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May 3, 2023

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

The Honorable Alejandro Mayorkas
Secretary of the Department of Homeland Security
2707 Martin Luther King Jr Ave., SE
Washington, D.C. 20528

Secretary Antony Blinken
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

RE: REQUEST FOR IMMEDIATE REDESIGNATION, EXTENSION OF TPS FOR AFGHANISTAN GIVEN RAPIDLY DETERIORATING CONDITIONS

Dear President Biden, Secretary Mayorkas, and Secretary Blinken,

The undersigned 164 organizations request an immediate redesignation of Temporary Protected Status (TPS) for Afghanistan given the rapidly changing and continually deteriorating country conditions. This redesignation is needed to immediately safeguard and stabilize thousands of Afghans who have arrived in the United States since the last TPS cut-off dates, including those brought to the United States on humanitarian parole through Operation Allies Welcome (OAW) and the U.S. Department of State's relocation efforts. The urgent need for TPS redesignation has become acute as OAW evacuees face significant challenges in ensuring they may temporarily stay and work in the U.S. while also surmounting barriers to long-term paths for protection.

Due to worsening insecurity and violence from the Taliban and various armed groups; an economic and humanitarian collapse exacerbated by drought and other threats to public health; and increased persecution through eroding social and political rights for women, girls, members of religious and ethnic minorities, and other segments of the Afghan population, we urge the Department of Homeland Security (DHS) to regularly and proactively consult with affected communities and conduct frequent country conditions reviews to consider adjusting the dates of this vital blanket protection to safeguard human life.

I. Temporary Protected Status (TPS) and Redesignation Authority

Congress created TPS to allow people from a designated country to remain in the United States and to access work authorization to support themselves while conditions in their home country make safe return impossible.¹ Congress created a mechanism in which it shares authority with the Secretary of Homeland Security to designate a country for TPS if the country is experiencing

¹ Jill Wilson, "Temporary Protected Status and Deferred Enforced Departure," Congressional Research Service, November 28, 2022, <https://crsreports.congress.gov/product/pdf/RS/RS20844>, Page 2.

ongoing armed conflict, natural disaster, or other extraordinary and temporary conditions.² Much like the humanitarian parole protection many Afghans have been granted in order to enter the United States under Operation Allies Refuge and Operation Allies Welcome, TPS is premised on the foundation of non-refoulement and is a life-saving, blanket protection.

The TPS statute provides for the “periodic review” of a country’s designation which may lead to a country’s designation being extended if new or previous unsafe conditions persist.³ In this instance, the cutoff date for arrival can be moved forward (“redesignation”) to allow those who arrived later to also qualify for protection.⁴ **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.⁵ Afghanistan can and should be redesignated for TPS as often as necessary to extend protection to people as they arrive.

Significantly, as a blanket protection, TPS safeguards nationals of a designated country who are experiencing barriers in accessing long-term pathways for protection, those who have pending, undecided immigration benefit applications, those who are ineligible for, have been denied, or otherwise choose not to seek asylum. Many Afghans who have arrived in the United States since August 2021 fall into all of those categories. Because legislative efforts to provide a streamlined pathway to lawful permanent residency for Afghans through the Afghan Adjustment Act have not yet come to fruition, the two most common paths to lawful permanent residency (LPR) for newly-arrived Afghans are asylum and the Afghan Special Immigration Visa (SIV) program. Both of these complex immigration processes have yielded a grant of asylum or LPR for less than seven percent of the total evacuee population.⁶ Thus, there is an increasingly urgent need for expanded temporary protections for Afghans who remain in need of life-saving protection.

In the case of Afghanistan, with country-wide economic collapse and a devolving humanitarian disaster⁷, strategic use of TPS remains critical as many may not be able to demonstrate individualized persecution and meet the U.S. asylum system’s high bars or those who are SIV-eligible who await COM approval or adjustment of status processing, but would face life and freedom-threatening circumstances if returned.

II. The Urgent Need for Immediate Redesignation of Temporary Protected Status for Afghanistan

On March 16, 2022, DHS Secretary Mayorkas announced the designation of Afghanistan for Temporary Protected Status (TPS) for 18 months.⁸ The designation was on the statutory bases of ongoing armed conflict and extraordinary and temporary conditions that prevent Afghan nationals from returning to safety, which was later detailed in the Federal Register Notice.⁹ The designation established a continuous residence cutoff date of March 15, 2022.

² Ibid.

³ 8 U.S. Code § 1254b(3)(a).

⁴ Wilson, Temporary Protected Status, Page 3.

⁵ 8 U.S. Code § 1254b(3)(c).

⁶ Camilo Montoya-Galvez, “Tens of thousands of Afghans in U.S. could lose deportation protections unless Congress acts,” CBS News, February 16, 2023, <https://www.cbsnews.com/news/afghan-adjustment-act-evacuees-parole-legal-status-deportation-protections/>.

⁷ “Afghanistan Socio-Economic Outlook 2023,” United Nations Development Programme, April 18, 2023, <https://www.undp.org/afghanistan/publications/afghanistan-socio-economic-outlook-2023>.

⁸ “Secretary Mayorkas Designates Afghanistan for Temporary Protected Status,” Department of Homeland Security, March 16, 2022, <https://www.dhs.gov/news/2022/03/16/secretary-mayorkas-designates-afghanistan-temporary-protected-status>.

