

**Congress of the United States**  
**Washington, DC 20515**

August 26, 2021

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
301 7th Street SW  
Washington, D.C. 20528

Dear Secretary Mayorkas:

We write to ask you to initiate an urgent policy process to establish Temporary Protected Status (TPS) for Afghans facing new risks to their lives since the Taliban takeover. This would ensure that no Afghans currently in the US are forced to return to Afghanistan under Taliban rule. It would also facilitate an orderly evacuation by ensuring a clear legal status for those Afghans evacuated under fire and paroled into the United States. A TPS designation should protect two key categories of Afghans:

1. **Afghan parolees:** In the chaos of the ongoing evacuation, thousands of Afghans will be necessarily paroled into the United States—with ultimate immigration status to be determined over a longer-term period. However, paroling would leave these individuals without work authorization, dependent on assistance, and at risk of deportation.<sup>1</sup> TPS would give the US government breathing room, allowing these vulnerable Afghans to support their families here in the US, while assuring them we will not deport them back to Taliban-patrolled streets.
2. **Afghans in the US on student and visitor visas:** We already know that Afghans associated with the US face particularly acute threats of harm and harassment by the Taliban, among whom would be included those returning there from the United States. TPS would assure these Afghans that they are safe in the United States until they can safely return to Afghanistan, while giving immigration authorities the space to determine final status for these vulnerable individuals.

As you know, TPS is a temporary form of protection designed by Congress for situations just like this, providing a haven for foreign nationals in the United States who come from countries that are experiencing specific types of humanitarian crises. Section 244(b)(1)(A) of the Immigration and Nationality Act (INA) permits the Secretary of Homeland Security to designate a country for TPS if there is an “ongoing armed conflict within the state” that the return of nationals to that country would “pose a serious threat to their personal safety.”<sup>2</sup> Afghanistan, which is undergoing a hostile takeover by an organization with a well-documented history of violence and terrorist attacks, is clearly eligible for a TPS designation pursuant to INA § 244(b)

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<sup>1</sup> *Humanitarian or Significant Public Benefit Parole for Individuals Outside of the United States*  
<https://www.uscis.gov/humanitarian/humanitarian-or-significant-public-benefit-parole-for-individuals-outside-the-united-states>

<sup>2</sup> INA § 244(b)(1)(A)


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(1)(A). INA § 244(b)(1)(C) further provides that TPS may be granted if the Attorney General finds that there exist “extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety,” a condition clearly supported by the ongoing threat to civilians.<sup>3</sup>

In 11 days, Taliban forces have overtaken roughly two-thirds of Afghanistan, killing over 1,000 civilians as they captured one provincial capital after another, before finally taking control of Kabul.<sup>4</sup> Civilians feared to be at particular risk for abuse include those who have worked to promote human rights, democracy, and education; academics, writers, journalists, and other media workers; and people who worked for foreign countries associated with the US-led reconstruction.<sup>5</sup> Despite the serious threat to their personal safety, many of these professionals will not qualify for Special Immigrant Visas (SIV) and might only gain access to the U.S. through humanitarian parole. Once they arrive here, it is crucial that these allies receive legal protection, so they do not fear deportation to a country where their lives are at risk.

Our government’s priority right now is confronting the immediate risk to the lives of our Afghan friends and partners. We believe part of that solution must include granting the administrative clarity that only TPS can provide—giving State Department and Defense Department officials under fire in Kabul and immigration officials here at home the tools and time they need to process these cases out of harm’s way. And importantly, TPS will inject dignity and respect into an otherwise demoralizing and challenging process for Afghans that in many cases risked their lives for Americans. As such, we urge you to immediately undertake a process to provide TPS protections for these categories, making clear that any such protections will apply to all Afghans paroled into the US up to and through the entirety of the ongoing evacuation.

Sincerely,

  
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Joe Neguse  
Member of Congress

  
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Tom Malinowski  
Member of Congress

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<sup>3</sup> INA § 244(b)(1)(C)

<sup>4</sup> *Afghanistan war: At least 27 children killed in three days, UN says*, BBC (August 9, 2021)  
<https://www.bbc.com/news/world-asia-58142983>

<sup>5</sup> *Afghanistan: At-Risk Civilians Need Evacuation, Protection* HUMAN RIGHTS WATCH (August 13, 2021)  
<https://www.hrw.org/news/2021/08/13/afghanistan-risk-civilians-need-evacuation-protection>

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