

# OPERATION ALLIES WELCOME: THE UNITED STATES' PLAN TO RELOCATE OVER 65,000 AFGHAN ASYLUM SEEKERS

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## INTRODUCTION & BACKGROUND

In August 2021, U.S. troops finished withdrawing from Afghanistan under the orders of President Biden, marking the end of the twenty-year war between the United States and Afghanistan.<sup>1</sup> As the last U.S. troops exited the country, the Taliban—an Islamic fundamentalist terrorist group<sup>2</sup>—seized control of Afghanistan’s capital, Kabul, taking over the presidential palace.<sup>3</sup> The Taliban, who previously governed Afghanistan from 1996 through 2001, are known for their strict interpretation of Islamic law, oppression towards women, and imposing restrictive prohibitions on recreational activities.<sup>4</sup> For

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1. ASSOCIATED PRESS, *The Taliban Is Celebrating Its Takeover Now that the U.S. Withdrawal Is Complete*, NPR (Aug. 30, 2021), <https://perma.cc/S38C-L7QB>.

2. Lindsay Maizland, *The Taliban in Afghanistan*, COUNCIL ON FOREIGN RELATIONS (Sept. 15, 2021), <https://perma.cc/EP2G-LQFG>.

3. *Timeline: The U.S. War in Afghanistan*, COUNCIL ON FOREIGN RELATIONS (Sept. 2021), <https://perma.cc/8GWZ-A5WU>.

4. ASSOCIATED PRESS, *supra* note 1.

example, during their past regime, the Taliban banned television and music, prohibited women from attending school or work outside of the home, and held public executions.<sup>5</sup> While the Taliban have maintained that their policies will look more modern since the August 2021 takeover, noting that they plan to form an “open, inclusive Islamic government,” many Afghans seriously doubt these promises.<sup>6</sup>

The sudden shift in power from Afghan President Ghani to the Taliban created a dire situation for Afghan nationals who assisted the United States with past war efforts.<sup>7</sup> Thousands of Afghan nationals provided assistance to the United States during the twenty-year-war by working as translators, drivers, and in other roles.<sup>8</sup> The International Rescue Committee estimates that over 300,000 Afghans have risked their lives assisting the United States since 2002, when the United States began to employ Afghan workers to assist troops, diplomats, and aid workers.<sup>9</sup> Many of these employees have been threatened, kidnapped, or attacked for assisting the United States, and an unknown number of them have been killed.<sup>10</sup> Now, with the Taliban in power, Afghans who have helped the United States have even greater reason to fear for their lives.<sup>11</sup>

#### GROWING NEED FOR EVACUATION

As the United States worked to remove all U.S. troops and the situation in Afghanistan deteriorated, images of Afghans hanging onto U.S. military airplanes, desperate to evacuate even as these planes began to take off, circulated around the world.<sup>12</sup> Many Americans criticized the Biden administration for failing to move quickly enough to evacuate the Afghans who helped with the United States’ war effort.<sup>13</sup> President Biden responded to this criticism by stating that the Afghan government had “discouraged a mass evacuation, saying it would cause ‘a crisis of confidence’ in the country’s ability to fight the Taliban.”<sup>14</sup> Still, criticism of the President’s approach was widespread and bipartisan.<sup>15</sup>

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5. *Id.*

6. *Id.*; Ahmad Seir, Rahim Faeiz, Tameem Akhgar & Jon Gambrell, *Taliban Sweep into Afghan Capital after Government Collapses*, AP NEWS, Aug. 15, 2021, <https://perma.cc/ZT2D-HWCN>.

7. Nell Clark & James Doubek, *An Afghan Interpreter Who Helped the U.S. Military Is Now a Target for the Taliban*, NPR (Aug. 16, 2021), <https://perma.cc/H5RR-UQH2>; Miriam Jordan, *Thousands of Afghans Who Helped the U.S. Are Trapped. What Happens Next?*, N.Y. TIMES, Aug. 17, 2021, <https://perma.cc/CE44-GWJY>; Dan De Luce, *‘We Will Kill You’: Thousands of Afghans Who Helped U.S. Want to Evacuate before the Taliban Finds Them*, NBC NEWS, May 10, 2021, <https://perma.cc/EGU7-MCUC>.

8. Clark & Doubek, *supra* note 7.

9. Jordan, *supra* note 7.

10. *Id.*

11. *Id.*; De Luce, *supra* note 7.

