Central and Eastern European Migration Review
Received: 31 July 2024, Accepted: 31 July 2025
Published online: 8 September 2025, pp. 1–31
doi: 10.54667/ceemr.2025.17

Temporary Protection in the Shadow of the Refugee Convention: A View from the United States

Talia Inlender*

For more than 70 years, the 1951 Refugee Convention has provided a framework for assessing claims to international protection for those fleeing persecution, with the goal of seeking 'permanent solutions'. Once found eligible, a grant of refugee protection generally opens a pathway to durable status in the country of refuge. Yet, in recent years, states – as well as those seeking protection – are turning less often to the legal framework set out by the Refugee Convention to respond to migration challenges and more to temporary forms of relief set forth in national laws and policies. This paper examines how the durable protections of the Refugee Convention have become less accessible to people seeking safety in the United States. It then argues that, in the shadow of declining access to the protection afforded by refugee and asylum law, temporary forms of protection – while long a part of US immigration law – were on the rise under the Biden administration. In particular it examines 4 country-specific humanitarian parole programmes, each of limited duration, that were created and operated by the US government between August 2021 and January 2025 for people from Afghanistan, Ukraine, Venezuela, Cuba, Haiti and Nicaragua. Before a change in political leadership led to their abrupt termination, over half a million people were granted temporary protection under these programmes, far outpacing grants of relief under the Refugee Convention and higher than the number of admissions through past humanitarian parole programmes operating over a similar time period. Grounded in an examination of these programmes, the paper proposes a framework for understanding the opportunities afforded and limitations posed by temporary protection programmes for those seeking safety, both in the United States and beyond.

Keywords: temporary protection, humanitarian parole, Refugee Convention, United States

* Center for Immigration Law and Policy, University of California Los Angeles (UCLA) School of Law, the United States. Address for correspondence: inlender@law.ucla.edu.

Introduction

What obligations do nations have to those seeking international protection and for how long do those obligations run? For over 7 decades, the 1951 United Nations Convention Relating to the Status of Refugees ('Refugee Convention') and its 1967 Protocol Relating to the Status of Refugees ('Protocol') have provided a framework for answering these questions – setting out guidelines that have been adopted by 146 countries for assessing claims to international protection with the goal of seeking 'permanent solutions' (UNHCR 2011: 72; United Nations Treaty Collection 2024). Once found eligible, a grant of refugee protection generally opens a pathway to durable status in the country of refuge (UNHCR 2011).[1]

Yet, in recent years, states – as well as those seeking protection – are turning less often to the legal framework set out by the Refugee Convention to respond to forced migration and more often to temporary forms of relief set forth in national laws and policies. That shift is perhaps the most obvious in the European Union, which responded to the arrival of millions of people fleeing Russia's invasion of Ukraine by activating, for the first time, a Temporary Protection Directive (TPD) in March 2022 (Council of the European Union 2022). A little over 3 months later, more than 3.2 million Ukrainians had registered for temporary protection across the continent (UNHCR 2022). However, recent years also saw a shift towards temporary protection in the United States under the Biden administration, with the creation of 4 humanitarian parole programmes – each of limited duration – for people fleeing Afghanistan, Ukraine, Venezuela, Cuba, Haiti and Nicaragua (DHS 2021, 2022a, 2022b, 2023a, 2023b, 2023c, 2023d).

There are undoubtedly benefits to a shift toward temporary protection. Most obviously, temporary forms of relief allow states to act quickly in response to a large influx of people and provide immediate protection from *refoulement* as well as basic standards of treatment, which may include (depending on the programme) access to the labour market, housing or other social benefits. This is something that most overburdened refugee systems are simply unable to do. Temporary programmes may also allow for broader protection, extending to those who might otherwise not qualify under the limited definition of 'refugee' set forth in the Refugee Convention (1951: Art. 1). However, there are limitations as well. Temporary relief allows a state to respond to a humanitarian need without committing itself to processing or accepting claims for more long-lasting protection and to do so on a selective basis – privileging certain groups of migrants and not others – with little accountability. Temporary protection is also inherently unstable – a quality laid bare in the US context by President Trump's abrupt termination of humanitarian parole (and other temporary) programmes upon taking office in January 2025 (White House 2025a).

This paper makes the case that the Refugee Convention is becoming less accessible to those seeking international protection and that temporary forms of humanitarian protection – while not new – have risen in its shadow. My focus here is on how this phenomenon has unfolded in the United States with the recent proliferation of temporary humanitarian parole programmes, followed by an abrupt attempt to dismantle them. Bringing the literature on the history of temporary protection in the United States together with the ways it was used during the Biden administration, I explore the implications of a shift toward temporary programmes for the future of international protection, both in the United States and beyond. In so doing, I contribute to an urgent conversation about the evolving way that countries are responding to the needs of those fleeing harm and propose an analytical framework for assessing the merits of current and future temporary humanitarian protection programmes. The paper proceeds in three parts:

First, I offer a brief account of how the durable protections afforded by the Refugee Convention – incorporated into US law by the Refugee Act of 1980 – have become inaccessible to many people seeking safety in the United States.

Second, I make the case that, in the shadow of declining access to the permanent protection afforded by refugee and asylum law, temporary forms of protection – while long a part of US immigration law – were on the rise in the United States under the Biden administration. In particular, I examine the 4 country-specific humanitarian parole programmes that were created and operated by the US government between August 2021 and January 2025. I also address their abrupt termination with the change of political leadership under President Trump.

Third, grounded in an examination of the rise – and subsequent demise – of these programmes, I propose a framework for understanding the promises and limitations of temporary protection mechanisms in the shadow of a declining Refugee Convention. I argue that this framework provides a helpful tool for evaluating what a shift towards temporary forms of humanitarian protection may mean for the future of those seeking safety in the years to come, both in the United States and beyond.

Methodology

This paper synthesises the scholarship on temporary protection mechanisms in the United States with an examination of their implementation under the Biden administration to assess the implications of this approach to humanitarian protection. The analysis draws upon the rich literature of the history of temporary protection in the United States (Fullerton 2024; Martin, Schoenholtz and Waller Meyers 1998; Schacher 2022). It then complements that literature with a contemporary case-study analysis of 4 temporary humanitarian parole programmes that were created by the US government in rapid succession, beginning in August 2021 (DHS 2021, 2022a, 2022b, 2023a, 2023b, 2023c, 2023d). Through this integrated methodology – and informed by my nearly 2 decades of experience as a practitioner of immigration law in the United States – this paper offers an analytical framework for evaluating the merits and limitations of temporary protection regimes, with implications for both current policy assessment and future programme design.

The decline of the Refugee Convention in the United States

Forged in the wake of World War Two, the Refugee Convention and its Protocol have guided the administration of international protection for over 7 decades (Protocol Relating to the Status of Refugees 1967; Refugee Convention 1951). The United States ratified the Protocol in 1968, binding itself to the Refugee Convention's cornerstone principle of *non-refoulement*: a country's obligation to not 'expel or return' a person to a place where their 'life or freedom would be threatened on account of [their] race, religion, nationality, membership of a particular social group, or political opinion' (Refugee Convention 1951: Art. 33(1)). In 1980, the United States formally incorporated these obligations into domestic law through the Refugee Act (1980). Since then, the United States has offered protection to qualifying 'refugees' through 2 separate processes: refugee status and admission for those outside the United States (INA – Immigration and Nationality Act – §207) and asylum status for those physically present or arriving in the United States (INA §208). For both refugees and asylees, US law adopts the Refugee Convention's requirement that an individual have a 'well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion' (INA

§101(a)(42)). Those admitted to the United States as refugees or asylees are eligible to adjust to lawful permanent resident status after 1 year and to become US citizens after 5 years (INA §209; INA §319).

While the United States admitted those seeking humanitarian protection before 1980 – including through temporary protection programmes, as discussed below – the Refugee Act has been the principal instrument for the admission of refugees and asylees for the past 40 years. Since 1980, more than 3.2 million refugees have been resettled in the United States (US Department of State 2024) and an estimated 2 million have been granted asylum status (Gilman 2023).[2] Scholars and advocates have highlighted important deficiencies in these instruments nearly from inception. Some have pointed to the fact that the refugee programme has an annual cap that fluctuates at the discretion of the President (Kerwin 2011). Others have shown how US political interests have significantly influenced asylum decision-making, positing 'exceptionality as a basic feature' of the system (Gilman 2023: 1). Still others have discussed the immense backlogs that have plagued the system, including in its early decades (Schoenholtz, Ramji-Nogales and Schrag 2021). Those backlogs continue today: with over 1.2 million asylum cases waiting to be adjudicated by US Citizenship and Immigration Services and over 1.6 million pending asylum cases in US immigration courts (Lafferty 2024; Transactional Records Access Clearinghouse 2022). Despite these challenges, the Refugee Convention, as implemented through the Refugee Act, remained the central humanitarian protection mechanism in the United States (Schoenholtz *et al.* 2021).

Yet mounting challenges have led to the significant decline of the Refugee Convention in the United States in recent years. Some of these challenges are not unique to the United States. The limited scope of the 'refugee' definition under the Convention – with its focus on the individualised harm that must be tied to race, religion, nationality, political opinion or social group – has been widely criticised as too narrow to address the protection needs that drive mass migration in today's world, including natural disasters arising from climate change (Feller 2014: 61–63). These limitations are not a glitch but a feature of the Convention's design. As James Hathaway (1991: 113–114) explains: 'Refugee Law as it exists today is fundamentally concerned with the protection of powerful states'. It should therefore come as no surprise that the United States has used the narrow 'refugee' definition to exclude many people in need of humanitarian protection.

Even for those who may qualify as 'refugees' under the Convention, the United States has made it more and more difficult to access refugee and asylum status in recent years. The weakening of the US asylum system began under Presidents Clinton, Bush and Obama (FitzGerald 2019). However, it was President Trump who 'began to destroy the asylum system in earnest' during his first term in office (Schoenholtz *et al.* 2021: 3). He slashed the refugee cap to just 15,000 annually – the lowest since the Refugee Act of 1980 – blocking most admissions from abroad (Miroff 2020). He also adopted unprecedented policies to undermine protection for those seeking asylum at the US border, including – but not limited to – separating young children from their parents, expanding the detention of asylum-seekers, sending asylum-seekers to wait in Mexico until their claims could be heard in a US immigration court and announcing a ban on asylum eligibility for those who transited through Mexico or any other state that is a party to the Refugee Convention without applying – and being denied – refugee status in that country (Schoenholtz *et al*. 2021).

