojourners
Spojmie Nasiri
Students for Yemen DMV
T'ruah: The Rabbinic Call for Human Rights
Tarjimly
The Advocates for Human Rights
TPS-DED Administrative Advocacy Coalition
UndocuBlack Network
UnLocal Inc
Venezuelan American Caucus
Voces Unidas RGV
WCL IRAP
We Are All American
Wind of the Spirit Immigrant Resource Center



U.S. Citizenship
and Immigration
Services

May 1, 2024

Abed Ayoub
National Executive Director
Council on American-Islamic Relations (CAIR)
453 New Jersey Avenue, SE
Washington, DC 20003

Dear Mr. Ayoub:

Thank you for your November 17, 2023 letter to the U.S. Department of Homeland Security (DHS) and to the U.S. Department of State (DOS) in support of Temporary Protected Status (TPS) and Deferred Enforced Departure (DED) for Palestinians in the United States. U.S. Citizenship and Immigration Services (USCIS) is principally responsible for advising the Secretary of Homeland Security on TPS and DED issues and implementation. I am responding on behalf of the Department.

On February 14, 2024, President Biden issued a memorandum to the Secretary of State and the Secretary of Homeland Security determining that it was in the foreign policy interest of the United States to defer the removal of certain Palestinians present in the United States for 18 months.¹ This memorandum also directs the Secretary of Homeland Security to take appropriate measures to authorize employment for certain Palestinians and to consider suspending regulatory requirements with respect to F-1 nonimmigrant students who are Palestinians. More information regarding Palestinians' eligibility for DED can be found in the President's memorandum, and DHS will publish further information in the Federal Register to provide details about the implementation of the memorandum.

Please be assured that DHS is monitoring conditions in the region and engaging with DOS and other interagency partners. In addition to TPS and DED, USCIS may, upon request, apply certain extraordinary measures to eligible noncitizens affected by emergencies or unforeseen circumstances. Such measures may include:

¹ See Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security on Extending and Expanding Eligibility for Deferred Enforced Departure for Certain Palestinians, February 14, 2024, <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/02/14/memorandum-on-the-deferred-enforced-departure-for-certain-palestinians/>

- Change or extension of nonimmigrant status if eligible individuals are currently in the United States, even if the request is filed after the authorized period of admission has expired;
- Expedited processing of requests for advance parole documents;
- Expedited adjudication of requests for off-campus employment authorization for F-1 students experiencing severe economic hardship;
- Expedited adjudication of employment authorization applications, where appropriate;
- Assistance if applicants received a Request for Evidence or a Notice of Intent to Deny and were unable to appear for an interview, submit evidence, or respond in a timely manner due to the circumstances; and
- Replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card).

More information is available at <https://www.uscis.gov/newsroom/immigration-relief-in-emergencies-or-unforeseen-circumstances>.

Thank you again for your letter and interest in this important issue. Please share this response with the other organizations that cosigned your letter. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director