⁹ 87 FR 30976

The Biden administration has consistently acknowledged deteriorating and dangerous conditions in Afghanistan and the need to provide protection pathways for vulnerable Afghans through Operation Allies Refuge, Operation Allies Welcome¹⁰, DHS's TPS designation, the formal establishment of the Department of State's Coordinator for Afghan Relocation Efforts (CARE) team, and, most recently - Enduring Welcome.¹¹ According to reports, 77,400 Afghans were brought to the United States on humanitarian parole through the Operation Allies Welcome evacuation and relocation efforts from July 2021 through September 2022.¹² Their parole and associated work authorizations will begin to expire as early as July 2023 and DHS has yet to officially announce a process to seek an extension of parole or work authorization, despite advocates' urgent requests.¹³

According to a February 2023 report¹⁴, only six percent of the total population of Afghans evacuated through Operation Allies Welcome have been granted asylum or LPR through the Afghan SIV program. All others will need access to temporary protection options, including TPS, or they will become vulnerable to loss of work authorization and deportation. As demonstrated in the country conditions analysis below, the conditions in Afghanistan have continued to degrade so severely that immediate redesignation of TPS pursuant to the statutory requirements, specifically ongoing armed conflict and extraordinary and temporary conditions, is warranted and urgently needed to ensure Afghans who have not already secured a durable status are at least temporarily protected.

III. Conditions in Afghanistan that Merit an Immediate Redesignation, Extension of TPS

A. Armed Conflict and Security Situation

The State Department has set Afghanistan's travel advisory at Level 4 due to armed conflict, civil unrest, crime, terrorism, and kidnapping.¹⁵ Since March 2022, the security situation in Afghanistan has only gotten more dire and the threats to stability have only increased.¹⁶ The U.S. State Department has itself expressed serious concerns about the increasing threats presented by terrorist groups in Afghanistan, including the Islamic State, Al Qaeda, Tehrik-i-Taliban-Pakistan, and others.¹⁷ Moreover, the Taliban have proven unable if not unwilling to provide security to at-risk populations and medical care and other assistance to survivors and affected families.¹⁸

The Taliban's oppressive rule is one of the numerous sources of civilian harm fueling an environment of violence and insecurity. Former government officials and Afghan National

¹⁰ "Operation Allies Welcome," Department of Homeland Security, <https://www.dhs.gov/allieswelcome>.

¹¹ Pricilla Alvarez, "Biden administration pivoting to long-term strategy to assist Afghans," CNN, September 1, 2022, <https://www.cnn.com/2022/09/01/politics/afghan-resettlement/index.html>.

¹² Camilo Montoya-Galvez, "U.S. to discontinue quick humanitarian entry for Afghans and focus on permanent resettlement program," CBS News, September 2, 2022, <https://www.cbsnews.com/news/afghan-parole-humanitarian-entry-process-to-end-in-october-focus-on-permanent-resettlement-programs/>.

¹³ "Re-Parole Request for Afghans who arrived under OAR and OAW," Lutheran Immigration and Refugee Service (LIRS), November 21, 2022, https://www.lirs.org/wp-content/uploads/2022/11/FINAL_DHS-Re-parole-Request-for-Afghans-who-Arrived-via-OAR_OAW_21-NOV-2022.pdf.

¹⁴ Camilo Montoya-Galvez, "Tens of thousands of Afghans in U.S. could lose deportation protections unless Congress Acts," CBS News, February 16, 2023, <https://www.cbsnews.com/news/afghan-adjustment-act-evacuees-parole-legal-status-deportation-protections/>.

¹⁵ "Afghanistan," U.S. Department of State, Bureau of Consular Affairs, October 20, 2022, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/afghanistan-advisory.html>.

¹⁶ "Joint Statement of Special Representatives and Envoys for Afghanistan of Australia, Canada, the European Union, France, Germany, Italy, Norway, Switzerland, the United Kingdom and the United States following their meeting in Paris held February 20, 2023," U.S. Department of State, March 7, 2023, <https://www.state.gov/joint-statement-on-afghanistan-2/>.

¹⁷ Ibid.

¹⁸ "Afghanistan: ISIS Group Targets Religious Minorities," Human Rights Watch, September 6, 2022, <https://www.hrw.org/news/2022/09/06/afghanistan-isis-group-targets-religious-minorities>.

Defense and Security Forces (ANDSF) members frequently face extrajudicial killings, arbitrary arrests and detentions, and torture at the hands of the Taliban authorities.¹⁹ Afghans who served the U.S. military mission in Afghanistan have long been prime targets for anti-American motivated retribution. However, a recent survey representing an estimated 91,350 Afghan SIV eligible applicants, illustrates a worsening situation and increased reports that indicate the Taliban is engaging in a systematic country-wide effort to target Afghans who previously worked with U.S. forces.²⁰

Further, journalists and other members of the news media are detained and beaten by the Taliban to discourage critical coverage.²¹ The United Nations Assistance Mission in Afghanistan (UNAMA) has also documented an increase in judicial corporal punishment by the Taliban authorities, as well as improvised explosive devices and unexploded ordnance continuing to kill or maim civilians.

