

November 10, 2022

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Director Ur Jaddou
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Washington, DC 20528

Assistant Secretary Eva Millona
U.S. Department of Homeland Security
Washington, DC 20528

RE: Discontinuance of OAW Program for Afghan allies at risk and disparate humanitarian parole policies

Dear Secretary Mayorkas, Director Jaddou and Assistant Secretary Millona,

We are writing on behalf of the undersigned organizations to express our disappointment at the administration's decision to end the OAW program for Afghans at risk, and at the emerging disparate policies on humanitarian parole. We urge the Department of Homeland Security to do more, rather than less, to assure the safety of Afghans abroad who are seeking refuge from the Taliban. Similarly, we are deeply troubled by the administration's decision to tie the limited parole program created for certain Venezuelans to the expansion of Title 42 at the U.S.-Mexico border.

As you know, the evacuation of Afghans following the fall of the government to Taliban rule was chaotic. Although many were brought to safety, many more were left behind, including many who were eligible for evacuation but could not make it on to a flight. For the past year, we have seen a large volume of Afghan clients in our offices who are desperate to bring family to safety. Many report that their family members are at risk, have already been threatened by the Taliban, and are in hiding in Afghanistan.

Following the administration's announcement that it is "discontinuing" Operation Allies Welcome ("OAW") which granted humanitarian parole to arriving Afghan evacuees, DHS has confirmed that it will continue to adjudicate requests for humanitarian parole under the existing standard process. This is an empty promise that provides little reassurance to the many families left behind in danger in Afghanistan. Our experience has been that the administration has not in fact used the standard humanitarian parole process to bring our allies and their families to safety. We have seen many Afghans in our offices, but every single person we have met has been one of the lucky few who made it onto an evacuation flight in Kabul and was evacuated through OAW. We have not encountered a single case where an Afghan overseas was brought to safety through a grant of humanitarian parole; we have not met a single evacuated Afghan who has successfully been reunited with loved ones left behind in Afghanistan through a subsequent grant of humanitarian parole.

Our experience is not unique. All around the country, practitioners have reported that denial rates for Afghan humanitarian parole applications are high. As of August of this year over 66,000 Afghans had applied for humanitarian parole, while only 123 applications were granted.¹ Since the closure of the U.S. Embassy in Afghanistan, USCIS has refused to process applications filed for individuals physically located in Afghanistan.² For those few who have made it to Pakistan and whose applications for humanitarian parole have been approved, it has been reported that the U.S. consulate in Pakistan refuses to issue boarding foils.

It is hard to miss the disparity between how the administration has treated Afghans and how it has treated Ukrainians, and now Venezuelans. When the war in Ukraine broke out, the administration acted quickly in creating the "Uniting for Ukraine," (U4U) program. U4U is a modified humanitarian parole program with a more streamlined application process and a lower eligibility requirement – as long as the U.S. supporter can meet financial eligibility requirements, and the Ukrainian beneficiary is admissible, any Ukrainian who has fled war will be approved. As of August, 68,000 humanitarian parole applications for Ukrainians had been granted. The U4U program exempts applicants from paying a filing fee and USCIS has promised to refund anyone who paid the filing fee for a Ukrainian humanitarian parole application prior to the implementation of the U4U program.³ No such exemption was extended to Afghan applicants, from whom the U.S. government has collected approximately \$20 million in filing fees, while granting less than 2% of processed applications.⁴

The process for Venezuelans, while similar to U4U, imposes restrictions not previously applied to Ukrainians. We are deeply troubled by the administration's decision to tie the Venezuelan limited parole program to the expansion of Title 42 at the U.S. – Mexico border. The disparity between these two programs is glaring, especially the additional provision that beneficiaries cannot have unlawfully crossed the Mexican or Panamanian borders, a wide-ranging overstep in our role of policing our borders. But even this program is a small step in the right direction. Afghans, on the other hand, have no special humanitarian parole process. They are subject to the existing humanitarian parole process, and must demonstrate "an urgent humanitarian reason" to be approved. By comparison, any U.S. supporter can submit a petition on behalf of a Ukrainian or Venezuelan beneficiary, without the need to show any relationship to that beneficiary and without the need to show any direct threat or specific humanitarian reason to support the grant of parole to that person. Ukrainians who have reached relative safety in Europe and who may have temporary status there remain eligible to be paroled to the United States.

