

November 19, 2024

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

Secretary Alejandro Mayorkas
U.S. 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

RECEIVED

By ESEC at 8:07 am, Nov 21, 2024

**RE: REQUEST FOR IMMEDIATE REDESIGNATION, EXTENSION OF
TEMPORARY PROTECTED STATUS FOR AFGHANISTAN**

Dear President Biden, Secretary Mayorkas, and Secretary Blinken,

The undersigned organizations request an immediate 18-month redesignation and extension of Temporary Protected Status (TPS) for Afghanistan. Since the last redesignation in September 2023, dire country conditions in Afghanistan have continued to worsen, rendering safe returns impossible. A redesignation is needed to immediately safeguard Afghans who have arrived in the United States since the last TPS cutoff dates, including those arriving in the United States on humanitarian parole.

As national and community-based organizations who work with this population, we are deeply concerned about the continuity of protections for Afghan nationals in the United States. A TPS redesignation and extension from the Department of Homeland Security (DHS) in the coming weeks will allow Afghan nationals to seek protection from removal and work authorization to provide for themselves and their families. Without an immediate redesignation, Afghan nationals in the United States on an authorized period of stay are at grave risk of refoulement, as well as vulnerabilities created by gaps in work authorization.

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 apply for work authorization while armed conflict, natural disasters, or other temporary or extraordinary conditions in their home country make returning safely impossible.¹ TPS is premised on the foundation of non-refoulement and is a life-saving temporary 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.² In this instance, the cutoff date for arrival can be moved forward (“redesignation”) to allow those who arrived later to also qualify for protection.³

¹ Wilson, Jill. “Temporary Protected Status and Deferred Enforced Departure.” Congressional Research Service. September 23, 2024. <https://sgp.fas.org/crs/homesecc/RS20844.pdf>. Page 2.

² 8 U.S. Code § 1254b(3)(a).

³ Wilson. “Temporary Protected Status and Deferred Enforced Departure.” Page 3.

On September 21, 2023, Secretary Mayorkas announced the redesignation and extension of Afghanistan for TPS for 18 months, citing ongoing armed conflict and extraordinary and temporary conditions that prevent Afghan nationals from safely returning.⁴ Through the Federal Register Notice, the designation established a continuous residence date of September 20, 2023, and a continuous physical presence date of November 21, 2023 for Afghan nationals in the United States to be eligible.⁵ The redesignation advanced these dates from the dates in the original TPS designation, which was published in the Federal Register on May 20, 2022.⁶

The Department of Homeland Security must make a determination on whether to extend current TPS designations at least 60 days before the end of a designation period.⁷ This date is a *minimum* standard for the review of a current designation – and TPS designations and Federal Register Notice publications have previously been made in advance of the 60-day timetable and are permissible within the statute.⁸

The current Afghanistan TPS designation is set to end on May 20, 2025.

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

During and after the Taliban takeover of Afghanistan in August 2021, Afghans were granted humanitarian parole in Operation Allies Refuge (OAR) and Operation Allies Welcome (OAW). In the absence of Afghan adjustment-of-status legislation from Congress, Afghans have sought asylum or worked to attain lawful permanent resident status through the Afghan Special Immigrant Visa (SIV) program. However, to date, many have not achieved a permanent status—rendering temporary relief like TPS invaluable.

A TPS redesignation and extension would offer protection to Afghan nationals who arrived through OAW or Enduring Welcome as they continue to face barriers to, or delays in, obtaining long-term protection.

Afghan nationals who were granted parole since the last cutoff dates have even fewer options and resources. Barring certain familial ties, Afghan nationals granted parole who arrive after September 30, 2023, are not eligible for federal mainstream benefits or resettlement assistance available to refugees, including immigration-related legal assistance.⁹ Many Afghan parolees approved through the I-131 process and recently arriving in the United States have only been granted one year of parole, adding to the uncertainty caused by the lapse in Congressional authorization of benefits eligibility. Furthermore, Afghans recently arriving through parole are generally not eligible for USCIS’ re-parole process for certain Afghan nationals, a program launched in June 2023 that allowed OAW Afghans to concurrently apply for another two years of parole and work authorization.¹⁰

⁴ “Secretary Mayorkas Announces Extension and Redesignation of Afghanistan for Temporary Protected Status.” U.S. Department of Homeland Security. September 21, 2023.