However, none of these measures led to the decline of the Refugee Convention's protections in the United States as much as the Title 42 order. Under the guise of the COVID-19 pandemic, this so-called 'public health' order – implemented by President Trump during his first term and later extended by President Biden – led to nearly 3 million expulsions at the US–Mexico border, beginning in March 2020

until it terminated in May 2023, severely curtailing access to the asylum system (Chishti, Bush-Joseph and Montalvo 2024; Santamaria 2023).

While the Title 42 order is no longer in effect, its impact on the decline of the Refugee Convention in the United States cannot be overstated – it set a new baseline of presumptive exclusion that has continued since its expiration (Aleaziz 2023; Gilman 2020). The Biden administration erected significant obstacles to securing asylum at the border. This included a rule – reminiscent of Trump's 'transit ban' – excluding from asylum eligibility most people who transit through a third country to reach the United States and do not seek asylum there (USCIS, DHS and DOJ 2023). It also included an executive order issued by President Biden significantly restricting access to the asylum system by establishing bars to eligibility and raising the threshold interview standards when border crossings meet a numerical limit (White House 2024a). This was followed by an even more sweeping shut down of access to refugee processing from abroad and access to asylum at the border when President Trump returned to office in January 2025. On the first day of his second term in office, President Trump suspended both the US refugee programme and the entry of migrants – including asylum-seekers – at the southern border (White House 2025b, 2025c).

In short, for reasons both political and practical, the durable relief of the Refugee Convention has become less and less accessible to those in search of protection in the United States.

The rise of temporary humanitarian protection programmes (August 2021–January 2025)

While the protections afforded by US refugee and asylum law have diminished in recent years, more people than ever continue to flee their homes in search of safety across borders (UNHCR 2023). In the United States, one response has been to offer temporary protection in the form of humanitarian parole. Beginning in August 2021, the US government created 4 new humanitarian parole programmes, each of 2-year initial duration, that benefited nationals of 6 countries: Afghanistan, Ukraine, Venezuela, Cuba, Haiti and Nicaragua. By April 2024, over 550,000 people had been granted humanitarian parole through these programmes (Batalova 2025) – more than *5 times* the 91,279 total refugee admissions and asylum grants *combined* in Fiscal Years 2021 and 2022 (Baugh 2022; Gibson 2023).[3] Although temporary forms of protection – including humanitarian parole – go back more than 70 years in the United States, it has never extended protection to as many people through humanitarian parole programmes in such a short period of time as it did between the summer of 2021 and the end of the Biden administration in January 2025 (Batalova 2025; Bier 2023a). Both the scale and the nature of these 4 recent programmes, coming as they did in the midst of a Refugee Convention in steep decline, present an opportunity for renewed examination of the promise and limitations of temporary protection mechanisms.

A brief overview of temporary protection in the United States

US immigration law and policy are no strangers to temporary statuses, including as a form of humanitarian protection. As Maryellen Fullerton (2024: 5) explains, 'In the 1960s, a form of temporary protection known as extended voluntary departure (EVD) was frequently employed to allow individuals to remain in the United States when there were political crises in their homelands'. There is also a more than 70-year history of the use of executive parole authority to temporarily admit nationals of countries experiencing political turmoil – particularly as a result of Communism – including, *inter alia*, Hungary, 'Indochina' and Cuba (Martin *et al*. 1998; Schacher 2022). Then, in 1990, the US Congress created

Temporary Protected Status (TPS), affording time-limited relief to nationals of countries experiencing armed conflict, natural disasters and other extraordinary and temporary conditions (INA §244).

The Migration Policy Institute estimates that more than 2.5 million people currently in the United States 'hold or arrive through some kind of liminal legal status that may offer protection from deportation and the right to work but does not lead to a green card' or citizenship (Batalova 2025: 24). While there are a wide variety of these 'in-between statuses' in the United States, each with distinct features (Motomura 2025: 97), the most common forms of temporary status – accounting for over 70 per cent of beneficiaries – are Temporary Protected Status (TPS) and humanitarian parole (Batalova 2025). In addition to their prevalence, TPS and humanitarian parole are particularly relevant in that their purposes the most closely align with those of traditional understandings of international protection.[4] An examination of these forms of status – how they came to be, who they protect, for how long and the challenges each has faced – provides an important context for this paper's assessment of the promises and limitations of temporary protection programmes as they have played out in the United States.

Temporary Protected Status

In 1990, the United States Congress passed a law creating Temporary Protected Status (TPS) (INA §244). TPS emerged in response to the Reagan administration's refusal to authorise extended voluntary departure (EVD) – a discretionary form of temporary relief for nationals of certain countries experiencing political violence – to those fleeing the violent civil war in El Salvador (Fullerton 2024). In enacting TPS, Congress erected statutory guardrails around executive discretion to designate countries for short-term protection; it made Salvadorans who had been continuously present in the United States since 1 September 1990 eligible for 18 months of temporary protection and gave the executive branch discretion to make decisions in accordance with statutory guidelines about when short-term protection might be authorised for other countries in the future (Immigration Act of 1990: sec. 303; Wilson 2024).[5]

TPS allows for the temporary designation of protected status for countries due to armed conflicts, natural disasters or other extraordinary and temporary conditions that prevent safe return to the homeland (INA §244(b)(1)(B)). In this way, the TPS statute affords protection to people who do not meet the narrower definition of 'refugee' under the Refugee Convention (Frelick 2020; Fullerton 2024). The statute permits the US government to designate a country for between 6 and 18 months of protection and requires the government to extend that protection so long as conditions remain unsafe (INA §244(b)(2)). Importantly, an individual from a designated country must already be residing in the United States at the date of designation in order to qualify for TPS (INA §244(c)(1)(A)(i)). The government may, however, 're-designate' a country by recognising a new or additional reason for designation; this process moves forward the required date on which an applicant must have been residing in the United States, the effect of which is to allow more recently arrived individuals to qualify for TPS (Wilson 2024). Still, foreign nationals residing outside of the United States on the date of designation (or re-designation) are not eligible to apply for TPS. Individuals granted TPS are authorised to work in the United States (INA §244(a)(1)(B)).

In 2024, TPS provided temporary immigration status to approximately 860,000 people from 16 countries (Wilson 2024), including Afghanistan, Burma, Cameroon, El Salvador, Ethiopia, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Syria, Ukraine, Venezuela, and Yemen. While TPS is ostensibly temporary, some designations have lasted for decades. For example, Somalia was initially designated for TPS over 30 years ago and was redesignated in January 2023 due to ongoing armed

conflict (USCIS 2023a). Honduras was initially designated in January 1999 in response to Hurricane Mitch and has been extended multiple times (USCIS 2025b). Similarly, El Salvador was initially designated in March 2001 due to armed conflict and has been repeatedly extended (USCIS 2025c). Nevertheless, when a country's TPS designation is extended or a re-designation is authorised, it is done on a limited time basis of up to 18 months. TPS-holders must re-register before the expiration of the temporary period in order to keep their legal status and work authorisation.

Other TPS designations are more recent, including for countries that have also benefited from new humanitarian parole programmes. Afghanistan was initially designated for TPS on 20 May 2022 and redesignated on 21 November 2023 (USCIS 2025d); Haiti was designated on 4 February 2023 (USCIS 2025e); Ukraine was initially designated on 19 April 2022 and redesignated on 20 October 2023 (USCIS 2025f) and Venezuela was initially designated on 9 March 2021 and redesignated on 3 October 2023 (USCIS 2025g). This means that nationals of these countries already in the United States as of the date of designation or redesignation – including those who entered through a humanitarian parole programme – could apply for TPS status.

TPS has not gone without challenge. When President Donald Trump came to power in 2017, he attempted to terminate TPS for more than 95 per cent of those who had TPS status at the time: over 300,000 people from El Salvador, Haiti, Honduras, Nepal, Nicaragua and Sudan (Cohn, Passel and Bialik 2019). That threat came with explicitly racist undertones: Trump famously demanded to know why the United States should take in immigrants from what he called 'shithole countries' rather than 'places like Norway' (Hirschfield Davis, Stolberg and Kaplan 2018). Lawsuits and intensive immigrant organising prevented Trump's TPS terminations from taking effect (Bhattarai vs Nielsen 2019; Ramos vs Nielsen 2018). In his re-election campaign, Trump again threatened to eliminate the programme should he be returned to office (Zhou 2024). He has thus far delivered on that threat by terminating or refusing to extend TPS designations for Venezuela, Haiti and Nepal, among others (USCIS and DHS 2025a; 2025b; 2025c; 2025d). While these decisions have been challenged, hundreds of thousands of TPS-holders have lost protection as the legal battles make their way through the courts (National TPS Alliance vs Noem 2025; VanSickle and Liptak 2025).

Humanitarian parole

While this paper makes the claim that temporary humanitarian parole programmes were an ascendant protection mechanism in the United States under the Biden administration, these programmes – and the legal authority that undergirds them – are not a new phenomenon. Humanitarian parole has its roots in the US Immigration and Nationality Act (INA). Initially enacted in 1952, the parole statute provides that:

> *The Attorney General may (…) in his discretion, parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States (…)* (INA §212(d)(5)(A)).

Several features of the statutory text bear emphasis. First, like TPS, humanitarian parole operates as a protection mechanism for those facing 'urgent humanitarian reasons' – a standard that is more permissive than the narrow definition of 'refugee' in the Refugee Convention. Second – and like TPS – humanitarian parole is a creature of executive discretion. While this discretion is constrained by statutory requirements that the parole authority be exercised on a 'case-by-case basis' alongside a finding of 'urgent humanitarian reasons' or 'significant public benefit', those terms are left undefined, leaving

substantial room for executive decision-making. Third, while the statute provides that humanitarian parole is to be exercised 'temporarily', it offers no explicit time limits. Finally and crucially, unlike TPS, humanitarian parole can be exercised *upon or before* entry to the United States. There is no requirement that an individual already be physically present in the United States by a certain date in order to qualify for humanitarian parole.[6] In this way, humanitarian parole is the most relevant temporary protection mechanism for those fleeing to the United States, including asylum-seekers who arrive at the border or refugees seeking protection from abroad.