Violent incidents targeting Afghan civilians remain a regular occurrence, both at the hands of the Taliban and as the Taliban faces challenges to its authority from the Islamic State-Korasan (IS-K) and various armed resistance groups.²² Groups such as IS-K retain the capacity to launch high-profile attacks against civilians, the Taliban, and foreign nationals in soft-target locations, such as markets, schools, hotels, and government buildings.²³

B. Economic Collapse and Health Concerns

Renewed Taliban rule of Afghanistan ushered in “a new era characterized by rapid economic decline, hunger and risk of malnutrition, inflation driven by global commodity shocks, drastic rises in both urban and rural poverty [and] a near-collapse of the national public health system.”²⁴ According to the country's Humanitarian Needs Overview, about 28.3 million people in Afghanistan— roughly two-thirds of the population— will need urgent humanitarian assistance in 2023. The flight of international aid after the Taliban takeover drastically shrank public spending which, in turn, undermined private-sector activity.²⁵ United Nations leaders note that Afghanistan's gross domestic product has declined up to 35 percent over the past 18 months, erasing a decade of economic development gains.^{26,27} The Afghanistan Socio-Economic Outlook published in April 2023 found that the country's economic descent has left it as “one of the poorest two or three countries in the world.” Due to inflation and other factors, the World Bank projects no significant improvement in per capita income, poverty rates, or food insecurity—

¹⁹ “The situation in Afghanistan and its implications for international peace and security,” United Nations Assistance Mission in Afghanistan, February 27, 2023, https://unama.unmissions.org/sites/default/files/a77772-s2023151sg_report_on_afghanistan.pdf, Page 8.

²⁰ Kim Staffieri, Michael Trudeau, Matt Zeller, “Association of Wartime Allies Quarterly Report,” April 2023, https://www.wartimeallies.co/files/ugd/5887eb_fe671af8c617489b8ae94262c8671152.pdf.

²¹ Lynne O'Donnell, “What happened to Afghanistan's journalists after the government collapsed,” Columbia Journalism Review, March 17, 2022, <https://www.cjr.org/analysis/afghanistan-journalists-taliban.php>.

²² “January 30, 2023 Quarterly Report to Congress,” Special Inspector General for Afghanistan Reconstruction,” January 30, 2023. <https://www.sigar.mil/pdf/quarterlyreports/2023-01-30qr.pdf>, Page 99.

²³ “The situation in Afghanistan and its implications for international peace and security,” United Nations Assistance Mission in Afghanistan, February 27, 2023, https://unama.unmissions.org/sites/default/files/a77772-s2023151sg_report_on_afghanistan.pdf, Page 5.

²⁴ “Afghanistan: Humanitarian Needs Overview 2023,” Office for the Coordination of Humanitarian Affairs, January 23, 2023, <https://reliefweb.int/report/afghanistan/afghanistan-humanitarian-needs-overview-2023-january-2023>, Page 13.

²⁵ “Afghanistan Development Update,” World Bank Group, October 2022. <https://reliefweb.int/report/afghanistan/afghanistan-development-update-october-2022-enfaps>.

²⁶ “Afghanistan still a grave humanitarian crisis, senior aid official says,” United Nations, February 28, 2023. <https://news.un.org/en/story/2023/02/1134002>.

²⁷ “Ten years of Afghan economic growth, reversed in just 12 months: UNDP,” United Nations, October 5, 2022, <https://news.un.org/en/story/2022/10/1129287>.

even as the economy adjusts to a new equilibrium. On February 3, 2023, President Biden announced the “Continuation of the National Emergency with Respect to the Widespread Humanitarian Crisis in Afghanistan and the Potential for a Deepening Economic Collapse in Afghanistan,” reflecting the severity of Afghanistan’s ongoing humanitarian and economic crises.²⁸

With stagnant incomes and inflated prices, food insecurity and malnourishment persist throughout Afghanistan. Nearly 20 million Afghans are considered food insecure, with 6 million people on the brink of famine-like conditions and 4 million people considered acutely malnourished, according to the World Food Programme.²⁹ Decades of conflict, environmental degradation, and insufficient investment in disaster risk reduction strategies have left the Afghan population extremely vulnerable to natural disaster shocks such as droughts, earthquakes, and floods.³⁰ The national drought declared in June 2021 is now worsening as it enters its third year, with six times more households experiencing drought conditions in 2022 than in 2020. Sudden-onset disasters, such as the 6.2 magnitude earthquake in Paktika and Khost provinces in June 2022 and atypical summer flood events in August 2022, have also exacerbated humanitarian needs.³¹ Upkeep and maintenance of critical public infrastructure including agricultural support systems, dams, flood protections, education facilities, and electrical and natural gas supplies have markedly deteriorated with the decline in international investment and impacts from other shocks.³²

Afghanistan’s ongoing crises related to conflict, repression, economic collapse, and climate change have worsened an already “weakened and undersized public health system.”³³ Afghans still struggle to access health care due to cost and other barriers, even as unmet medical and humanitarian needs soar. Infectious disease outbreaks of acute watery diarrhea and measles were reported in 2022.³⁴ In addition, harsh winter conditions resulted in acute respiratory rates “significantly increasing” across Afghanistan.³⁵ UNAMA recorded 30 attacks on healthcare personnel and 362 incidents of violence and threats against humanitarian workers, assets, and facilities in 2022. The challenging operating environment for public health and humanitarian actors was further threatened by the December 24, 2022 decree banning female non-governmental organization (NGO) employees from going to work and the April 4, 2023 ban on women working for United Nations agencies.

²⁸ “Notice on the Continuation of the National Emergency with Respect to the Widespread Humanitarian Crisis in Afghanistan and the Potential for a Deepening Economic Collapse in Afghanistan,” The White House, February 3, 2023, <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/03/notice-on-the-continuation-of-the-national-emergency-with-respect-to-the-widespread-humanitarian-crisis-in-afghanistan-and-the-potential-for-a-deepening-economic-collapse-in-afghanistan/>.