<https://www.dhs.gov/news/2023/09/21/secretary-mayorkas-announces-extension-and-redesignation-afghanistan-temporary>.

⁵ 88 FR 65728

⁶ 87 FR 30976

⁷ 8 U.S. Code § 1254a(3)(a).

⁸ “Temporary Protected Status: Steps Taken to Inform and Communicate Department of Homeland Security’s Decisions.” U.S. Government Accountability Office. April 2020. <https://www.gao.gov/assets/gao-20-134.pdf>. Page 33.

⁹ “Dear Colleague Letter 24-01: Eligibility for Refugee Resettlement Program benefits and services: Parolees from Afghanistan or Ukraine.” Administration for Children and Families. October 3, 2023. <https://www.acf.hhs.gov/orr/policy/dear-colleague-letters/24-01>.

¹⁰ “Re-Parole Process for Certain Afghan Nationals.” U.S. Citizenship and Immigration Services. <https://www.uscis.gov/humanitarian/information-for-afghan-nationals/re-parole-process-for-certain-afghans-nationals>.

A TPS redesignation with new physical presence and continuous residence dates would be a lifeline to these more recent arrivals by providing protection from removal and access to work authorization.

These needs could become even more pressing in the near future as initiatives created under Enduring Welcome are reassessed and recalibrated under new leadership.

TPS would help protect individuals from deportation if immigration pathways and protections, including for Afghans, are eroded. This is particularly the case for individuals who are on an authorized period of stay and have pending applications for lawful status— applications that may be arbitrarily denied or languish unadjudicated in backlogs.

III. Conditions in Afghanistan Merit an Immediate Redesignation, Extension of Temporary Protected Status

A. Armed Conflict and Security Situation

The State Department has set Afghanistan’s travel advisory at Level 4 due to terrorism, risk of wrongful detention, civil unrest, kidnapping, and crime.¹¹ Multiple non-state armed groups including the Islamic State-Khorasan Province and Al Qaeda remain active in Afghanistan and capable of conducting attacks on civilians.¹²

The Taliban’s oppressive rule is one of the numerous sources of civilian harm fueling an environment of violence and insecurity in the country. Former government officials and Afghan National Defense and Security Forces (ANDSF) members frequently face extrajudicial killings, arbitrary arrests and detentions, forced disappearances, and torture at the hands of the Taliban authorities.¹³

Further, journalists and other members of civil society are detained and attacked by the Taliban to discourage critical coverage or viewpoints on their governance.¹⁴ The United Nations Assistance Mission in Afghanistan (UNAMA) has also documented the use of judicial corporal punishment by the Taliban authorities— while improvised explosive devices and unexploded ordnance continue to kill or maim civilians.

B. Humanitarian Situation

The sudden political transition of August 2021, the economic freefall after the Taliban takeover, and the decline in international development assistance have “amplified protection risks and humanitarian needs at the household-level” across the country.¹⁵ According to the country’s Humanitarian Needs Overview, about 23.7 million people in Afghanistan— more than half of the population— will need urgent humanitarian assistance in 2024. On February 7, 2024, President

¹¹ “Afghanistan.” U.S. Department of State, Bureau of Consular Affairs. July 29, 2024.

<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/afghanistan-advisory.html>.

¹² Clayton, Thomas. “Terrorist Groups in Afghanistan.” Congressional Research Service. April 2, 2024.

<https://crsreports.congress.gov/product/pdf/IF/IF10604>.

¹³ “Update on the Human Rights Situation in Afghanistan: January - March 2024 Update.” United Nations Assistance Mission in Afghanistan. March 2024. https://unama.unmissions.org/sites/default/files/human_rights_update_march_2024_engf.pdf. Page 4.

¹⁴ “Afghanistan: Country Chapter 2023.” Human Rights Watch.