Over the past 70 years, humanitarian parole has been used to provide temporary protection on an individual basis as well as through large-scale programmes to address 'humanitarian crises' (Chaudry 2023; Ciullo 2023). At least 126 parole programmes have been created between 1952 and the present day (Bier 2023a). Prior to the enactment of the Refugee Act in 1980, humanitarian parole was the primary means used to bring those considered to be refugees to the United States (Bruno 2020). In 1956, President Eisenhower first used the humanitarian parole authority to protect a group of forced migrants: approximately 30,000 Hungarians fleeing a failed revolution that was crushed by the Soviet Union (Santamaria 2024). Between 1956 and 1980, when the Refugee Act was incorporated into US law, the US government extended temporary parole to over 200,000 Cubans – beginning in 1961 – as well as to over 100,000 people fleeing Vietnam, Cambodia and Laos in the 1970s (Cox and Rodriguez 2020; US General Accounting Office 1979).

Even after the Refugee Act became law, the US government continued to use humanitarian parole to supplement refugee resettlement and facilitate family reunification (Bruno 2020: 7–11). For example, in 1980, the Attorney General paroled tens of thousands of Cubans and Haitians who came to the United States by boat (Bruno 2020). Then, in 1988, the Attorney General authorised the use of parole for people from Vietnam and the Soviet Union who had been denied refugee status (US General Accounting Office 1990a, 1990b). Approximately 50,000 people were granted parole under these programmes in the 10+ years that they were in operation (Bier 2023a). More recently, in 2014, the US government established the Central American Minors (CAM) programme for certain children in El Salvador, Guatemala and Honduras, which enabled children living in those countries to be considered for admission on parole for 3 years if they were deemed ineligible for refugee status (USCIS 2024a).[7] More than 2,000 children have been granted parole under this programme (Bier 2023a).

While initial parole admission in each of these cases was temporary, in some (but not all) cases the US Congress followed parole programmes with legislation allowing for later adjustment to permanent resident status (Cuban Adjustment Act, P.L. 89-732 1966; Foreign Operations Act, P.L. 101-167 1989: sec. 599E; Hungarian Refugee Relief Act, P.L. 85-559 1958). Notable exceptions include Haitians and Central American minors, neither of whom were afforded a path to permanent residence based on their parole admission.

As with other forms of temporary protection in the United States, the use of the humanitarian parole authority has not been without controversy. In 1980, Congress amended the parole statute to restrict it from being used to admit individuals recognised as refugees, in an effort to prevent parole from operating as a shortcut to the existing refugee system and its quotas (Refugee Act of 1980: sec. 203(f)). In 1996, lawmakers replaced the statute's original language ('For emergent reasons or for reasons deemed strictly in the public interest') with the current language ('On a case-by-case basis for urgent humanitarian reasons or significant public benefit') and amended the INA to count long-term parolees against the worldwide limits for family-sponsored immigrant visas (Illegal Immigration Reform and Responsibility Act (IIRIRA) (1996)). At the same time, Congress rejected amendments that would have narrowly defined the terms 'urgent humanitarian reason' and 'strictly in the public interest' to

encompass only very limited criteria (IIRIRA House Judiciary Report 1996: 140). More recently – and as discussed in further detail below – litigation was brought in to challenge the legality of country-specific parole programmes during the Biden administration and President Trump abruptly terminated them upon taking office (Texas vs DHS 2024; White House 2025a).[8]

In sum, parole has long been a tool of temporary humanitarian protection in the United States, both before and after the Refugee Act of 1980. It should come as little surprise then that, in the face of a declining Refugee Convention, the Biden administration turned to the parole authority to address forced migration, even as it limited access to refugee and asylum status. Indeed, in less than 3 years, over half a million people were granted temporary protection under the Biden administration's humanitarian parole programmes, far outpacing the approximately 91,000 grants of relief under the Refugee Convention (Batalova 2025: tab. 6; Baugh 2022; Gibson 2023). That number is also higher than for any previous parole programme over a similar time period: the closest comparison is perhaps the hundreds of thousands of Cubans admitted under previous humanitarian parole programmes – but these latter have operated over the course of many years and, in some cases, decades (Bier 2023a). An examination of the United States' increased use of the parole authority to create four similar but distinct humanitarian parole programmes in quick succession since 2021 – and the abrupt termination of those programmes with a change in political leadership in 2025 – offers a case study for assessing the opportunities and limits of both existing and future temporary protection programmes.

US Humanitarian Parole Programmes, August 2021–January 2025

Afghan Humanitarian Parole Programme (29 August 2021–1 October 2022)

In August 2021, after nearly 2 decades of military presence following the 11 September 2001 terrorist attacks, the United States withdrew its troops from Afghanistan (White House 2023). The Taliban quickly took control of the country, leading to a violent crackdown against those with actual or perceived ties to the United States or the West. Over 70,000 Afghans were evacuated to the United States and granted humanitarian parole upon arrival (Harris and Royan 2024). However, tens of thousands more were left behind in Afghanistan or were forced to flee to third countries. For these individuals, the Biden administration announced a new Afghan Humanitarian Parole Programme (DHS 2021).

The Afghan Humanitarian Parole Programme provided for a temporary, 2-year entry into the United States (Project Anar 2022; USCIS 2025i). Applicants were required to apply on an individual basis – meaning each family member was required to submit their own application – at a cost of $545 per application. In addition to the application fee, applicants were required to provide a valid passport and to complete a biometrics security check in person at a US embassy.[9] Applicants were also required to show proof of a sponsor in the United States who agreed to provide financial support during the temporary parole period. Initially, applicants had to show that they faced imminent harm or were at imminent risk of it (for those applying from within Afghanistan) or faced such a risk if returned (for those applying from a third country). Following a lawsuit challenging this requirement, applicants were able simply to show that they were part of a targeted group (Montoya-Galvez 2022a; Roe vs Mayorkas 2022). The US government did not place numerical limits on the number of individuals who could be granted parole under the programme; those who were granted it were authorised to work immediately upon entry to the United States. Congress also approved access to resettlement benefits for Afghan parolees, including housing, language and vocational assistance (Afghanistan Supplemental Appropriations Act 2021: div. C).

Beginning in August 2021, an estimated 52,870 Afghans filed applications under this parole programme. The US government took in an estimated $25 million dollars in fees from these applications (Hauslohner 2022). Yet 2 years into the programme, the United States Citizenship and Immigration Service (USCIS), the US government agency responsible for processing these applications, had adjudicated only 30 per cent – or fewer than 17,000 – of these applications (Markey 2024). Worse yet, the US government approved only 1,860 of these cases and made initial positive eligibility determinations in 1,446 more – a mere 6 percent grant rate (Markey 2024). On 1 October 2022, the US government discontinued the Afghan Humanitarian Parole Programme, citing its desire to focus on permanent resettlement efforts (Montoya-Galvez 2022b). While no new applications are being accepted under the programme, tens of thousands of applications remain unadjudicated (Markey 2024). Those already paroled under the programme are eligible to apply to extend their parole status for an additional 2 years (DHS 2023e).

Uniting for Ukraine (21 April 2022–24 January 2025)

On 24 February 2022, Russia invaded Ukraine, prompting millions of Ukrainians to flee for safety, including to the United States (Ramji-Nogales 2022). At this time, the borders of the United States were otherwise largely closed to those seeking entry due to the Title 42 order (Chishti and Bolter 2022; CBP 2022). However, during the first several weeks of the war, the United States made an exception for Ukrainian nationals, who were processed at land ports of entry and permitted to enter (Chishti and Bolter 2022).

On 12 April 2022, the Biden administration announced its second country-specific humanitarian parole programme: Uniting for Ukraine (U4U). The programme's stated goal was to create a 'new streamlined process to provide Ukrainian citizens who have fled Russia's unprovoked war of aggression opportunities to come to the United States' (DHS 2022a). The US government committed to welcoming at least 100,000 Ukrainians under this programme and it did so: approving over 117,000 U4U applications in the programme's first year alone (Ainsley 2023).

The U4U programme was announced just 8 months after the Afghan Humanitarian Parole Programme. U4U was ostensibly modelled after the Afghan programme and, while the 2 share some characteristics, they also differ in important respects. Like the Afghan programme, U4U provided for a temporary, 2-year entry into the United States (DHS 2022a). It also required applicants to show proof of a sponsor in the United States who agreed to provide financial support during the temporary parole period.[10] U4U similarly lacked a numerical cap on the number of people who could access the programme, provided immediate authorisation to work upon entry into the United States and afforded access to resettlement services (Additional Ukraine Supplemental Appropriations Act 2022).

Despite these similarities, there are significant differences between the 2 programmes. First, unlike the Afghan programme, which required individual applications for each family member at a cost of $545 per application, U4U allowed all members of a family to submit a single application for humanitarian parole with no fee at all (DHS 2022a). Second, while Ukrainians applying for humanitarian parole through U4U were required to show a valid passport, they could complete other biometrics security requirements through an online attestation, rather than travelling to a US embassy to do so (*ibidem*). Third, U4U applicants were required to show that they resided in Ukraine immediately prior to the Russian invasion in February 2022 and were displaced as a result of it; unlike Afghans, there was no particularised requirement to show an imminent risk of harm or that they are part of a targeted group (*ibidem*). Finally, while the Afghan humanitarian parole programme stopped accepting new applications

in October 2022 – a little over a year after its inception – U4U remained open to new applicants for nearly 3 years, until a change in political leadership brought it to an end in January 2025 (Aleaziz 2025).

Perhaps the most crucial difference between the Afghan and the U4U programmes is in how each was implemented. As described above, 2 years into the Afghan parole programme, only a fraction of applications had been adjudicated and a mere 6 per cent of those applications – numbering just over 3,000 – had a positive determination. By contrast, U4U applications were processed at lightning speed from the start: more than 117,000 applications were processed within the first year alone (Ainsley 2023). By autumn 2023, the United States had welcomed more than 188,000 Ukrainian parolees primarily through the U4U programme, with thousands more arriving each month (USCRI 2024). This stark difference in treatment has been rightly scrutinised by scholars and advocates alike (Harris and Royan 2024; Ramji-Nogales 2022; Wolfe and Vanderlip 2023).

In February 2024, the US government announced a 're-parole' process, allowing Ukrainian parolees to apply for a 2-year extension of their status (USCIS 2024b).[11] However, new applications ground to a halt just days after President Trump took office in January 2025 and paused the programme indefinitely (Aleaziz 2025).