²⁹ “WFP Afghanistan: Situation Report,” World Food Programme, December 22, 2022, <https://reliefweb.int/report/afghanistan/wfp-afghanistan-situation-report-22-december-2022>.

³⁰ “Afghanistan: IPC Acute Malnutrition Analysis: September 2022 - April 2023,” Integrated Food Security Phase Classification, January 30, 2023, https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Afghanistan_Acute_Malnutrition_Oct2022_Apr2023_report.pdf, Page 3.

³¹ “Afghanistan Humanitarian Needs Overview.” Page 60.

³² Ibid. Page 16.

³³ “Persistent Barriers to Access Healthcare in Afghanistan,” Doctors Without Borders, February 6, 2023, <https://www.doctorswithoutborders.org/latest/msf-report-persistent-barriers-accessing-health-care-afghanistan>. Page 5.

³⁴ “UNICEF Afghanistan Humanitarian Situation Report: January - December 2022,” UNICEF, <https://www.unicef.org/afghanistan/reports/unicef-afghanistan-humanitarian-situation-report-january-december-2022>. Page 3.

³⁵ “UNICEF Afghanistan Humanitarian Situation Report No. 1: 1-31 January,” UNICEF, <https://www.unicef.org/afghanistan/reports/unicef-afghanistan-humanitarian-situation-report-january-december-2022>. Page 3.

C. Human Rights Abuses and Repression

As part of their brutal style of governance, the Taliban are accelerating an unapologetic, repressive campaign to erase women and girls from public life in Afghanistan. Taliban authorities in mid-November 2022 banned women and girls from public parks and gyms. In December 2022, the Taliban announced the immediate suspension of women from universities. The December 24, 2022 ban on women working for domestic and international NGOs drew immediate outrage and condemnation globally yet it remains in place. In a joint statement, Secretary Blinken and other foreign ministers noted the ban demonstrated the Taliban's "contempt for the rights, freedoms, and welfare of the Afghan people, particularly women and girls."³⁶ This pattern amounts to systematic repression and discrimination against Afghan women and girls, who are now prohibited from receiving an education past the sixth grade. Denied access to secondary education and restrictions on mobility have severely curtailed the participation of Afghan women in the economy.³⁷ Furthermore, a rise in sexual and gender-based violence is "occurring with impunity and with minimal support for victims," reports the UN's Special Rapporteur on the situation of human rights in Afghanistan.³⁸ Afghanistan has by many accounts fallen into a state of gender apartheid.³⁹

Religious minorities – including the Hazara and other Shia Muslims, as well as Sikhs, Sufis, Christians, and Hindus– face targeted threats and attacks as part of daily life in Afghanistan.⁴⁰ The Hazara population has been specifically targeted in attacks against civilians and through extrajudicial killings. A suicide bombing at the Kaaj Educational Center in Kabul's Dasht-e-Barchi area on September 30, 2022 killed 54 people - the overwhelming majority of whom were young women and girls studying for the university entrance examination. Hazara elders, representatives, and civil society activists have made calls for protection by the authorities that have gone unanswered – another clear demonstration of the Taliban's unwillingness to ensure the safety of vulnerable groups and the civilian population at large.

LGBTQIA+ Afghans also face grave danger and violence as a result of the Taliban's rigid, intolerant worldview.⁴¹ Lesbian, gays, bisexual, and transgender Afghans face arrest, detention, torture, and gang rape – with activists documenting dozens of cases of harassment, beatings, burnings, and killings of young people by Taliban authorities.⁴²

Since August 2021, forced evictions and land grabbing have displaced thousands of people belonging to political and ethnic minorities, including the Hazara.⁴³ These tensions have intensified into armed conflict since the Taliban takeover, with Kuchi nomadic groups using force

³⁶ "Joint Statement from Foreign Ministers on the Taliban's Ban on Afghan Women Working for National and International NGOs," U.S. Department of State, December 28, 2022, <https://www.state.gov/joint-statement-from-foreign-ministers-on-the-talibans-ban-on-afghan-women-working-for-national-and-international-ngos/>.

³⁷ "One Year In Review: Afghanistan since August 2021," United Nations Development Programme, October 5, 2022, <https://www.undp.org/afghanistan/publications/one-year-review-afghanistan-august-2021>.

³⁸ "Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett," Human Rights Council, February 9, 2023, <https://reliefweb.int/report/afghanistan/situation-human-rights-afghanistan-report-special-rapporteur-situation-human-rights-afghanistan-richard-bennett-ahrc5284-advance-edited-version>. Page 5.

³⁹ Dr. Ewelina U. Ochab, "Gender Apartheid Against Women And Girls In Afghanistan," Forbes, March 11, 2023, <https://www.forbes.com/sites/ewelinaochab/2023/03/11/gender-apartheid-against-women-and-girls-in-afghanistan/>.

⁴⁰ "Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett," Page 7.

⁴¹ "Even If You Go to the Skies, We'll Find You," Human Rights Watch, January 26, 2022,

<https://www.hrw.org/report/2022/01/26/even-if-you-go-skies-well-find-you/lgbt-people-afghanistan-after-taliban-takeover>.

⁴² Lynne O'Donnell, "Millions of Afghans Want to Flee. LGBTQ Afghans Have To," Foreign Policy, May 5, 2022, <https://foreignpolicy.com/2022/05/05/afghanistan-taliban-lgbtq-danger/>.