<https://www.hrw.org/world-report/2023/country-chapters/afghanistan-0>.

¹⁵ “Afghanistan Humanitarian Needs and Response Plan 2024.” The Office for the Coordination of Humanitarian Affairs. December 2023.

<https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-needs-and-response-plan-2024-december-2023-endarips>. Page 8.

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.¹⁶

The UN Development Programme reported earlier this year that unemployment has doubled and the Afghan economy has contracted by 27 percent since the Taliban takeover.¹⁷ With stagnant incomes and inflated prices, food insecurity and malnourishment persist throughout Afghanistan. More than 12 million Afghans are considered food insecure, with 4 million people considered acutely malnourished and 2.9 million people in Integrated Food Security Phase Classification 4 emergency levels of food insecurity, according to the World Food Programme.¹⁸

Natural disasters and climate-related shocks have been devastating for Afghanistan in 2023 and 2024. In October 2023, a series of earthquakes in Herat Province in western Afghanistan damaged hundreds of villages and affected hundreds of thousands of people. Irregular rainfall patterns have resulted in drought conditions, desertification, and flooding in different parts of the country, stretching households that rely on subsistence agricultural practices.

The Office for the Coordination of Humanitarian Affairs notes that “Afghanistan remains primarily a protection emergency characterized by high-levels of protracted displacement, mine and explosive ordnance contamination, restrictions to freedom of movement, increased risk of gender-based violence (GBV), child labour, [and] early marriage.”

C. Human Rights Abuses and Repression

As part of this brutal style of governance, the Taliban have deepened an unapologetic, repressive campaign to erase women and girls from public life in Afghanistan. Since August 2021, the Taliban have introduced dozens of decrees that directly curtail the rights and dignity of women—a “series of fundamentally discriminatory...practices targeted at wholly abolishing the rights and freedoms of Afghanistan’s women and girls.”¹⁹

Prohibitions on women’s beauty salons and the arbitrary closure of other women-led businesses have limited women’s right to work, while the prohibition on accessing parks, gyms and public baths and the requirement for women to travel with a male guardian have negatively affected freedom of movement.²⁰ More recently, the August 21, 2024, Law on Promotion of Virtue and Prevention of Vice codified previous decrees while imposing new restrictions, such as prohibiting women’s voices from being heard in public.²¹ Restrictions on women’s access to

¹⁶ “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 7, 2024. <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/02/07/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-2/>.

¹⁷ “Afghanistan’s economy has ‘basically collapsed’: UNDP.” UN News. March 7, 2024. <https://news.un.org/en/story/2024/03/1147387>.

¹⁸ “WFP Afghanistan: Situation Report.” World Food Programme. July 9, 2024. <https://reliefweb.int/report/afghanistan/wfp-afghanistan-situation-report-june-2024>.

¹⁹ “Afghanistan: Gender Country Profile 2024.” UN Women. 2024. <https://www.unwomen.org/sites/default/files/2024-06/Gender-country-profile-Afghanistan-en.pdf>. Page 12.

²⁰ “De Facto Authorities’ Moral Oversight in Afghanistan: Impacts on Human Rights.” United Nations Assistance Mission in Afghanistan. July 2024. https://unama.unmissions.org/sites/default/files/moral_oversight_report_english_final.pdf. Page 3.

²¹ “Update on the human rights situation in Afghanistan: July to September 2024 Update.” United Nations Assistance Mission in Afghanistan.

health care and education have skyrocketed harmful outcomes among Afghan women and girls, such as suicide attempts, early childbearing, and maternal mortality.²² Experts increasingly assess that the situation for women and girls in Afghanistan amounts to gender apartheid.²³

Religious minorities— including the Hazara and other Shia Muslims, as well as Christians and Sufis— face targeted threats and attacks as part of daily life in Afghanistan.²⁴ The Hazara population continues to be specifically targeted in attacks against civilians and through extrajudicial killings. In May 2024, the U.S. Commission on International Religious Freedom recommended that the State Department designate Afghanistan as a country of particular concern for its religious freedom conditions.²⁵