Venezuela Parole Programme (19 October 2022–6 January 2023)

On 12 October 2022, a little over a year after the launch of the Afghan programme and 6 months following U4U, the US government announced yet another temporary humanitarian parole programme (DHS 2022b). This third programme created a new parole process for Venezuelans, who were arriving in record numbers at the US border due to political and economic instability in their home country (Ribando Seelke 2023). The programme was fashioned as part of 'joint actions with Mexico to reduce the number of people arriving at our Southwest border and create a more orderly and safe process for people fleeing the humanitarian and economic crisis in Venezuela' (DHS 2022b).

The Venezuela humanitarian parole programme shared some of the characteristics of its Afghan and Ukrainian predecessors. Like the earlier programmes, the temporary parole period was set at 2 years. The US government required applicants to show proof of a sponsor in the United States who agreed to provide financial support during the parole period. As in U4U, a valid passport and completion of a biometric security check – which could be completed online rather than in person – were required (*ibidem*).

However, the Venezuela programme was not as generous as U4U. Like Afghans, Venezuelans were required to file an individual parole application for each applicant, rather than submitting one application per family. However, while there was no application fee, Venezuelans granted parole were not authorised to work immediately upon entry to the United States. Instead, they were required to pay $410 to apply for work authorisation once admitted: a process that not only cost money but delayed, for several months, Venezuelan parolees' ability to support themselves upon arrival. Nor did Venezuelans receive access to resettlement services. Also unlike the Afghan or Ukraine programmes, the US government set a numerical limit on the number of people who could be granted parole through the Venezuela programme: capping the number of allowable grants at 24,000 per month. As part of this programme, Mexico agreed to accept returns of this same monthly number of Venezuelans who attempted to enter the United States between ports of entry and were turned away (Bruno 2023). Finally, the Venezuela programme – unlike U4U – rendered ineligible those who had previously been removed from the United States, had entered Panama or Mexico without authorisation or had crossed between US ports of entry after 19 October 2022 (*ibidem*).

The Venezuela parole programme operated as a standalone pathway for only a few months – with over 11,000 people admitted under its auspices – until it was folded into a broader programme that encompassed individuals from Cuba, Haiti, Nicaragua and Venezuela in January 2023 (Alles 2023).

Cuba, Haiti, Nicaragua and Venezuela Parole Programme (6 January 2023)

In January 2023, less than 3 months after the Venezuela programme was announced, the US government created 3 new temporary humanitarian parole processes for Cubans, Haitians and Nicaraguans, as well as updated the parole process for Venezuelans (DHS 2023a; 2023b; 2023c; 2023d). These processes are commonly referenced together as the Cuban, Haitian, Nicaraguan and Venezuelan (CHNV) parole programme (Bruno 2023). The US government cited serious political and economic instability, along with difficulties in effectuating deportations, among the reasons for the CHNV parole processes (DHS 2023a; 2023b; 2023c; 2023d).

The CHNV parole programme was almost identical to its Venezuelan predecessor. The temporary parole period was set at 2 years. The US government required applicants to show proof of a sponsor in the United States who agreed to provide financial support during the temporary parole period. A valid passport and completion of a biometric security check – which could be completed online rather than in person – was required (DHS 2024).

However, the CHNV programme – like the Venezuela programme – was not as generous as U4U. Cubans, Haitians, Nicaraguans and Venezuelans – like their Afghan counterparts – were required to file an individual parole application for each applicant, rather than submitting 1 application per family. Again, while there was no application fee, applicants from these 4 countries who were granted parole were not authorised to work immediately upon entry to the United States. Instead, they were required to pay $410 to apply for work authorisation once admitted to the US, a process that can take several months. Access to resettlement services was available only to Cubans and Haitians but not to Venezuelans or Nicaraguans (USCIS 2024c). As with the Venezuela programme but not the Afghan or Ukraine ones, the US government set a numerical limit on the number of people who could be granted parole through the CHNV programme: capping the number of allowable grants at a total of 30,000 per month from all countries combined. As part of this programme, Mexico agreed to accept returns of this same monthly number of CHNV nationals who attempted to enter the United States between ports of entry and were turned away (Bruno 2023). Moreover, like its Venezuelan predecessor, the CHNV programme rendered ineligible those who had been previously removed from the United States, entered Panama or Mexico without authorisation or had crossed between US ports of entry after 5 January 2023. Perhaps most notably and contrary to the U4U and Afghan programmes, the US government announced in October 2024 – even before the change in presidential administrations – that CHNV parolees would not be able to apply to extend their status through a re-parole process (Montoya-Galvez 2024). As a result, those CHNV parolees with no other lawful means of remaining in the US past their initial 2-year parole period would be forced to depart or rendered undocumented.

The US government processed CHNV parole applications at a brisk pace: in the first 6 months alone, nearly 160,000 people from Cuba, Haiti, Nicaragua and Venezuela arrived in the United States under the CHNV parole programme (DHS 2023f). As of August 2024, nearly 530,000 people arrived in the United States under the programme (CBP 2024). Still, more than 1 million applications remained in a backlog due to the programme's monthly numerical cap (Montoya-Galvez 2023).

Table 1. Comparison of US temporary humanitarian parole programmes, 2021–2025

	Afghan Humanitarian Parole Programme 29 August 2021–1 October 2022	**Uniting for Ukraine ('U4U') 21 April 2022–24 January 2025**	**Cuba, Haiti, Nicaragua and Venezuela ('CHNV') Parole Programme Venezuela only: 19 October 2022–6 January 2023 CHNV programme: 6 January 2023–24 January 2025**
Application process	On paper	Online	Online
Application fees	$575 or fee waiver requiring extensive documentation	Free	Free
Financial sponsor requirements	Yes	Yes	Yes
Interview process	Required	Waived	Waived
Individual vs family-based applications	Individual; each family member must apply separately	Family-based; immediate family members can apply in 1 application	Individual; each family member must apply separately
Duration of status	Up to 2 years; may apply to extend status through re-parole for additional 2 years	Up to 2 years; may apply to extend status through re-parole for additional 2 years	Up to 2 years; no option to apply to extend status through re-parole
Access to work authorisation	Immediately eligible to work upon entry; fee waived for initial work authorisation application	Immediately eligible to work upon entry; fee waived for initial work authorisation application	Eligible to apply for work authorisation after entry to the United States; $410 or fee waiver requiring extensive documentation
Access to refugee resettlement services	Yes, for those paroled in from 31 July 2021–30 September 2023	Yes	Yes for Cubans and Haitians but No for Nicaraguans and Venezuelans
Approval numbers	Approximately 3,000 applications granted 2 years into the programme	Over 117,000 applications approved in first year	Nearly 160,000 applications granted in the first 6 months; approximately 530,000 people arrived under the programme by August 2024
Approval caps	None; re-parole programme for those already in the US began in June 2023	None; re-parole programme for those already in the US began in February 2024	Up to 30,000 combined monthly; up to same number of CHNV nationals subject to summary return at US–Mexico border, in coordination with Mexican government

Of all the Biden-era humanitarian parole programmes, that of CHNV received the greatest attention – and ire – with the change in political leadership. President Trump issued an Executive Order on his first day in office directing the programme's termination (White House 2025a). Four days later, the processing of CHNV applications was formally paused through an internal agency memorandum that also ended U4U (Aleaziz 2025). In February 2025, a separate agency memorandum froze the processing of applications for ancillary immigration benefits for individuals who entered the United States through the CHNV and U4U programmes – putting in limbo the ability of people who entered via these programmes to secure more durable forms of legal status (Davidson 2025). Finally, in March 2025, the Trump administration formally terminated the CHNV programme and announced its intent to revoke the parole status and work authorisations of existing CHNV beneficiaries living in the United States (DHS 2025). While these actions have been challenged in litigation, in May 2025 the United States Supreme Court permitted the Trump administration to move forward with revoking the parole status and work authorisations of CHNV beneficiaries while the case wends its way through the courts (Doe vs Noem 2025a).

As the above discussion makes clear, the United States used humanitarian parole to extend temporary protection to hundreds of thousands of migrants between August 2021 and January 2025, even as it provided protection to just a fraction of that number through refugee and asylee admissions. Yet the United States accomplished this through programmes that were not created or implemented equally, despite being grounded in the same legal authority: the parole statute. It did so, too, without providing a path to long-term protection – leaving hundreds of thousands vulnerable when the programmes were abruptly terminated with the change in political leadership.

Towards a framework for assessing Temporary Protection Programmes

How should those who care about the future of international protection assess the promise and perils of temporary protection programmes? This question is not new. As these programmes took root in Europe and the United States in the early 1990s, Joan Fitzpatrick (1994: 16–19) argued:

> *Many states with developed systems for refugee determination and substantial absorptive capacity now channel certain asylum-seekers into schemes for temporary protection, with the avowed aim of facilitating their eventual repatriation by preventing them from developing the links that transform refugees into permanent immigrants (…) The current popularity of temporary protection cannot be explained as a belated recognition of the excessive narrowness of the Refugee Convention, but instead constitutes one more device to constrict access to asylum.*

Other scholars viewed these programmes more favourably during the same period, observing that 'temporary protection complements the asylum system' (Martin *et al.* 1998: 558). Nadia Yakoob (1999: 632) summarised the results of a workshop with leading scholars on temporary protection in the United States and Europe during this period as follows:

> [T]*emporary protection has been a useful mechanism to respond to the initial phase of a forced migration emergency. It permits governments to provide protection to everyone, and to sort out a more permanent response later when the duration of the crisis is better understood.*

Yet the question of how to assess temporary protection has grown increasingly urgent as these programmes have gained traction in the shadow of the Refugee Convention's decline. Here, I offer an analytical framework for evaluating temporary protection mechanisms, using the recent US humanitarian parole programmes as a case study. The purpose of this framework is twofold: first, to provide a useful tool for assessing the merits of any particular temporary protection programme. Second, to shed light on the crucial benefits that temporary protection programmes as a whole can provide in the shifting landscape of international protection, even as such programmes cannot serve as a substitute for access to the more durable protections offered by the Refugee Convention.

The promise of Temporary Protection Programmes

The US humanitarian parole programmes offer insights into the promise that temporary humanitarian programmes hold both for those seeking protection and countries considering extending it. Of these programmes, 3 components – the speed of implementation, the simplicity of access and the grounding which they provide to those who otherwise might never reach safety – make them a crucial tool for protection in the face of a declining Refugee Convention.