⁴³ "Afghanistan: Taliban Forcibly Evict Minority Shia," Human Rights Watch, October 22, 2021, <https://www.hrw.org/news/2021/10/22/afghanistan-taliban-forcibly-evict-minority-shia>.

to take land from rival groups or residents.⁴⁴ Mostly Uzbek and Tajik residents in Sar-e-Pol Province, for instance, faced forced evictions in December 2022 and were threatened with a military response if they did not comply. These land disputes are contributing to the lingering widespread rates of internal displacement within Afghanistan, although economic challenges such as poverty, debt, and disrupted livelihoods are increasingly the main drivers behind internal and cross-border movements.⁴⁵

IV. Redesignation, Extension of TPS for Afghanistan is in the Best Interest of the United States

An extension and immediate redesignation of TPS for Afghanistan are necessary to safeguard vulnerable Afghans in the United States. These efforts also reaffirm the U.S. commitment to establishing policies to support the people of Afghanistan, which is critical considering the Taliban's repressive regime and the recent emboldening of terrorist groups such as al Qaeda and the Islamic State, which threaten the national security interests of the United States and jeopardize regional and global security.

V. Conclusion

In conclusion, we respectfully urge the administration to: (1) immediately redesignate 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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cc: Curtis Ried, Chief of Staff, National Security Council
Ur Jaddou, Director, U.S. Citizenship and Immigration Services
John R. Bass, Acting Deputy Secretary, U.S. Department of State
Thomas West, Special Representative and Deputy Assistant Secretary for Afghanistan, U.S. Department of State
Rina Amiri, U.S. Special Envoy for Afghan Women, Girls, and Human Rights, U.S. Department of State

⁴⁴ "Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett," Page 9

⁴⁵ "Kathryn Giffin, "One Year On: The Taliban Takeover and Afghanistan's Changing Displacement Crisis," Internal Displacement Monitoring Centre, August 2022, <https://www.internal-displacement.org/expert-opinion/one-year-on-the-taliban-takeover-and-afghanistans-changing-displacement-crisis>.

Sincerely,

International/National Organizations

#AfghanEvac
Afghan Evacuation and Relocation Lawyers (AERL)
Afghan Scout Relief Fund
Afghan-American Chamber of Commerce (AACC)
Afghan-American Community Organization (AACO)
Afghan-American Foundation
Afghans For A Better Tomorrow
Alliance for Peacebuilding
Allied Shepard
American Friends Service Committee (AFSC)
American Immigration Lawyers Association
Asian Americans Advancing Justice (AAJC)
Asian Pacific American Labor Alliance, AFL-CIO
Association of Wartime Allies (AWA)
Asylum Seeker Advocacy Project (ASAP)
Bethany Christian Services
Catholic Legal Immigration Network, Inc.
Center for Gender & Refugee Studies
Center for Victims of Torture
Church World Service
Clearinghouse on Women's Issues
Communities United for Status & Protection (CUSP)
Community Supported Film
Cooperative Baptist Fellowship
Dominican Sisters of Sinsinawa Office of Peace and Justice
Feminist Majority Foundation
Franciscan Action Network
Freedom House
Friends Committee on National Legislation
Ghafoor Foundation
Global Friends of Afghanistan
Haitian Bridge Alliance
HIAS
Human Rights First
Illinois Venezuelan Alliance
Immigrant Legal Resource Center
Immigration Equality
International Refugee Assistance Project (IRAP)
Iraq & Afghanistan Veterans of America
Islamic Relief USA
Justice Action Center
Lutheran Immigration and Refugee Services
Maryknoll Office for Global Concerns
Mormon Women for Ethical Government
MPower Change
Multifaith Alliance

National Employment Law Project
National Immigration Forum
National Immigration Law Center (NILC)
National Network for Immigrant and Refugee Rights (NNIRR)
National Partnership for New Americans
No One Left Behind
Nooristan Foundation
Oasis Legal Services
Paws Unite People Inc.
Presbyterian Church (USA)
Prime Counsel, PLLC
Project ANAR
Refugees International
Search for Common Ground
Secure Families Initiative
Sisters of Our Lady of Guadeloupe and St. Joseph
Sisters of St. Joseph of Carondelet
Sisters of St. Francis of the Providence of God
T'ruah: The Rabbinic Call for Human Rights
The Afghanistan-U.S. Democratic Peace and Prosperity Council
The Campaign for Hong Kong
The Lamia Afghan Foundation
The Right to Immigration Institute
The Strategic Initiative on Migrants and Refugees, Villanova University
The Workers Circle
Truman Center for National Policy
U.S. Committee for Refugees and Immigrants
U.S. Federation of the Sisters of St. Joseph
Unitarian Universalists for Social Justice
Upwardly Global
Uri L'Tzedek
USAHello
USC Law International Human Rights Clinic
VECINA
Win Without War
With Honor Action
Women for Afghan Women (WAW)
World Hazara Council USA
Young Center for Immigrant Children's Rights

State/Local Organizations

African Career Education and Resources (ACER) Inc.
Afghan American Alliance of Georgia
Afghan Support Network
Al Otro Lado
Anshe Chesed Synagogue
Ayuda
Buen Vecino Ventura County
Catholic Charities Archdiocese of Boston
Catholic Charities of Southwest Kansas