12. Michael D. Shear & David E. Sanger, *Biden Stands behind Afghan Withdrawal, Despite ‘Hard and Messy’ Final Days*, N.Y. TIMES (Aug. 16, 2021), <https://perma.cc/RTB6-VV68>.

13. *Id.*

14. *Id.*

15. See Jennifer Hansler, *First on CNN: More than 50 Senators Urge Biden to Quickly Evacuate Afghan Allies*, CNN POLITICS (Aug. 19, 2021), <https://perma.cc/8L2T-DTCW>.

In fact, a bipartisan group of fifty-five senators jointly wrote a letter urging Biden to quickly pass a bill to help evacuate Afghan Special Immigrant Visa (SIV) applicants and their families.<sup>16</sup> Leading this effort, Democratic Senators Jeanna Shaheen and Dick Durban and Republican Senators Joni Ernst and Roger Wicker highlighted that “American inaction would ensure [the Afghans who helped the United States] would become refugees or prime target for Taliban retribution.”<sup>17</sup> The proposed bill would expand the number of authorized visas by 20,000 and modify some of the program’s eligibility requirements.<sup>18</sup>

President Biden promised to maintain his commitment to helping evacuate Americans and Afghan allies from Afghanistan and vowed that his administration would utilize “every resource necessary” to evacuate Americans and Afghan asylum seekers.<sup>19</sup> However, many people continued to wonder how the government would uphold this pledge in practice. That is, how could the United States process, screen, and vet applicants looking to enter the United States quickly enough during this mass evacuation scramble, while adhering to U.S. immigration laws and protocols? In short, the United States turned to the SIV program.<sup>20</sup>

#### EVACUATION PROCESS FOR OPERATION ALLIES WELCOME

With the Taliban takeover in Kabul and thousands of immigrants to process in the United States, the SIV program, which has existed since 2009, had never been under such immense pressure to move quickly before.<sup>21</sup> The SIV program involves a lengthy, multistep application process that provides a pathway for entry to Afghans who worked on behalf of the United States and their families.<sup>22</sup> Even though Afghans are already thoroughly vetted before being hired to work for the United States,<sup>23</sup> the SIV program requires applicants to “meet certain employment qualifications and provide supporting documents, including proof of employment, a letter of recommendation, and evidence of Afghan nationality.”<sup>24</sup> The SIV program has been called the “redheaded stepchild of the immigration process,” meaning that this program has always been onerously slow, yet there has been very little attention devoted towards its improvement.<sup>25</sup>

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16. *Id.*

17. *Id.*; see also Jennifer Hansler, *Senators Introduce Bill to Improve Visa Program to Protect Afghan Interpreters Who Helped US*, CNN POLITICS (June 11, 2021), <https://perma.cc/3TVN-ESHK>.

18. Hansler, *supra* note 15.

19. Justin Sink, *Biden Says U.S. Is Committed to Evacuating Afghan Refugees*, BLOOMBERG (Aug. 20, 2021), <https://perma.cc/WN6C-28P4>.

20. See Paul LeBlanc & Jennifer Hansler, *Here’s How Afghan Refugees Coming to the US Are Being Vetted*, CNN POLITICS (Aug. 23, 2021), <https://perma.cc/8Q66-37FB>.

21. *See id.*

22. *See id.*

23. Priscilla Alvarez & Geneva Sands, *How the Biden Administration Plans to Process the Influx of People Fleeing Afghanistan*, CNN POLITICS (Oct. 12, 2021), <https://perma.cc/7V77-VQFG>.

24. *Id.*

25. *Id.*

However, with the impending Afghan crisis, President Biden signed provisions from Senator Shaheen and Senator Ernst's bill—known as the Afghan Allies Protection Act—into law on July 30, 2021 in an attempt to improve the SIV program.<sup>26</sup> Upon hearing of President Biden signing her bill into law, Senator Shaheen stated:

Today, President Biden affirmed that the U.S. stands by its promise to Afghan allies by signing into law language from my bill to strengthen the SIV program. I've worked on this in Congress for years to protect the Afghan partners who put their lives on the line in service of the U.S. mission and their country. This legislation becoming law is significant: it will help clear a path to safety for thousands. . . . To the Afghan partners who face imminent danger from the Taliban – the U.S. stands with you and will make every effort to ensure your safety in thanks for your service. We're running against the clock, so now we must act swiftly to ensure our allies are not left behind.<sup>27</sup>