Speed

As the analysis above makes clear, the United States' temporary protection programmes have been much more quickly responsive to the needs of large groups in urgent humanitarian crisis. In the United States' faltering refugee system, people languish in camps for years awaiting an opportunity to travel to the United States (Kanno-Youngs and Jordan 2022). In its extremely backlogged asylum system, the United States takes an average of 4.5 years to resolve asylum cases in immigration court (Transaction Research Access Clearinghouse 2021). In the end, relatively few people ultimately secure either refugee or asylum status (Baugh 2022; Gibson 2023). In contrast, despite processing backlogs, the 4 temporary humanitarian protection programmes created since 2021 provided status to more than 5 times the number of people than the US' refugee and asylum systems during a similar period (Batalova 2025).

A second dimension of the favourable speed of temporary programmes also bears mention. In some cases, such as the Afghan Humanitarian Parole Programme and U4U, temporary protection programmes allowed for immediate access to the labour market without the need for separate work authorisation. While Cubans, Haitian, Nicaraguans and Venezuelans still needed to apply for employment authorisation, they were eligible to do so immediately on arrival. This speed is notable because asylum-seekers in the United States are not permitted to even *apply* for work authorisation until their asylum application has been pending for at least 150 days (8 Code of Federal Regulations §208.7) and the processing of such applications can sometimes take months – a delay that leads to significant precarity (Rabin 2021).

In short, the speed at which these temporary programmes were created and implemented offers significant promise as a mechanism for delivering swift protection – including access to the labour market – to those in urgent need, especially as backlogs continue to cripple access to the Refugee Convention.

Simplicity

A related but distinctly promising feature of the recent US humanitarian parole programmes is the relative simplicity of the application process. Applications for them are much more accessible than the

legally complex asylum application, which is 12 pages long and accompanied by another 12 pages of instructions in English (USCIS 2025j, 2025k). In contrast, while also in English, parole applications do not require the applicant to produce detailed information and evidence in support of their claim for relief or to state the protected grounds – race, religion, nationality, political opinion or membership in a particular social group – that form the basis of their legal claim (USCIS 2025l). Instead, the most complex portion of parole applications is the financial information required from prospective sponsors: the onus for this detail therefore falls more on the US-based person than on the individual seeking protection.

As a result, parole applications can be more readily completed without the need for intensive legal assistance. This is crucial because a lack of representation has posed a significant barrier to accessing protection in the US asylum system. Studies have shown that it is nearly impossible even to apply for asylum in immigration court without legal counsel (Eagly and Shafer 2015; Transactional Research Access Clearinghouse 2024). Yet in cases where representation is secured, two-thirds of asylum applicants were found legally entitled to remain (Transactional Research Access Clearinghouse 2024). These findings suggest that a majority of protection-seekers in the United States have valid claims to remain. More streamlined application processes, like those offered by the recent humanitarian parole programmes, can help to ensure that states are better meeting their obligations to afford protection to those in need (Motomura 2020).

The relative simplicity of the application process for these humanitarian parole programmes creates the potential for broader and more meaningful access to protection – a potential that was realised in the U4U and CHNV parole programmes.

Grounding

Perhaps the most important promise of temporary protection programmes, such as the recent US humanitarian parole programmes, is that they create an opportunity for forced migrants to develop attachments in a safe country. I refer to this beneficial feature of temporary protection programmes as 'grounding'. Once a person is in a country of refuge, even if temporarily, the nature of the country's relationship to that individual changes, making it harder for the person to later be turned away, particularly without a strong justification for doing so. This notion of 'grounding' aligns with Jean-Francois Durieux's concept of refuge 'time as attachment' (Durieux 2015: 226–227). Building on this concept, Jessica Schultz (2021: 174) has observed that states offer 'a basket of rights and benefits that accrue over time (…) [and] increase as the refugee's relationship to the state evolves (…)' In the context of the Refugee Convention, James Hathaway (2005: 156) has described this trajectory as 'an assimilative path', where states are encouraged to offer naturalisation as a measure of these increased attachments after the passage of time, generally 3 to 5 years. While the Convention recognises that cessation of status may be appropriate for specific reasons, these are generally limited (Schultz 2021).

In the case of the United States, where access to the refugee and asylum systems has diminished in recent years, humanitarian parole has been one of the few ways to access protection and begin to develop the attachments that may lead to longer-term protection. While the initial periods of stay are temporary, the fact that people are actually in the country makes it more likely that they may develop attachments that will lead to durable protection, particularly if conditions remain unsafe in their home countries. TPS in the United States provides an example of this, with nationals of some countries where conditions have remained unsafe having their 'temporary' status extended over decades. These extended periods of 'temporary' status have led scholars like Hiroshi Motomura (2020: 501) to observe that there is 'no bright line that separates temporary from permanent'.

The opportunity for Afghans and Ukrainians to extend their initial 2-year parole periods for an additional 2 years, as well as the Biden administration's extension of TPS to nationals of these countries, are further examples of this dynamic in action. While the lack of an extension option for CHNV parolees is a notable exception, many of these individuals may be eligible to remain in the United States through other programmes offered to those already on US soil, including asylum (Montoya-Galvez 2024). For Afghans, there has been an additional benefit: the US government committed to reviewing asylum applications from Afghan parolees within 150 days – an extremely expedited process which, if successful, leads to durable protection (USCIS 2023b). In this way, temporary programmes can serve as a complement to – rather than a replacement for – the longer-term protections of the Refugee Convention (Galbraith 2015)

To be sure, the Trump administration's premature revocation of CHNV parole grants for those already in the United States and its attempt to halt the processing of applications submitted by those who entered through the CHNV and U4U programmes for more-durable immigration benefits call into question how much 'grounding' will benefit those with temporary protection in moving forward. Yet, even in these instances, the fact that individuals have developed attachments has proven relevant in court challenges. For example, a court ordered the Trump administration to resume the processing of immigration benefits applications – including for asylum, adjustment of status and other more durable forms of relief – for these populations (Doe vs Noem 2025b).

The speed, simplicity and grounding that temporary protection programmes can provide make them an important and increasingly necessary tool of humanitarian protection in the face of the diminution of the Refugee Convention.

The limitations of Temporary Protection Programmes

Temporary programmes, however, also suffer from significant drawbacks. Here, too, the recent US humanitarian parole programmes provide an important window into potential limitations. These include their subjectivity, detachment from international norms and accountability (referred to below as their 'solitary' nature) and instability.

Subjectivity

As the prior discussion of the recent US humanitarian parole programme shows, temporary protection programmes are initiated and operated with significant subjectivity on the part of the government, made possible by their largely discretionary nature. In the US context, this is true even where the authority for such programmes lies in statutes passed by the US Congress, such as TPS and humanitarian parole.[12] As a result, both *who* has access to temporary programmes and *what* benefits are afforded through a particular programme are largely subjective, left up to the discretion of the executive in power.[13] The United States' recent humanitarian parole programmes illustrate this subjectivity along both dimensions.

With respect to the *who*, unlike refugee or asylum status – which can be extended to qualifying individuals of any nationality – the US government's humanitarian parole programmes have historically been country-specific. This means that the government designates access to the temporary protection programme by nationality. As the recent US programmes demonstrate, such choices are based at least as much on political considerations as on humanitarian ones. The choice of Afghanistan was directly tied to the United States' decades-long military engagement there. The choice of Ukraine was linked to the

United States' geopolitical interest in containing Putin's power and, as discussed further below, tracks with the US' more favourable treatment of white migrants. The choices of Venezuela, Nicaragua, Cuba and Haiti were driven not only by humanitarian concerns in those countries but also by the political reality that the United States struggled to deport people arriving in large numbers from each of these countries at the southern border (DHS 2021, 2022a, 2022b, 2023a, 2023b, 2023c). Indeed, there are many other countries where humanitarian crises may be as acute but to which the United States has not chosen to extend humanitarian parole to those seeking protection from abroad.

The subjectivity of temporary protection programmes extends to their implementation. From application criteria to costs and from benefits to processing speeds, temporary protection programmes can be designed differently, affording divergent treatment by country. Again, the US experience provides a helpful lens. The U4U programme was designed more favourably than the Afghan and CHNV programmes. With the ability to submit 1 application per family (as opposed to per individual) without charge and to receive immediate access to the labour market upon entry to the United States at no cost, together with the lightning speed of processing – without numerical caps or other limits – Ukrainians had access to benefits beyond those extended to Afghans, Cubans, Nicaraguans, Venezuelans and Haitians. As a result, far fewer Afghans were able to access humanitarian parole than Ukrainians during the duration of the Afghan Humanitarian Parole Programme. Nationals of Cuba, Haiti, Nicaragua and Venezuela who were granted parole still had to pay over $400 to access work authorisations after entry, while Ukrainians were automatically authorised to work without cost upon arrival. Worse still, the Biden administration's decision not to offer the option to extend parole to Cubans, Haitians, Nicaraguans and Venezuelans left nearly 200,000 people in limbo, unless they had another available pathway to remain in lawful status (Montoya-Galvez 2024), a threat which became all the more concrete when President Trump, upon taking office, terminated the programme and revoked the parole grants and work authorisations of CHNV beneficiaries in the United States (DHS 2025; White House 2025a).

In short, even when a country is designated for temporary protection, the subjective nature of such programmes may result in unequal treatment in implementation. In contrast, applicants for refugee and asylee status in the United States – regardless of nationality – are all subject to the same application processes, fees and benefits upon approval. To be sure, the US asylum system also privileges certain nationalities over others (Gilman 2023). Nevertheless, the ability to apply for asylum irrespective of nationality makes it distinct from the humanitarian parole from which most nationalities are entirely excluded at the outset.

Solitary

The subjectivity evident in temporary protection programmes is made possible, in part, because of a second potential limitation of such programmes: their detachment from international norms and accountability. As scholars have noted, the Refugee Convention is 'one of the most widely accepted international norms, and probably one of the few to have penetrated public consciousness' (Kneebone, Baldassar and Stevens 2014: 4). The normative power of the Refugee Convention creates a measure of accountability both on the international stage and in the domestic context when a signatory is flouting its obligations. For example, a US court struck down Trump's asylum 'transit ban' for violating the United States' obligations under the Refugee Convention, as incorporated by US asylum laws (East Bay Sanctuary Covenant vs Barr 2021).