Central American Refugee Center (CARECEN - NY)
Central American Resource Center
Central American Resource Center of Northern CA (CARECEN - SF)
Children's Legal Center Chicago
Community Refugee & Immigration Services
Community Resources Coalition-Kentucky
Congregation Rodeph Shalom
Conklin Immigration Law, LLC
Connecticut Institute for Refugees and Immigrants
Diocesan Migrant and Refugee Services Inc.
Dorcas International Institute of Rhode Island
Dorothy Day Catholic Worker, Washington DC
East Bay Refugee and Immigrant Forum
Fellowship Southwest
First Friends of New Jersey & New York
Florence Immigrant & Refugee Rights Project
Florida Immigrant Coalition
Fresh Start Refugee Assistance Center
Global Afghan Allies
Heartland Human Care Services
Hearts & Homes for Refugees
Humanitarian Legal Assistance Project
Illinois Coalition for Immigrant and Refugee Rights
Immaculate Heart Community Commission on Immigrants, Refugees, and Indigenous People
Immigrant & Refugee Community Organization
Immigrant and Refugee Outreach Center (IROC)
Immigrant Law Center of Minnesota
Immigrant Legal Advocacy Project
Immigration Institute of the Bay Area
Interfaith Welcome Coalition - San Antonio
International Institute of Los Angeles
International Institute of Minnesota
International Institute of New England
International Institute of St. Louis
Jews and Muslims and Allies Acting Together (JAMAAT)
Jesuit Social Research Institute, Loyola University New Orleans
Jewish Family Service of San Diego
Jewish Vocational Service of Kansas City
Jewish Voice for Peace, Atlanta chapter
Keeping Our Promise Inc.
Kentucky Coalition for Immigrant and Refugee Rights
Law Office of Patavee Vanadilok, P.C.
Lutheran Social Services of the National Capital Area (LSSNCA)
Massachusetts Law Reform Institute
MetroWest Legal Services
Michigan Immigrant Rights Center
North Suburban Legal Aid Clinic
Northwest Immigrant Rights Project
NOVA Catholic Community
Pars Equality Center
Partnership for the Advancement of New Americans (PANA)

Riverside Sojourners
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Student Clinic for Immigrant Justice
Synagogue Coalition on the Refugee and Immigration Crisis
Tennessee Justice for Our Neighbors
The 5ive Pillars Organization
The Advocates for Human Rights
The Interfaith Center of New York
Thrive International Programs, Inc.
University of Maryland Chacón Center for Immigrant Justice
Wayne Action for Racial Equality
WESPAC Foundation, Inc.
Westchester Jewish Coalition for Immigration
Wilco Justice Alliance (Williamson County, TX)
Wind of the Spirit Immigrant Resource Center
YWCA Tulsa

Afghans Arriving via the Southern Border

By Daniel Salazar

April 11, 2023

With other pathways mired in delays and backlogs, Afghan nationals fleeing Taliban rule in Afghanistan are increasingly resorting to irregular migration to the United States. In recent months, hundreds of Afghans have arrived at the United States' southern border to seek protection.

This report examines the burgeoning trend of Afghans seeking entry and admission into the United States at its land borders, particularly the southern border. It discusses the known data for this trend, as well as the breakdown of protections and pathways that lead Afghans to take this route to the United States. The report examines considerations for resettlement and legal staff seeking to serve this population and concludes with policy recommendations. It is based on publicly available reports, government data, and interviews and calls with U.S. Committee for Refugees and Immigrants (USCRI) staff and partners.

A growing trend, and a dangerous route

In 2022, U.S. border agents apprehended 2,132 Afghans—with nearly half arriving in the last two months of the year, according to U.S. government data [reported by Reuters](#).

Their journeys in the Western Hemisphere are often routed through Brazil. Since September 2021, the Brazilian government [has granted](#) temporary humanitarian visas and residence permits for Afghan nationals, stateless persons, and persons affected by the humanitarian crisis in Afghanistan. More than 6,300 visas have been authorized through the program, and approximately 3,367 Afghans entered Brazil in the first 10 months of 2022, the [U.N. High Commissioner for Refugees \(UNHCR\) reports](#). A lack of shelter space resulted in Afghans [camping out](#) for weeks at a time in the São Paulo International Airport—although UNHCR officials [say](#) they have worked to speed up reception processes at local shelters.

Reuters reported that in 2022 about 2,200 Afghans crossed the Darién Gap, a dangerous stretch of undeveloped jungle between Colombia and Panama that represents the only land route from South America. [Other reporting](#) also confirms that hundreds of Afghans registered in Mexico in January 2023, with officials believing many were headed to the United States' southern border to request asylum.

Failed pathways

Accounts of Afghans, including those who fought alongside U.S. troops, who have trekked [through the Darién Gap](#) and [have been arrested after reaching the United States](#) demonstrate a larger, systemic failure: U.S. protection pathways have largely failed Afghans seeking safety after the fall of Kabul.

[Humanitarian parole](#) allows individuals to enter the United States for a temporary period for urgent humanitarian reasons or significant public benefit. But Afghan nationals have seen massive delays in the adjudication of humanitarian parole applications, which is administered by U.S. Citizenship and Immigration Services (USCIS). Approximately 44,785 humanitarian applications from Afghan citizens were submitted from January 1,

2020 to April 6, 2022—but only 114 of those were approved. [International Refugee Assistance Project and the American Immigration Council note](#) that “this bottleneck of applications essentially foreclosed this benefit as a potential option for those Afghans who could not reach the United States, many of whom remained in Afghanistan.”