Senator Ernst, who spearheaded this legislation along with Shaheen, stated:

The Afghan Special Immigrant Visa (SIV) program was created to provide a well-vetted pathway to safety for the many Afghan civilians who have stepped up to assist the U.S. during the War on Terror. Given the Biden Administration's haphazard withdrawal from Afghanistan, we must now fulfill our commitment to those who put themselves in harm's way by ensuring the program has the capacity to fully process and help bring these individuals to safety. I'm grateful Democrats and Republicans came together to do exactly that and to get this bill signed into law.<sup>28</sup>

This legislation provided the following changes to the SIV program: (1) it increased the number of authorized visas, (2) changed the employment requirement for eligibility from two years to one, (3) postponed the medical exam requirement until an applicant and his family had arrived in the United States, (4) removed the "sensitive and trusted" requirement for International Security Assistance Force and Resolute Support employment, and (5) provided special immigration status for surviving family members of murdered applicants.<sup>29</sup>

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26. *Breaking: White House Signs into Law Supplemental Security Bill, Including Shaheen-Ernst Bill to Protect Afghan Allies through SIV Program*, JEANNE SHAHEEN, U.S. SEN. FOR NEW HAMPSHIRE (July 30, 2021), <https://perma.cc/35KN-ESSS>.

27. *Id.*

28. *Id.*

29. Hansler, *supra* note 15.

Still, a question remained as to how this would work in practice. In an effort to ramp up the immigration vetting process, the Biden administration began incorporating multiple federal agencies into the process, including the Department of Defense, State Department, Federal Bureau of Investigations (FBI), intelligence community, and Department of Homeland Security (DHS).<sup>30</sup> Personnel in their respective organizations have also been asked to assist overseas.<sup>31</sup> In addition to the SIV program, immigration officials have referred some Afghan applicants to the U.S. Refugee Admissions Program and Humanitarian Parole.<sup>32</sup> Additionally, because many Afghans never previously applied to these programs and did not anticipate the falling of the government to occur so soon, State Department officials created a database to add new people into the system quickly.<sup>33</sup>

Prior to the Taliban's takeover, the United States brought in flights of Afghan SIV applicants that were close to completing their vetting process to Fort Lee, Virginia, where they wrapped up the process.<sup>34</sup> After the fall of Kabul, however, it became more common for flights to stopover in countries like Qatar and Kuwait, where, although applicants would have already completed certain stages of vetting, further vetting would occur.<sup>35</sup> The vetting that occurs at these third-country checkpoints often requires biometric vetting, which includes "voiceprints, iris scans, palm prints and facial photos."<sup>36</sup> In addition to this security vetting, there is also a mandatory health screening component and every evacuee that is twelve or over is required to get a COVID-19 vaccination upon entering the United States.<sup>37</sup>

Additionally, there are Afghan evacuees, ineligible for the SIV program, who have entered the United States already.<sup>38</sup> These individuals have been processed by U.S. Customs and Border Protection and are permitted to remain in the United States for up to two years pursuant to 8 U.S.C. § 1182(d)(5) as humanitarian parolees.<sup>39</sup> These individuals must undergo the same vaccination and testing requirements as those entering the United States under the SIV program.<sup>40</sup> There are other Afghans ineligible for SIV, due to not meeting the minimum length of employment requirements, who are pursuing Priority

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30. See Alvarez & Sands, *supra* note 23.

31. See *id.*

32. See *id.*

33. See *id.*

34. See LeBlanc & Hansler, *supra* note 20.

35. See *id.*

36. *Id.*

37. Aamer Madhani, *States Learning How Many Afghan Evacuees Coming Their Way*, AP NEWS (Sept. 15, 2021), <https://perma.cc/XQ2Y-SBGK>.

38. See *Information for Afghan Nationals on Requests to USCIS For Humanitarian Parole*, U.S. CITIZEN & IMMIGRATION SERVICES, (Nov. 5, 2021), <https://perma.cc/FDZ4-B9YP>; *Afghan Parolee Support Program, Frequently Asked Questions*, LUTHERAN IMMIGR. & REFUGEE SERV., (Sept. 2, 2021), <https://perma.cc/4NBV-UHED>.

39. *Information for Afghan Nationals on Requests to USCIS for Humanitarian Parole*, *supra* note 38; 8 U.S.C. § 1182(d)(5) (2013).