In contrast, temporary protection programmes – in particular, the recent US humanitarian parole programmes – are guided far more by national norms and US foreign policy interests than accountability

to international obligations. As discussed above, the countries selected for protection aligned with foreign policy concerns – including the US' military withdrawal from Afghanistan, anti-Putin stance and perceived need to bring down the numbers of border-crossings from countries where deportations are difficult to effectuate. The level of protection afforded similarly varies with national norms. For example, in the US context, the benefits of the recent humanitarian parole programmes track US racial hierarchies – with white Ukrainians receiving preferential treatment over black and brown migrants from Afghanistan, Cuba, Haiti, Nicaragua and Venezuela (Harris and Royan 2024; Ramji-Nogales 2022).[14] In the context of nation-centred temporary protection programmes, there is less recourse to international norms as a remedy for such unequal treatment.

(In)stability

A final limitation of temporary protection programmes is perhaps the most obvious: such programmes are, by definition, time-limited and, as a result, inherently unstable. In the United States, each of the recent humanitarian parole programmes sets an initial entry period of 2 years, with little discussion of what would happen to people after that initial period ended. While possibilities exist for extending short-term statuses either through 're-parole', as was done for Afghan and Ukrainian parolees (though notably not for CHNV parolees) and through TPS – should it survive the Trump administration's attempts to terminate it – a clear path to long-term protection remains out of reach for those who do not otherwise qualify for or take advantage of the US asylum system.

Notably, in the past, US temporary humanitarian parole programmes were followed by large-scale legalisation programmes; as previously discussed, this was the case for the initial group of Hungarians parolees, as well as those from 'Indochina' and Cuba who followed (Foreign Operations Act, P.L. 101-167 1989: sec. 599E; Hungarian Refugee Relief Act, P.L. 85-559 1958). Yet past practice has not led to similar results in recent years. For example, the Afghan Adjustment Act, which would have created a path to permanent residency for Afghan parolees, faltered in favour of a discretionary 're-parole' for another 2 years and expedited processing for those able to navigate the more-complex asylum process (CAIR California 2023). Similar legislation for Ukrainian parolees also failed to pass (Ukrainian Adjustment Act 2023). No such legislation for long-term legalisation was even introduced for Haitian, Nicaraguan or Venezuelan parolees.

The short-term nature of temporary protection mechanisms leaves the programmes themselves – and those who benefit from them – vulnerable. As Cecilia Menjívar (2006) has noted in the context of TPS, the frequent need for renewal and extended periods of uncertainty leaves temporary protection-holders in a state of 'liminal legality'. The short time horizons allow for regular intervals at which a programme's continuation may be brought into question, challenged or eliminated. Even before these time horizons elapse, temporary programmes are unstable because, at bottom, they are acts of domestic decision-making that are viewed as exercises of discretion rather than of obligation. As the above discussion makes clear, this instability has played out in stark relief in the US context. Almost immediately following the announcement of the CHNV programme, Republican-led states brought litigation to challenge it (Texas vs DHS 2024). While that litigation was unsuccessful, candidate Trump threatened to dismantle the CHNV and other parole programmes if returned to office (Hesson 2023). He immediately followed through on these threats, abruptly terminating the CHNV and U4U programmes and stripping existing CHNV beneficiaries of their legal status and work authorisations – putting them at risk of deportation even before the expiration of their initial 2-year parole periods (DHS 2025; White House 2025a).

The subjective, solitary and unstable nature of temporary protection programmes is a significant drawback. However, by identifying these limitations, this paper does not seek to argue against temporary protection programmes as a whole. Instead, the considerations laid out above offer a framework for assessing the merits of current and future temporary protection programmes to help guide the implementation of temporary protection mechanisms that maximise the promise – and minimise the limitations – of such programmes for those seeking protection in the years to come.

Building towards better Temporary Protection Programmes

What might a temporary protection programme that maximises speed, simplicity and grounding while minimising subjectivity, solitariness and instability look like? While there need not be a one-size-fits-all approach, lessons learned from the US experience provide fodder for the development of future programmes. Some ideas include:

- Speed: The timely review of applications with clear benchmarks for approvals and investment of resources to meet those benchmarks, alongside automatic employment authorisation in approved cases for immediate access to the labour market, without the need for a separate employment authorisation process.
- Simplicity: A streamlined application process that can be accessed and completed entirely online – inclusive of biometric and other background checks – along with alternate language versions accessible to applicants.
- Grounding: Integration opportunities for programme participants, with the recognition that some – though not all – may want or need to remain. These might include access to language courses, vocational training and/or housing, medical and psychosocial support. This aspect might be partly facilitated by sponsors or community organisations, as in recent US-based models, with government investment to ensure sustainability.
- Subjectivity: To fend off the unequal treatment of certain populations, states may consider legislating baseline requirements for temporary programmes, as has been done for Temporary Protected Status in the United States; these might include the requirement that all temporary programmes offer immediate access to employment authorisation, parity in application costs (if any) and predetermined benchmarks for extension.
- Solitary: To address the lesser accountability present in temporary protection programmes; situating them within states' broader humanitarian protection obligations, rather than simply as acts of domestic discretion, may yield better results. This might include the incorporation of such programmes into domestic legal frameworks or explicit recognition of the programme as part of a state's broader humanitarian protection obligations under international law.
- (In)Stability: To combat the potential for legal limbo that temporary programmes risk, programmes should include a built-in guarantee of the initial protection period and a mechanism for extension based on pre-determined criteria – including ongoing urgent humanitarian need – at the outset of the programme, as well as a pathway for transition to a permanent lawful status after a pre-determined number of years, should the temporary conditions persist.

Conclusion

How should we evaluate temporary protection programmes as we look to the future? In the short term, this examination suggests that these programmes offer significant benefits. As this case study shows, the recent humanitarian parole programmes are one of the few ways in which the United States afforded protection in recent years, in the face of significant limitations on the more durable protections provided by the Refugee Convention. These programmes also have the benefit of injecting much-needed energy into labour markets and opening up heretofore unavailable pathways to migration.

In the long term, the answer is less clear-cut. First, these programmes risk closing the door on much of the world's population who, because of race, religion, lack of political power or other disadvantages, will not be able to reap the benefits of state-driven, country-specific humanitarian parole programmes that rely on political will for their creation. Furthermore, to the extent that refugee or asylum status under the Refugee Convention remains out of reach for many, any substitution of these programmes for the more durable status may leave a less-equal world in its wake. Second, it remains an open question whether these programmes will create longer-term pathways to legalisation and integration for those in need of durable relief or – as the recent experience in the United States suggests – whether they will create second-class citizens locked in ongoing instability and at risk of removal in response to shifts in political leadership.

While this paper concludes that temporary programmes are a crucial protection mechanism in the face of a declining Refugee Convention, a rigorous assessment of current and future temporary protection programmes could help to ensure that such programmes achieve their maximum promise of speed, simplicity and grounding, while minimising the limitations of subjectivity, solitariness and instability.

Notes

1. While not a requirement of the 1951 Convention, 'many States Parties grant permanent residence status to refugees in their territories after several years, eventually leading to their integration and naturalization' (UNHCR 2011: 98). That is certainly true in the United States, where the US Immigration and Nationality Act (INA) §209 provides for refugees' adjustment to lawful permanent resident status after 1 year of physical presence in the United States and INA §319 provides for refugees' naturalisation after 5 years of lawful permanent residence.
2. This estimated figure of asylum grants since 1980 is drawn from Gilman (2023), showing asylum grant rates of approximately 50,000 per year from 1996 to 2023 and estimating similar or slightly lower rates for 1980 to 1995.
3. Fiscal years 2021 and 2022 are the most recent years for which comprehensive refugee admission and asylum grant data are available from the US government. The data show that 25,518 persons were admitted to the United States as refugees in fiscal year 2022 and an additional 36,615 people were granted asylum in that year (Gibson 2023). In fiscal year 2021, 11,454 persons were admitted to the United States as refugees and an additional 17,692 were granted asylum (Baugh 2022).
4. While beyond the scope of this paper, another notable form of temporary protection in the United States is the Deferred Action for Childhood Arrivals (DACA) programme (USCIS 2025a). Approximately 580,000 young people currently hold DACA status, though legal challenges have prevented the granting of new applications since September 2017 (*ibidem*). DACA is distinct from TPS and humanitarian parole in that it protects certain young people who arrived in the

United States as children; its emphasis is therefore less on traditional understandings of humanitarian protection for those facing danger in their home country and more on recognising existing ties to the US. The government also offers other forms of temporary status to applicants for special visas set aside for victims of serious crimes (the U Visa) and immigrant children who have been abandoned, abused or neglected by 1 or both parents (Special Immigrant Juvenile Status or SIJS) (INA §101(a)(15)(U); INA §101(a)(27)(J)). Unlike TPS, DACA and humanitarian parole, the U Visa and SIJS ultimately set their recipients on a path to lawful permanent residency. In short, there are a variety of what Hiroshi Motomura (2025: 97) calls 'in-between statuses'. As discussed above, this paper focuses on TPS and humanitarian parole both because they are the most common and because they the most closely align with traditional understandings of the purposes of international protection.

5. While EVD largely faded after the advent of TPS, the president retains discretion through the constitutional power to conduct foreign relations to grant deferred enforced departure (DED), another form of temporary relief from removal which has no statutory basis. This is a much-less-commonly used form of temporary protection; in 2024, it was only in effect for nationals of Hong Kong, Liberia and Palestine (Wilson 2024).
6. In some cases, the government has created parole programmes for those already in the United States – generally referred to as 'parole-in-place' programmes. Examples include parole-in-place for military spouses (USCIS 2025h) and a newly-announced programme that would allow for the parole of spouses of US citizens who have lived in the United States for 10 years or more (White House 2024b).
7. President Trump attempted to end the CAM parole programme in August 2017 while the Biden administration began accepting new applications in 2021 (USCIS 2024a).
8. The author served as co-counsel for Intervenor Defendants in this litigation, defending the challenged humanitarian parole programmes.
9. This was true despite the fact that the US embassy in Kabul was shuttered on 31 August 2021 (US Department of State 2021).
10. For an analysis of the opportunities and challenges of the financial sponsorship requirement of recent humanitarian parole programmes, see Bier (2023b).
11. Notably, Ukrainians applying for re-parole are required to pay a $580 application fee, while Afghans applying for re-parole are not (USCRI 2024).
12. This is also true of the European context, where the EU's Temporary Protection Directive was activated for the first time in response to Russia's invasion of Ukraine, despite other large-scale migrations, including those from Syria, Afghanistan, Tunisia, Libya and Iraq (İneli-Ciğer 2022).
13. Maryellen Fullerton (2024: 50) offers a response to this subjectivity: legislation that 'preserve[s] a role for administrative discretion in a legislative framework, and devise[s] effective mechanisms for initiating and terminating temporary parole policies'.
14. President Trump's recent welcoming of white South African refugees, despite a pause on processing for other populations, has drawn similar criticism of race-based discrimination in the refugee context (White House 2025d).