More permanent resettlement programs are also plagued with problems. Special Immigrant Visas (SIVs) offer a pathway to lawful permanent resident status for those that directly worked with U.S. forces during the war in Afghanistan. However, the SIV program has long faced backlogs and technical challenges—going far beyond its timeline defined in statute. More than 150,000 SIV applicants are [reportedly](#) in limbo awaiting necessary paperwork to resettle. Afghans can also permanently resettle in the United States through the U.S. Refugee Admissions Program (USRAP). But [the lack of a Resettlement Support Center in Pakistan](#), where many Afghan refugees reside, continues to prevent Afghans from seeing timely progress in their USRAP cases.

Delays and denials in these pathways play a direct role in prompting Afghans to fly to Brazil and travel northward. “A lot of Afghans are desperate to find other means,” said Mustafa Babak, executive director of the Afghan American Foundation.

‘No consistency’: Trends at the border

Attorneys and advocates who have worked with Afghans arriving at the southern border [report](#) a variety of trends that make serving this population difficult. Amie Kashon, who co-chairs the Evacuate Our Allies’ working group on the issue, said there is “no consistency” in how Afghans arriving at the southern border are received.

Arriving Afghans are frequently granted different types of parole—some will receive humanitarian parole under Section 212(d)(5) of the Immigration and Nationality Act (INA), while others receive parole under INA § 236(a), which is when an individual is paroled out of custody to pursue their case in immigration court. Resettlement partners note duration of parole granted at the southern border can also vary widely—from a few days or weeks to up to nearly a year.

Some Afghans who arrived via the southern border have been provided Notices to Appear (NTAs) in immigration court, whereas others have not. Some Afghans in familial units are placed in detention, whereas others are not. There are also reports of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) officials giving incomplete or inaccurate information to arriving Afghans on their rights to apply for asylum.

Kerry Spare, program director at YMCA International Services in Houston, noted that Afghan parolee walk-in clients often have not stayed in the area—instead, continuing to elsewhere in the United States to meet family members. This dynamic can complicate enrolling Afghans in services, even if they are eligible. “They’re a really transient population,” she said.

Benefits, legal services eligibility

Through various legislation, Congress has authorized groups of Afghan citizens or nationals—including Afghan humanitarian parolees—to receive resettlement assistance and other benefits available to refugees. As explained in [Office of Refugee Resettlement](#)

[\(ORR\) policy](#), eligible Afghan parolees are citizens or nationals of Afghanistan paroled into the United States under section 212(d)(5) of the INA between July 31, 2021 and September 30, 2023.

ORR-eligible Afghans are also eligible for legal services funded through the Afghanistan Supplemental Appropriations Act (ASA). This group includes Afghan humanitarian parolees, spouses and children of Afghan humanitarian parolees, and parents or legal guardians of unaccompanied Afghan minors. ASA legal funding is limited to specific uses [listed in ORR policy](#), and cannot be used for defensive asylum filings or representation in removal proceedings.

Parole granted under Section 212(d)(5) of the INA is often noted with a “DT” stamp in a passport or Form I-94 Arrival/Departure record, which signifies parole granted at a port of entry or district office. ORR told USCRI that other acceptable stamps or notations include, but are not limited to:

- AHP
- Humanitarian Parole
- Parole
- PAR
- OAR
- OAW
- 212(d)(5)(A)
- 212(d)(5)

In contrast, parole due to the individual being placed in removal proceedings would include a different notation on their entry documents such as “ERCF.” ORR told USCRI that “most (if not all) Afghans in removal proceedings are not eligible for ORR benefits and services because they do not have an ORR-eligible immigration status or category.”

Recommendations

To better serve Afghans seeking protection, USCRI makes the following recommendations:

More consistent forms, lengths of parole: The hodgepodge of types of parole and parole durations creates unnecessary confusion for Afghans seeking protection and the resettlement staff and legal service providers that seek to aid them. Short parole durations set up admitted individuals to quickly fall out of status and hinder efforts to obtain critical services or legal representation for an affirmative asylum claim. Through a combination of policy guidance and improved training, federal authorities should work to ensure more consistency across the types and durations of parole that are granted to Afghan nationals who arrive at the border.

Reparole, parole extension process for Afghans: Recently paroled populations, including Afghans, should be able to access a relatively streamlined process whereby their parole in the United States can be extended or renewed on a case-by-case basis. Active parole is crucial to attaining and retaining work authorization and access to critical services—and

there must be a plan for how Afghans evacuated in 2021 and newer arrivals will be able to apply for extensions or renewals of their parole in the United States.

Preserve asylum access at the southern border: The Biden administration should not proceed with its [proposed rule](#) that would presume individuals as ineligible for asylum unless they arrive through a Department of Homeland Security-administered parole process or through the CBP mobile application. The proposed rule would negatively affect Afghans and other populations seeking asylum in the United States that face persecution if they were to return to their country of origin.

Redesignate Afghanistan for Temporary Protected Status: Violence, drought, a collapsing economy and public health sector, systemic violations of human rights, and other factors demonstrate that country conditions in Afghanistan continue to warrant Temporary Protected Status (TPS). A TPS redesignation of Afghanistan would establish a new cut-off date for continuous residence and physical presence in the United States for Afghan nationals to access the protections of TPS, such as protections from removal and work authorization.

