



New Exemptions to Terrorism-Related Inadmissibility Grounds to Aid Afghan Allies

Author: [Elizabeth Carlson](#)

Last Updated: June 24, 2022

On June 14, 2022, DHS and DOS gave immigration advocates welcome news by announcing three new exemptions to the Terrorism-Related Inadmissibility Grounds bars in order to aid Afghan allies. As of June 23, 2022, these exemptions are also included in the [Federal Register](#).

The TRIG bars contained in the Immigration and Nationality Act are quite broad. Under the statute, a noncitizen “engages in a terrorist activity” if, among other things, the person commits “an act the actor knows, or reasonably should know, affords material support” (1) for the commission of a terrorist activity, (2) to an individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity, or (3) to a terrorist organization. INA § 212(a)(3)(B)(iv)(VI)(dd). Under the Consolidated Appropriations Act of 2008, Congress mandated that the Taliban be considered a Tier 1 terrorist organization.

The Board of Immigration Appeals has held that there is no implicit “duress exception” to applicability of the “material support” bar to asylum and that there is no “de minimis exception.” *Matter of A-C-M-*, 27 I&N Dec. 303 (BIA 2018). *Matter of A-C-M-* involved a Salvadoran woman who was forced to cook and clean for guerrillas

under threat of death. The BIA found her ineligible for asylum because her actions constituted material support to a terrorist organization, even though the actions were involuntary. Thus, given how broadly the TRIG bars have been interpreted by the agency, the only possibility for relief for individuals who would otherwise be denied all immigration benefits is through the authorized exemptions by the Secretaries of DHS and DOS.

The three exemptions announced on June 14, 2022, are the following:

1. Afghans who supported U.S. military interests by fighting or supporting those who fought in the resistance movement against the Taliban, and Afghans who took part in the conflict against the Soviet occupation of Afghanistan. The exemption does not include those who targeted non-combatants or U.S. interests, committed certain types of human rights violations or abuses or acted on behalf of a designated terrorist organization.
2. Individuals employed as civil servants in Afghanistan at any time from September 27, 1996, to December 22, 2001, or any time after August 15, 2021, including teachers, professors, postal workers, doctors and engineers. However, the exemption does not include individuals who held high-level positions, worked for certain ministries or directly assisted violent Taliban activities or activities in which the individual's civil service was motivated by an allegiance to the Taliban.
3. Individuals who provided insignificant or certain limited material support to a designated terrorist organization. These include instances in which the support is incidental to a routine social or commercial transaction; incidental to certain humanitarian assistance; provided in response to a reasonably perceived threat of physical or economic harm, restraint, or serious harassment; and where the support provided is considered minimal and inconsequential. This may include paying a small amount to pass through a Taliban checkpoint to flee Afghanistan; paying the Taliban for utilities such as electricity or the telephone; serving the Taliban at one's place of business when to refuse would jeopardize one's livelihood; or paying a fee to obtain a passport or other identity documents necessary to flee Afghanistan. This exemption does not include individuals who share the goals or ideology of the Taliban, provided preferential treatment to them or who intended to support the Taliban through their activities.

There is no specific exemption application process. Rather, USCIS will affirmatively decide when adjudicating an immigration benefit, such as asylum or Temporary Protected Status, whether a person may qualify for an exemption. In order to benefit from the exemption, the applicant must fully disclose in all relevant applications and interviews the nature and circumstances of any material support provided, as well as any contact with a terrorist organization and its members.

The announcement regarding the TRIG exemptions is welcome news for Afghan allies who would otherwise be denied protection in the U.S. based on the severity and inflexibility of this immigration law. Practitioners should work closely with their Afghan clients to screen for TRIG issues. Practitioners must be sure to ask clients about any contact with members of the Taliban, including matters such as paying a bribe to pass through a checkpoint, paying the Taliban a routine fee to obtain a passport or identity document or paying the Taliban for utilities. These issues must be fully disclosed in any immigration application, such as for asylum, TPS or adjustment of status, in order for the applicant to obtain the benefit of the new TRIG exemptions.

Promoting the Dignity of Immigrants with Affordable Legal Expertise

As it has for more than 30 years, CLINIC will fight for the rights of immigrants. CLINIC trains legal representatives who provide **high-quality** and **affordable** immigration legal services. We develop and sustain a network of nonprofit programs that serve close to 500,000 immigrants every year. We cultivate projects that support and defend vulnerable immigrant populations by:

- providing direct representation for asylum seekers at the U.S.-Mexico border and educating them about their rights;
- reuniting formerly separated families;
- increasing legal representation for those in removal proceedings and in detention;
- providing public education on immigration law and policies; and
- advocating for fair and just immigration policies that acknowledge the inherent dignity and value of all people.

History has taught us that people who step up can make a difference. **We hope you will join us.**

[Make a Monthly Donation](#)

- It's quick and simple

Support a Scholarship

- Help representatives gain crucial training

Embracing the Gospel value of welcoming the stranger, CLINIC promotes the dignity and protects the rights of immigrants in partnership with a [dedicated network](#) of Catholic and community legal immigration programs. We are based out of Silver Spring, Maryland (Washington, D.C. metropolitan area), with an office in Oakland, California, and additional staff working from locations throughout the country. Questions and inquiries can be sent to national@cliniclegal.org.

National Office

8757 Georgia Avenue, Suite 850, Silver Spring, MD 20910

Main Phone: (301) 565-4800 / Main Fax: (301) 565-4824

Stay Up-to-Date

[Subscribe to Our Email Lists](#)

Receive daily immigration news, agency updates, advocacy alerts and information about our latest trainings and resources. It only takes a moment to sign up.

Use Your Affiliate Benefits

If you are a CLINIC affiliate, be sure to regularly use your benefits. The page includes exclusive content and tools that will help you as a legal practitioner. Interested in learning more about affiliation? Read through our frequently asked questions to get started.

Additional Items

[Stories](#) | [Press Releases](#) | [Financials](#) | [Annual Reports](#)

[Catholic Identity](#) | [Other Ways to Donate](#)



CLINIC
@cliniclegal

Register by 6/28 at 11 am for an upcoming Overview of TPS webinar!

The webinar will provide an overview of TPS including background on TPS, description of the country designation process, and a review of current designations.

Learn more and register: ilrc.org/webinars/overv...

1h

[Embed](#)

[View on Twitter](#)

Connect with Us on Social Media