Acknowledgments

The author wishes to thank Hiroshi Motomura. Maryellen Fullerton, Monika Langarica, Ahilan Arulanantham, Alan Desmond and Kamila Kowalska for their valuable insights.

Funding

No funding was received for this study.

Conflict of interest statement

No conflict of interest was reported by the author.

References

8 Code of Federal Regulations §208.7.

Additional Ukraine Supplemental Appropriations Act (2022). Public Law No. 117-128, 21 May.

Afghanistan Supplemental Appropriations Act (2021). Public Law No. 117-43, 30 September.

Ainsley J. (2023). U.S. Has Admitted 271,000 Ukrainian Refugees since Russian Invasion, Far above Biden's Goal of 100,000. *NBC News*, 23 February. https://www.nbcnews.com/politics/immigration/us-admits-271000-ukrainian-refugees-russia-invasion-biden-rcna72177 (accessed 31 July 2025).

Aleaziz H. (2023). Why the Border May 'Never Go Back to What It Was Before Trump. *L.A. Times*, 2 March. https://www.latimes.com/politics/story/2023-03-02/biden-asylum-proposal-trump (accessed 31 July 2025).

Aleaziz H. (2025). Trump Officials Pause Programs to Let In Immigrants, Including Ukrainians. *New York Times*, 24 January. https://www.nytimes.com/2025/01/24/us/politics/trump-immigration-pause.html? (accessed 31 July 2025).

Alles R. (2023). *Parole Requests: Fiscal Year 2023, Second and Third Quarter*. Report delivered by the U.S. Department of Homeland Security to Congress, 4 December 2023. https://www.dhs.gov/sites/default/files/2024-01/2023_1204_dmo_plcy_parole_requests_q2_and_q3.pdf (accessed 31 July 2025).

Batalova J. (2025). *Frequently Requested Statistics on Immigrants and Immigration in the United States*. Migration Policy Institute. https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-2024# (accessed 31 July 2025).

Baugh R. (2022). *Annual Flow Report, Refugees and Asylees: 2021*. Office of Immigration Statistics, U.S. Department of Homeland Security. https://ohss.dhs.gov/sites/default/files/2023-12/2022_0920_plcy_refugees_and_asylees_fy2021_v2.pdf (accessed 31 July 2025).

Bhattarai vs Nielsen (2019) No. 19-cv-731 (N.D. Cal. Mar. 12, 2019).

Bier D. (2023a). *126 Parole Orders over 7 Decades: A Historical Review of Immigration Parole Orders*. Cato Institute Blog. https://www.cato.org/blog/126-parole-orders-over-7-decades-historical-review-immigration-parole-orders (accessed 31 July 2025).

Bier D. (2023b). *Parole Sponsorship Is a Revolution in Immigration Policy*. Cato Institute Briefing Paper. https://www.cato.org/briefing-paper/parole-sponsorship-revolution-immigration-policy (accessed 31 July 2025).

Bruno A. (2020). *Immigration Parole*. Congressional Research Service R46570. https://crsreports.congress.gov/product/pdf/R/R46570 (accessed 31 July 2025).

Bruno A. (2023). *Immigration Options for Immigration Parolees*. Congressional Research Service R47654. https://crsreports.congress.gov/product/pdf/R/R47654# (accessed 31 July 2025).

CAIR California (2023). *U.S. Senate Once Again Fails to Pass Afghan Adjustment Act*. https://imrann40.sg-host.com/losangeles/updates/u-s-senate-once-again-fails-to-pass-the-afghan-adjustment-act/ (accessed 31 July 2025).

CBP (2022). *Title 42 Exceptions for Ukrainian Nationals*. U.S. Customs and Border Protection, 11 March. https://www.aila.org/cbp-issues-memo-on-title-42-exceptions (accessed 5 September 2025).

CBP (2024). *CBP Releases August 2024 Monthly Update*. U.S. Customs and Border Protection. https://www.cbp.gov/newsroom/national-media-release/cbp-releases-august-2024-monthly-update (accessed 31 July 2025).

Chaudry F. (2023). The Past, Present, and Future of Humanitarian Parole. *University of Chicago Legal Forum* 2023(12): 307–339.

Chishti M., Bolter J. (2022). *Welcoming Afghans and Ukrainians to the United States: A Case in Similarities and Contrasts*. Migration Policy Institute. https://www.migrationpolicy.org/article/afghan-ukrainian-us-arrivals-parole (accessed 31 July 2025).

Chishti M., Bush-Joseph K., Montalvo J. (2024). *Title 42 Postmortem: U.S. Pandemic-Era Expulsions Policy Did Not Shut Down the Border*. Migration Policy Institute. https://www.migrationpolicy.org/article/title-42-autopsy (accessed 31 July 2025).

Ciullo A. (2023). Humanitarian Parole: A Tale of Two Crises. *Georgetown Immigration Law Journal* 37: 493–517.

Cohn D., Passel J., Bialik K. (2019). *Many Immigrants with Temporary Protected Status Face Uncertain Future in U.S.* Pew Research Center. https://www.pewresearch.org/short-reads/2019/11/27/immigrants-temporary-protected-status-in-us/ (accessed 31 July 2025).

Council of the European Union (2022). Implementing Decision (EU) 2022/382 of 4 March 2022 Establishing the Existence of a Mass Influx of Displaced Persons from Ukraine within the Meaning of Article 5 of Directive 2001/55/EC, and Having the Effect of Introducing Temporary Protection EUR-Lex - 32022D0382 - EN - EUR-Lex (europa.eu).

Cox A., Rodriguez C. (2020). *The President and Immigration Law*. New York: Oxford University Press.

Davidson A. (2025). *Memorandum: Administrative Hold on All USCIS Benefit Requests Filed by Parolees Under the Uniting for Ukraine (U4U) Process, Processes for Haitians, Cubans, Nicaraguans, and Venezuelans (CHNV) Process, or Family Reunification Parole (FRP) Process, 14 February*. https://immpolicytracking.org/policies/eo-securing-our-borders-7b-directs-termination-of-categorical-parole-programs-including-chnv-parole-processes/ (accessed 31 July 2025).

DHS (2021). *Operation Allies Welcome*. U.S. Department of Homeland Security, 29 August, https://www.dhs.gov/allieswelcome (updated 22 January 2025; accessed 02 August 2025).

DHS (2022a). *Uniting for Ukraine*, U.S. Department of Homeland Security. https://www.dhs.gov/ukraine (updated 12 March 2025; accessed 02 August 2025).

DHS (2022b). *DHS Announces New Migration Enforcement Process for Venezuelans*, U.S. Department of Homeland Security, 12 October. https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans (accessed 31 July 2025).

DHS (2023a). *Implementation of a Parole Process for Cubans*. 88 U.S. Department of Homeland Security Federal Register 1266, 9 January. https://www.federalregister.gov/documents/2023/01/09/2023-00252/implementation-of-a-parole-process-for-cubans (accessed 31 July 2025).

DHS (2023b). *Implementation of a Parole Process for Haitians*. 88 U.S. Department of Homeland Security Federal Register 1243, 9 January. https://www.federalregister.gov/documents/2023/01/09/2023-00255/implementation-of-a-parole-process-for-haitians (accessed 31 July 2025).

DHS (2023c). *Implementation of a Parole Process for Nicaraguans*. 88 U.S. Department of Homeland Security Federal Register 1255, 9 January. https://www.federalregister.gov/documents/2023/01/09/2023-00254/implementation-of-a-parole-process-for-nicaraguans (accessed 31 July 2025).

DHS (2023d). *Implementation of Changes to the Parole Process for Venezuelans*. 88 U.S. Department of Homeland Security Federal Register 1279, 9 January. https://www.federalregister.gov/documents/2023/01/09/2023-00253/implementation-of-changes-to-the-parole-process-for-venezuelans (accessed 31 July 2025).

DHS (2023e). *DHS Announces Re-Parole Process for Afghan Nationals in the United States*, U.S. Department of Homeland Security 8 June. https://www.dhs.gov/news/2023/06/08/dhs-announces-re-parole-process-afghan-nationals-united-states (accessed 31 July 2025).

DHS (2023f). *Fact Sheet: Data From First Six Months of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans Shows That Lawful Pathways Work*, U.S. Department of Homeland Security 25 July. https://www.dhs.gov/news/2023/07/25/fact-sheet-data-first-six-months-parole-processes-cubans-haitians-nicaraguans-and (accessed 31 July 2025).

DHS (2024). *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans.* U.S. Department of Homeland Security. https://www.uscis.gov/CHNV (updated 1 April 2024; accessed 02 August 2025).

DHS (2025). *Termination of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*. 90 U.S. Department of Homeland Security Federal Register 13611, 25 March. https://www.federalregister.gov/documents/2025/03/25/2025-05128/termination-of-parole-processes-for-cubans-haitians-nicaraguans-and-venezuelans.

Doe vs Noem (2025a) Case No. 25-cv-10495, -- F.3d Supp. – (D. Mass. Apr. 14, 2025), 2025 WL 1099602, *Stay Granted Pending Appeal by Noem v. Doe*, 145 S. Ct. 1524 (May 30, 2025).

Doe vs Noem (2025b) Case No. 25-cv-10495, -- F.3d Supp. – (D. Mass. May 28, 2025), 2025 WL 1514420.

Durieux J.F. (2015). Temporary Protection: Hovering at the Edges of Refugee Law, in: M. Ambrus, R. Wessel (eds) *Netherlands Yearbook of International Law 2014*, pp. 221–253. The Hague: T.M.C. Asser Press.

Eagly I., Shafer S. (2015). A National Study of Access to Counsel in Immigration Court. *University of Pennsylvania Law Review* 164(1): 1–91.

East Bay Sanctuary Covenant vs Barr (2021) 519 F.Supp.3d 663 (N.D. Cal. 2021).

Feller E. (2014). The Refugee Convention at 60: Still Fit for Purpose? Protection Tools for Protection Needs, in: S. Kneebone, D. Stevens, L. Baldassar (eds) *Refugee Convention and the Role of Law: Conflicting Identities*, pp. 56–69. London and New York: Routledge.

FitzGerald D. (2019). *Refuge Beyond Reach: How Rich Democracies Repel Asylum Seekers*. Oxford: Oxford University Press.