Pass the Afghan Adjustment Act: An adjustment of status process for Afghans evacuated after the fall of Kabul is one of the most pressing features of the bipartisan [Afghan Adjustment Act](#)—as two-year periods granted during Operation Allies Welcome (OAW) begin expiring later this year.

However, key non-adjustment provisions in the original version of the AAA would be critical to aiding Afghans who arrived in the United States after the non-combatant evacuation operation (NEO), including:

- An interagency task force would improve coordination of Afghan resettlement strategy through estimates of target populations for resettlement as well as resource and process constraints that hinder Afghan ally resettlement;
- An office in lieu of an embassy would improve processing applications from eligible Afghan nationals;
- Expanded SIV eligibility criteria would offer protections to more Afghan allies.

When the AAA is reintroduced in the 118th Congress, it must be swiftly enacted into law and administered in close consultation with civil society actors, veterans' groups, resettlement agencies, and Afghan-American community organizations.

Conclusion

In one sense, Afghans arriving at the southern border are similar to other populations—groups that seek humanitarian protection fleeing violence and persecution in their countries of origin. However, in the context of the [April 6 National Security Council report](#) that the evacuation of Afghanistan should have been conducted earlier, the United States is once again reminded of how much it has let down its Afghan allies. Afghans fleeing Taliban rule should have access to robust and streamlined protection pathways, and not feel compelled to take irregular pathways to the United States' southern border.

USCRI will continue to track this issue and invites its network to share information about challenges serving this population at policy@uscrimail.org.



U.S. Citizenship
and Immigration
Services

June 1, 2023

Mustafa Babak
Executive Director
Afghan-American Foundation (AAF)
mustafa@afghanamericans.org

Dear Mr. Babak:

Thank you for your May 3, 2023 letter to the Department of Homeland Security (DHS) recommending the extension and redesignation of Afghanistan for Temporary Protected Status (TPS). U.S. Citizenship and Immigration Services (USCIS) is principally responsible for advising the Secretary on TPS issues and implementing the programs. I am responding on behalf of the Department.

I appreciate the concerns you have outlined regarding the situation in Afghanistan and your interest in a TPS designation extension and redesignation. The Secretary of Homeland Security may designate a country for TPS and extend or terminate a country's existing TPS designation based upon specific statutory criteria. In order to designate a country for TPS or extend a country's TPS designation, the Secretary must find one or more of the following circumstances: (1) there is an ongoing armed conflict within the country that would pose a serious threat to the personal safety of the country's nationals if they were returned; (2) there has been an environmental disaster resulting in a substantial, but temporary, disruption of the living conditions in the area affected, the country is temporarily unable to handle adequately the return of its nationals, and the country has officially requested TPS designation; or (3) there exist extraordinary and temporary conditions in the country that prevent nationals from returning in safety, and the Secretary does not find that permitting the country's nationals to remain temporarily in the United States would be contrary to the national interest of the United States.¹

Afghanistan was initially designated for TPS on May 20, 2022 due to (1) an ongoing armed conflict and (2) extraordinary and temporary conditions within Afghanistan preventing nationals from returning to Afghanistan in safety.² This designation is for 18 months and runs through November 20, 2023.

At least 60 days before the expiration of a TPS designation or extension, the Secretary, after consultation with appropriate U.S. Government agencies, must review the country conditions to determine whether they continue to meet the conditions for the TPS designation.³

¹ See Immigration and Nationality Act § 244(b)(1), 8 U.S.C. § 1254a(b)(1).

² See Designation of Afghanistan for Temporary Protected Status, 87 FR 30976 (May 20, 2022).

³ See INA § 244(b)(3)(A), 8 U.S.C. § 1254a(b)(3)(A).

If the Secretary determines conditions for TPS designation continue to exist, the designation will be extended for an additional period of six months or, at the Secretary's discretion, 12 or 18 months.⁴

I appreciate your concerns regarding the ongoing situation in Afghanistan and the information you have provided about conditions in Afghanistan. Please be assured DHS continues to actively monitor in-country conditions. DHS makes decisions to designate TPS after consultation with interagency partners and careful consideration of the individual country's circumstances.

In addition to TPS, USCIS also offers support that may be available upon request to assist eligible Afghan nationals, and other individuals who last habitually resided in Afghanistan affected by special situations, including the following:

- Change or extension of nonimmigrant status for noncitizens 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 for individuals in the United States who wish to return to the United States after temporary travel abroad;
- Expedited adjudication of requests for off-campus employment authorization for eligible 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 because of the special situation; and
- Expedited 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/humanitarian/special-situations>.

Regarding Afghan nationals paroled into the United States under Operation Allies Welcome (OAW), on May 5, 2023, DHS announced the establishment of a process for eligible Afghan nationals paroled under OAW to apply for re-parole. This process will allow OAW parolees to continue to work and reside in the United States if re-parole is granted. As is the case for any parole request, requests for re-parole will be considered on a case-by-case basis. DHS has begun hosting Afghan Support Centers across the country starting with the first center in Phoenix, Arizona, followed by a Support Center in Tucson, Arizona. These events bring together federal, state, and local immigrant and community partners and service providers to address Afghan community needs in one-stop shop locations, including providing legal services for immigration benefits such as asylum and special immigrant visa applications, and preparing to apply for re-parole and work authorization. We will announce additional dates and locations for Afghan Support Centers in the coming weeks.

⁴ See INA § 244(b)(3)(A), (C), 8 U.S.C. § 1254a(b)(3)(A), (C).

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