¹ See <https://revealnews.org/article/the-us-has-approved-only-123-afghan-humanitarian-parole-applications-in-the-last-year/>

² See <https://www.washingtonpost.com/national-security/2022/04/28/biden-refugees-ukraine-afghanistan/>

³ See <https://www.uscis.gov/ukraine>

⁴ See *supra* note 1.

Meanwhile, Afghans in the United States who are attempting to seek humanitarian parole for their immediate family members, and who demonstrate actual, direct threats to those family members by the Taliban, are being denied.

In our offices, we routinely counsel Afghans in our communities who are desperate to bring family members out of danger and into the United States, and we have had to inform them that there is no emergency route for family reunification. In stark contrast to the swift approvals under Uniting for Ukraine, Afghan humanitarian parole applications are subject to long processing times and a high denial rate. Ukrainians who are in relative physical safety in Europe are eligible for Uniting for Ukraine and can sometimes travel within a week. Meanwhile we have had to advise Afghans whose families are in hiding from the Taliban, and who have faced direct, personal threats because of their U.S. affiliation, to file I-130 petitions for them, with years-long processing times and sometimes decades-long waits for the visa numbers to be current. Of course, parolees cannot even begin the I-130 process until they navigate the lengthy process of adjusting status through asylum or SIV.

Thus, as a result of the administration's failure to prioritize safety and family reunification for our Afghan allies, we encounter scenarios such as the following:

- Afghan OAW parolees who will face long separation from spouses and children, as they will not be eligible to petition for them until their asylum or SIV-based adjustment is granted;
- Afghan OAW parolees who cannot be reunited with their fiancés abroad; who cannot safely travel to marry them; and who cannot petition for them as fiancés until they naturalize;
- Afghan citizens and lawful permanent residents who have meritorious petitions pending for parents, siblings, and children, but who cannot bring their family members to wait in the United States in safety and face many years of separation;
- A case of an Afghan SIV evacuee battling serious cancer alone in the United States, whose husband in Pakistan cannot join her because his immigrant visa case is held up in consular processing, and there is no expeditious way to bring him;
- A case of a 7-year-old Afghan parolee who was separated from her parents during the evacuation and remains separated from her parents, who are stranded in Afghanistan awaiting decisions on humanitarian parole applications that they filed, with fees, approximately 9 months ago.

It should be emphasized that those Afghan parolees who now struggle to bring their families to safety are individuals who risked their lives and safety by collaborating with the U.S. mission in their country.

In Afghanistan, the United States has fallen far short of our moral obligation to those whose distress is attributable to our activities there. In Ukraine, we have demonstrated that we can do much better, if we choose to. We urge the Department of Homeland Security to do better. Instead of "discontinuing" the use of humanitarian parole for Afghans – which was not effectively bringing Afghans to safety in the first place – we need a "Uniting for Afghans" program.

Sincerely,

The Legal Project

Catholic Charities Community Services, Division of Immigration and Refugee Services

Community Resource Center

Journey's End Refugee Services

Lutheran Social Services of New York

Neighborhood Defender Service of Harlem

Safe Passage Project

Sanctuary for Families

The New York Legal Assistance Group



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

January 25, 2023

Capital District Women's Bar Association Legal Project, Inc.
24 Aviation Road, Suite 101
Albany, NY 12205

Dear Capital District Women's Bar Association Legal Project, Inc.:

Thank you for your November 10, 2022 letter to the Department of Homeland Security (DHS). Secretary Mayorkas asked that I respond on his behalf, and I apologize for the delay in my response. In your letter, you address several timely and important issues, including concerns shared by your organization and others about the revision to our Afghan relocation assistance policy, disparate parole policies and outcomes, and the need to assure the safety of Afghan nationals abroad.