40. *Information for Afghan Nationals on Requests to USCIS for Humanitarian Parole*, *supra* note 38.

2 (P-2) entry.<sup>41</sup> P-2 allows entry to Afghans who do not qualify for SIV but “work or worked as employees of contractors, locally-employed staff, interpreters/translators for the U.S. Government, United States Forces Afghanistan (USFOR-A), International Security Assistance Force (ISAF), or Resolute Support,” work or worked for a U.S. government-funded program, or were employed in Afghanistan by a U.S.-based media organization or non-governmental organization.<sup>42</sup> Similarly to SIV, P-2 allows entry to eligible Afghans and their family members who are referred by a U.S. government agency.<sup>43</sup>

The United States has deemed its effort to evacuate tens of thousands of evacuees “Operation Allies Welcome.”<sup>44</sup> U.S. government officials have noted that this has been a collaborative effort and have praised the outpouring of support from both the American public and Afghan allies.<sup>45</sup> However, even with robust support, this relocation effort has not been without challenges.

#### CHALLENGES TO RELOCATION

While it has been crucial to move through this process quickly, a former DHS official noted that the vetting process is “sometimes deliberate for a reason” because analyzing an application too quickly can cause the application reviewer to miss something important.<sup>46</sup> Former security officials have also noted that while they are much better at identifying potential threats now, this is a labor intensive process that involves significant manual checking to ensure nobody is “slip[ping] in that isn’t supposed to slip in.”<sup>47</sup> Still, this risk seems very minimal, especially considering that Afghans who have worked for the United States in the past have already undergone extensive vetting.<sup>48</sup>

Another issue with rushing this process is that the State Department has a shortage of personnel working to enter SIV program applicants into the system.<sup>49</sup> With so many Afghans rushing to apply, more support is needed to process applications.<sup>50</sup> Additionally, some Afghans have reported challenges in physically getting into the Kabul airport, even if they have been vetted and have the proper credentials to be there.<sup>51</sup> The United States has stated that it

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41. Press Release, U.S. Refugee Admissions Program Priority 2 Designation for Afghan Nationals, Office of the Spokesperson (Aug. 2, 2021), <https://perma.cc/4RF6-RW9B>.

42. *Id.*

43. *Id.*

44. U.S. DEP’T OF STATE, BRIEFING WITH SENIOR GOVERNMENT OFFICIALS, ON OPERATION ALLIES WELCOME RELOCATION ASSISTANCE EFFORTS FOR NON-SIV HOLDERS (Sept. 14, 2021), <https://perma.cc/NL7U-2WD>.

45. *Id.*

46. Alvarez & Sands, *supra* note 23.

47. *Id.*

48. LeBlanc & Hansler, *supra* note 20.

49. Alvarez & Sands, *supra* note 23.

50. *Id.*

51. *Id.*

has “repeatedly communicated” with the Taliban about this; thus, the Taliban should be informed on what proper credentials should look like.<sup>52</sup>

Beyond these challenges, there are potential health concerns that have further delayed the relocation process. In early September, there was a measles outbreak among several Afghan evacuees, causing all flights from third-party countries being used as processing sites to be temporarily halted.<sup>53</sup> Following this outbreak, the United States assured that evacuees would be vaccinated for measles upon their arrival as well as for COVID-19.<sup>54</sup>

Once Afghan evacuees arrive in the United States, they face new challenges. Initially, there was concern that if Congress failed to classify the evacuees as refugees, they would remain ineligible for food stamps, the Temporary Assistance for Needy Families Program (TANF) (which provides cash assistance), Medicaid, and other social services available to refugees.<sup>55</sup> However, in October 2021, Congress passed a resolution giving Afghan evacuees access to the same benefits as traditional refugees.<sup>56</sup> According to the Biden administration, each Afghan evacuee will receive \$1,225 upon arrival and President Biden has urged Congress to take action to ensure Afghan arrivals are given the same benefits as traditional refugees.<sup>57</sup>

#### LIFE ON ARMY BASES

Thus far, thousands of evacuees have been successfully brought to various army bases across the United States—from California to Wisconsin to Texas to New Jersey.<sup>58</sup> The Biden administration requested funding from Congress to help resettle 65,000 Afghans by the end of September 2021<sup>59</sup> and 95,000 total by the end of September 2022.<sup>60</sup> Some Afghan evacuees have requested to be resettled in states where they already have family and friends, while others are starting from scratch across the United States.<sup>61</sup>