IV. Conclusion

Due to ongoing country conditions in Afghanistan and the potential of refolement for newly arrived Afghan nationals in the United States, we respectfully urge the administration to: (1) immediately redesignate and extend TPS for Afghanistan for 18 months, (2) to launch a public information campaign to notify the impacted community of the decision and any actions they must take; (3) to streamline a process for late registration and to issue clear guidance to Afghans granted parole on accessing TPS; and (4) to publish a timely Federal Register Notice.

cc: Curtis Ried, Chief of Staff, National Security Council
Ur Jaddou, Director, U.S. Citizenship and Immigration Services

Sincerely,

#AfghanEvac
Advocates for Basic Legal Equality (ABLE)
Afghan Coalition
Afghan Refugee Relief
Afghan Scout Relief Fund
Afghan-American Community Organization (AACO)
Afghan-American Foundation
Afghanistan Advocacy Group
Afghans For A Better Tomorrow
Alliance for Peacebuilding
Amnesty International USA
ANAR
Anethum Global
Association of Wartime Allies (AWA)
August Legal, LLC

<https://reliefweb.int/report/afghanistan/unama-update-human-rights-situation-afghanistan-july-september-2024-update-enps>. Page 2.

²² Penn, Diane. “Afghanistan: Taliban rule erased women from public life, sparked mental health crisis.” UN News. August 13, 2024. <https://news.un.org/en/story/2024/08/1153151>.

²³ “Gender apartheid must be recognized as a crime against humanity, UN experts say.” United Nations Office of the High Commissioner for Human Rights. February 20, 2024.

<https://www.ohchr.org/en/press-releases/2024/02/gender-apartheid-must-be-recognised-crime-against-humanity-un-experts-say>.

²⁴ “Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett.” United Nations General Assembly. August 30, 2024. <https://documents.un.org/doc/undoc/gen/n24/253/29/pdf/n2425329.pdf>. Page 9.

²⁵ “2024 Annual Report.” U.S. Commission on International Religious Freedom. May 2024. <https://www.uscirf.gov/sites/default/files/2024-05/2024%20Annual%20Report.pdf>. Page 14.

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MetroWest Legal Services
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MPower Change Action Fund
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Paloonkey
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Refugee Council USA
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The 5ive Pillars Organization
VECINA
Women for Afghan Women
Women's Refugee Commission
World Hazara Council USA
1208 Foundation



**U.S. Citizenship
and Immigration
Services**

December 17, 2024

Joseph M. Azam
Board Chair
Afghan American Foundation
joseph@afghanamericans.org

Dear Mr. Azam:

Thank you for your November 19, 2024 letter to the Department of Homeland Security (DHS) requesting the immediate redesignation and extension of Temporary Protected Status (TPS) for Afghanistan. I am responding on behalf of the Department.

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. To designate a country for TPS or extend a country's TPS designation, the Secretary must find one or more of the following facts: (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

I appreciate your concerns regarding the situation in Afghanistan and your interest in its extension and redesignation for TPS. Please be assured that DHS is monitoring conditions in Afghanistan. DHS is committed to administering its programs, including TPS, in an equitable manner and makes decisions to designate, extend, and/or redesignate TPS after consultation with interagency partners and careful consideration of the circumstances of the country.

U.S. Citizenship and Immigration Services (USCIS) also offers immigration relief that may be available upon request to assist eligible noncitizens affected by emergencies or unforeseen circumstances. Such relief may include the following assistance:

¹ See Immigration and Nationality Act § 244(b)(1).

- Change or extension of nonimmigrant status if eligible noncitizens are currently in the United States, even if the request is filed after their 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 because of the emergency or unforeseen circumstances; and
- Replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card).

More information about these flexibilities is available on the USCIS webpage.² 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 wish to discuss this matter further, please do not hesitate to contact the USCIS Public Engagement Division by email at public.engagement@uscis.dhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director

² Additional information is available at the U.S. Citizenship and Immigration Services website at uscis.gov/newsroom/immigration-relief-in-emergencies-or-unforeseen-circumstances.