During Operation Allies Welcome (OAW), the U.S. Government welcomed more than 88,500 Afghan nationals to the United States, as part of one of the largest airlifts in U.S. history. The vast majority of Afghan nationals who arrived through OAW were paroled by U.S. Customs and Border Protection (CBP) at the port of entry, which afforded only temporary permission to remain in the United States. The transition from OAW to Enduring Welcome marked the end of the port-of-entry parole by CBP to resettle Afghan nationals to their new communities across the United States and a transition to processing Afghan nationals to the United States through existing immigration pathways. Enduring Welcome represents the U.S. government's long-term commitment to relocation assistance for our allies with a focus on reuniting immediate family members and providing protection to Afghans who assisted the U.S. government through existing pathways to durable immigration status. Enduring Welcome is structured to facilitate resettlement and long-term immigration status upon entry to the U.S. through family-based, special immigrant, and refugee processing pathways. I also encourage you to review the U.S. Department of State's (DOS) guidance for requesting relocation and resettlement for Afghan nationals to facilitate family reunification under Enduring Welcome.¹

As noted in your letter, during OAW, and through Enduring Welcome, many Afghan nationals have filed humanitarian parole applications hoping to ultimately resettle in the United States. We understand your concern that many applications have been denied or remain pending, impacted by the closure of U.S. embassy operations in Afghanistan. Please be assured that U.S. Citizenship and Immigration Services (USCIS) has been working to address these issues. In addition to increasing the number of staff both adjudicating and supporting processing of humanitarian parole applications, on June 23, 2022, USCIS publicly posted its revised "Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole

¹ <https://www.state.gov/afghanistan-family-reunification/>.

Requests,”² clarifying the types of evidence that may be relevant in evaluating parole requests based primarily on protection concerns. The revised guidance provides guidance on additional types of evidence a petitioner may provide to show a beneficiary is at risk of imminent serious harm. For those whose cases were denied prior to the revised policy issuance and believe they should be approved based upon the revised policy, they may file a Form I-290B, Notice of Appeal or Motion, without paying a fee, to file a motion to reopen or reconsider the denial of a parole request.³

You raised in your letter concern of filing fees for humanitarian parole, which we recognize and appreciate may pose financial challenges to many Afghan nationals. Accordingly, parole petitioners may file a Form I-912, Request for Fee Waiver, with their Form I-131. In addition, as mentioned earlier, USCIS has exempted the fee for Form I-290B, Notice of Appeal or Motion, for Afghan nationals seeking to file a motion to reopen or reconsider the denial of their parole filing if it was denied between August 1, 2021, and September 30, 2023.⁴ I am proud to share that, on November 21, 2022, USCIS extended and expanded previously announced filing fee exemptions and expedited application processing for certain Afghan nationals.⁵ Expediting processing includes family-based petitions and other immigrant visa petitions filed on behalf of Afghan nationals. I am hopeful that these actions will continue to help Afghan nationals resettle and reunite with family in the United States.

Furthermore, DHS will continue working with other federal partners, including Department of State which leads the effort, to relocate, process, and ultimately resettle into the United States, eligible Afghan nationals from overseas locations. In fiscal year 2022, USCIS interviewed 6,250 Afghan nationals in 32 countries for refugee processing. USCIS also continues to improve refugee processing without sacrificing security, including reducing processing times for Afghans who have been relocated to Camp As Sayliyah in Doha, Qatar. USCIS has seen success with these efforts by facilitating concurrent—rather than sequential processing—to promote timely resettlement in the United States. DHS also collaborated with DOS to simplify and streamline the Special Immigrant Visa (SIV) application process for Afghan nationals. As a result of this program efficiency, new Afghan SIV program applicants filing on or after July 20, 2022, only need to file one form with DOS, a revised Form DS-157, to request SIV classification. As part of our Enduring Welcome, the U.S. Government will continue to explore all options to best support at-risk Afghan nationals.

² <https://www.uscis.gov/humanitarian/humanitarian-parole/guidance-on-evidence-for-certain-types-of-humanitarian-or-significant-public-benefit-parole-requests>

³ See Information for Afghan Nationals on Requests to USCIS for Parole “After Filing Your Parole Request”: <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-parole>.

⁴ See Information for Afghan Nationals on Requests to USCIS for Parole “After Filing Your Parole Request”: <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-parole>.

⁵ See <https://www.uscis.gov/newsroom/alerts/uscis-extends-and-expands-fee-exemptions-and-expedited-processing-for-afghan-nationals> and <https://www.uscis.gov/newsroom/alerts/certain-afghan-and-ukrainian-parolees-are-employment-authorized-incident-to-parole>.

Thank you again for your letter and interest in these important issues. 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", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director