Currently, tens of thousands of Afghan evacuees are living on U.S. army bases.<sup>62</sup> For example, about 8,500 Afghans are currently living at Joint Base

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52. *Id.*

53. Madhani, *supra* note 37.

54. U.S. DEP’T OF STATE, *supra* note 44.

55. Madhani, *supra* note 37.

56. Melissa Rose Cooper, *Congress Passes Legislation Giving Afghan Evacuees More Access to Benefits*, NJ SPOTLIGHT NEWS (Oct. 5, 2021) <https://perma.cc/X5PT-V5VL>; *Operation Allies Welcome*, DEP’T OF HOMELAND SEC. (last updated Nov. 10, 2021), <https://perma.cc/Z8TN-2QUK>.

57. *Id.*

58. Miriam Jordan & Jennifer Steinhauer, *Military Bases Turn into Small Cities as Afghans Wait Months for Homes in U.S.*, N.Y. TIMES (Oct. 3, 2021), <https://perma.cc/9V9X-D3FT>; Madhani, *supra* note 37.

59. There is no conclusive data indicating whether this goal has been met as of November 2021. News outlets have noted that “more than 25,000 [Afghans] have already been resettled.” See Eric Kolenich, *Last Afghan Refugees Waiting at Fort Lee Have Been Permanently Resettled*, RICHMOND TIMES (Nov. 18, 2021), <https://perma.cc/A482-9XZW>.

60. Madhani, *supra* note 37.

61. *Id.*

62. Farnoush Amiri, *US Gives First Public Look Inside Base Housing Afghans*, AP NEWS (Sept. 10, 2021), <https://perma.cc/C6FB-ECRW>.

McGuire-Dix-Lakehurst, a military installation in New Jersey.<sup>63</sup> Due to the mass influx of evacuees, the families at McGuire-Dix-Lakehurst are currently living in large, air-conditioned tents that hold up to 1,000 people.<sup>64</sup> There have been significant community building and morale-boosting activities on this base, exemplified by town-hall style meetings, an outdoor barbecue with 10,000 Afghans and military officials, and a five-hour dance party held by a volunteer aid group.<sup>65</sup> There are additional activities available for children, such as soccer, volleyball and arts and crafts, while some adults take language lessons.<sup>66</sup> Similar camps exist in various states around the country, such as Fort Bliss in Texas, where there are nearly 10,000 Afghan evacuees.<sup>67</sup>

The ultimate goal of this resettlement effort, which is one of the largest to occur in the United States in decades, is to move evacuees to more permanent communities across the country in states such as New York, New Jersey, Pennsylvania, and Connecticut.<sup>68</sup> Senator Bob Menendez (D-NJ) noted that the eventual goal is for about 250 evacuees to move out of Joint Base McGuire-Dix-Lakehurst each week, but a military report indicates that some evacuees may be living on the base for up to a year.<sup>69</sup>

#### CONCLUSION

Though the exact numbers are still unclear, it is evident that the United States has already evacuated tens of thousands of Afghans. Despite the numerous challenges associated with any mass evacuation effort, a functioning vetting system seems to be in place and thousands of Afghans have already settled in at U.S. military bases throughout the country. While it is uncertain what comes next for these evacuees, as governmental officials have noted, this has not only been a government-wide effort but a society-wide effort.<sup>70</sup> There has been significant public support and desire to assist Afghan evacuees, and it is likely that this support will continue throughout the relocation process.

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63. Tracey Tully, *Music and Cookouts in a Tent City for Afghans Starting Life in the U.S.*, N.Y. TIMES (Sept. 30, 2021), <https://perma.cc/Q6BL-BXCK>. This statistic is current as of September 2021.

64. *Id.*

65. *Id.*

66. *Id.*

67. Amiri, *supra* note 62. This statistic is current as of September 2021.

68. Tully, *supra* note 63.

69. *Id.*; U.S. DEP'T OF THE AIR FORCE, FINAL ENVIRONMENTAL ASSESSMENT FOR TEMPORARY SHELTER OF AFGHAN SPECIAL IMMIGRANTS AT JOINT BASE MCGUIRE-DIX-LAKEHURST, NEW JERSEY (Aug. 2021), <https://perma.cc/PK6H-QL3G>.

70. U.S. DEP'T OF STATE, *supra* note 44.