Fitzpatrick J. (1994). Flight from Asylum: Trends Toward Temporary 'Refuge' and Local Responses to Forced Migrations. *Virginia Journal of International Law* 35: 13–70.

Frelick B. (2020). What's Wrong with Temporary Protected Status and How to Fix It: Exploring a Temporary Protection Regime. *Journal on Migration and Human Security* 8(1): 42–53.

Fullerton M. (2024). Temporary Protection in the United States and the European Union: Same Words, Vastly Different Meanings. *University of Pennsylvania Journal of Law and Public Affairs* 9(1): 1–51.

Galbraith J. (2015) Temporary International Regimes as Frames for Permanent Ones, in: M. Ambrus, R. Wessel (eds) *Netherlands Yearbook of International Law 2014*, pp. 41–65. The Hague: T.M.C. Asser Press.

Gibson I. (2023). *Annual Flow Report, Refugees and Asylees: 2022*. Office of Homeland Security Statistics, U.S. Department of Homeland Security. https://ohss.dhs.gov/sites/default/files/2024-03/2023_0818_plcy_refugees_and_asylees_fy2022_v2_0.pdf (accessed 31 July 2025).

Gilman D. (2020). Barricading the Border: COVID-19 and the Exclusion of Asylum Seekers at the U.S. Southern Border. *Frontiers of Human Dynamics* 2: 595814.

Gilman D. (2023). Making Protection Unexceptional: A Reconceptualization of the U.S. Asylum System. *Loyola University of Chicago Law Journal* 55(1): 1–89.

Harris L., Royan Y. (2024). Afghan Allies in Limbo: Discrimination in the U.S. Immigration Response. *San Diego Law Review* 61(4): 863–928.

Hathaway J. (1991). Reconceiving Refugee and Human Rights Protection. *Journal of Refugee Studies* 4(2): 113–131.

Hathaway J. (2005). *The Rights of Refugees Under International Law*. Cambridge: Cambridge University Press.

Hauslohner A. (2022). Biden Is Treating Ukrainian Refugees Better than Afghans, Critics Say. *Washington Post*, 28 April. https://www.washingtonpost.com/national-security/2022/04/28/biden-refugees-ukraine-afghanistan/ (accessed 31 July 2025).

Hesson T. (2023). How Would Trump Crack Down on Immigration in a Second Term? *Reuters*, 14 November. https://www.reuters.com/world/us/how-trump-would-crack-down-immigration-second-term-2023-11-14/ (accessed 31 July 2025).

Hirschfeld Davis J., Stolberg S., Kaplan T. (2018). Trump Alarms Lawmakers With Disparaging Words for Haiti and Africa. *New York Times*, 11 January. https://www.nytimes.com/2018/01/11/us/politics/trump-shithole-countries.html (accessed 31 July 2025).

Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) (1996a) House Judiciary Report. (1996). H. Comm. on the Judiciary, H.R. Rep. No. 104-469.

Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) (1996b) Public Law No. 104-208, 30 September 1996.

Immigration Act (1990). Public Law No. 101-649, 29 November 1990.

INA Immigration and Nationality Act §101(a)(15)(U); 8 U.S.C. §1101(a)(15)(U).

INA Immigration and Nationality Act §101(a)(27)(J); 8 U.S.C. §(a)(27)(J).

INA Immigration and Nationality Act §244(b)(1)(B); 8 U.S.C. § 1254a(b)(1)(B).

INA Immigration and Nationality Act §244(a)(1)(B); 8 U.S.C. § 1254a(a)(1)(B).

INA Immigration and Nationality Act §101(a)(42), 8 U.S.C. § 1101(a)(42).

INA Immigration and Nationality Act §207, 8 U.S.C. § 1157.

INA Immigration and Nationality Act §208, 8 U.S.C. § 1158.

INA Immigration and Nationality Act §209, 8 U.S.C § 1159.

INA Immigration and Nationality Act §212(d)(5)(A); 8 U.S.C. § 1282(d)(5)(A).

INA Immigration and Nationality Act §244; 8 U.S.C. § 1254a.

INA Immigration and Nationality Act §244(b)(2); 8. U.S.C. § 1254a(b)(2).

INA Immigration and Nationality Act §244(c)(1)(A)(i); 8 U.S.C. §1254a(c)(1)(A)(i).

INA Immigration and Nationality Act §319; 8 U.SC. § 1427.

İneli-Ciğer M. (2022). *5 Reasons Why: Understanding the Reasons behind the Activation of the Temporary Protection Directive in 2022*. EU Immigration and Asylum Law and Policy Blog. https://eumigrationlawblog.eu/5-reasons-why-understanding-the-reasons-behind-the-activation-of-the-temporary-protection-directive-in-2022/ (accessed 31 July 2025).

Kanno-Youngs Z., Jordan M. (2002). 'They Forgot About Us': Inside the Wait for Refugee Status. *New York Times*, 19 October. https://www.nytimes.com/2022/10/19/us/politics/refugees-asylum-immigration.html (accessed 31 July 2025).

Kerwin D. (2011). *The Faltering US Refugee Protection System: Legal and Policy Responses to Refugees, Asylum Seekers, and Others in Need of Protection*. Migration Policy Institute. https://www.migrationpolicy.org/sites/default/files/publications/refugeeprotection-2011.pdf (accessed 31 July 2025).

Kneebone S., Baldassar L., Stevens D. (2014). Conflicting Identities, Protection, and the Role of Law, in: S. Kneebone, D. Stevens, L. Baldassar (eds) *Refugee Convention and the Role of Law: Conflicting Identities*, pp. 3–21. London and New York: Routledge.

Lafferty J. (2024). *Declaration of John L. Lafferty, Chief of the Asylum Division, U.S. Citizenship and Immigration Services*. https://drive.google.com/file/d/18BpcRh-bbtJzTvpxRhL-edUoCmIAovS-/view (accessed 31 July 2025).

Markey E. (2024). *Letter to U.S. Department of Homeland Security Secretary Alejandro Mayorkas and U.S. Citizenship and Immigration Services Director Ur Jaddou*. https://www.markey.senate.gov/imo/media/doc/humanitarian_parole_for_afghans_letter_1424.pdf (accessed 31 July 2025).

Martin S., Schoenholtz A., Waller Meyers D. (1998). Temporary Protection: Towards a New Regional and Domestic Framework. *Georgetown Immigration Law Journal* 12(4): 543–587.

Menjívar C. (2006). Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States. *American Journal of Sociology* 111(4): 999–1037.

Miroff N. (2020). Trump Cuts Refugee Cap to Lowest Level Ever, Depicts Them on Campaign Train as a Threat and Burden. *Washington Post*, 1 October. https://www.washingtonpost.com/immigration/trump-cuts-refugee-cap/2020/10/01/a5113b62-03ed-11eb-8879-7663b816bfa5_story.html (accessed 31 July 2025).

Montoya-Galvez C. (2022a). U.S. Expands Eligibility for Afghans and Others Seeking Entry on Humanitarian Grounds. *CBS News*, 1 July. https://www.cbsnews.com/news/immigration-us-expands-eligibility-afghans-others-seeking-entry-humanitarian-grounds/ (accessed 31 July 2025).

Montoya-Galvez C. (2022b). U.S. to Discontinue Quick Humanitarian Entry for Afghans and Focus on Permanent Resettlement Programs. *CBS News*, 2 September. https://www.cbsnews.com/news/afghan-parole-humanitarian-entry-process-to-end-in-october-focus-on-permanent-resettlement-programs/ (accessed 31 July 2025).

Montoya-Galvez C. (2023). 1.5 Million Apply for U.S. Migrant Sponsorship Program with 30,000 Monthly Cap. *CBS News*, 22 May. https://www.cbsnews.com/news/us-migrant-sponsorship-program-cuba-haiti-nicaragua-venezuela-applications/ (accessed 31 July 2025).

Montoya-Galvez C. (2024). U.S. Won't Extend Legal Status for 530,000 Migrants who Arrived under Biden Program. *CBSNews*, 4 October. https://www.cbsnews.com/news/venezuelans-legal-status-chnv-program/ (accessed 31 July 2025).

Motomura H. (2020). The New Migration Law: Migrants, Refugees, and Citizens in an Anxious Age. *Cornell Law Review* 105(2): 457–547.

Motomura H. (2025). *Borders and Belonging*. New York: Oxford University Press.

National TPS Alliance vs Noem (2025) Case No. 25-cv-01766, --- F.Supp.3d ---- (N.D. Cal. Mar. 31, 2025), 2025 WL 957677, *Stay Granted Pending Appeal by Noem v. National TPS Alliance*, --- S.Ct. ----, 2025 WL 1427560 (Mem).

Project Anar (2022). *Parole Checklist and Pointers*. https://www.projectanar.org/resources/parole-checklist (accessed 24 July 2024).

Protocol Relating to the Status of Refugees (1967,). 606 United Nations Treaty Series 267, 21 January https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees (accessed 31 July 2025).

Rabin N. (2021). Legal Limbo as Subordination: Immigrants, Caste, and the Precarity of Liminal Status in the Trump Era. *Georgetown Immigration Law Journal* 35(2): 567–613.

Ramji-Nogales J. (2022). Ukrainians in Flight: Policies, Race, and Regional Solutions. *American Journal of International Law Unbound* 116: 150–154.

Ramos vs Nielsen (2018). 336 F. Supp. 3d 1075 (N.D. Cal 2018), *Vacated and Remanded sub. nom. Ramos v. Wolf*, 975 F.3d 872 (9th Cir. 2020), *Rehearing en banc Granted Ramos v. Mayorkas*, 59 F.4th 1010 (9th Cir. 2023).

Refugee Act (1980). Public Law No. 96-212, 17 March 1980.

Refugee Convention (1951). 189 United Nations Treaty Series (UNTS) 150, 28 July. https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees (accessed 31 July 2025).

Ribando Seelke C. (2023). *Venezuela: Political Crisis and U.S. Policy*. Congressional Research Service IF10230. https://sgp.fas.org/crs/row/IF10230.pdf (accessed 31 July 2025).

Roe vs Mayorkas (2022). Case No. 22-cv-10808 (D. Mass. May 25, 2022).

Santamaria K. (2023). *COVID-Related Restrictions on Entry into the United States Under Title 42: Litigation and Legal Considerations*. Congressional Research Service LSB10874. https://crsreports.congress.gov/product/pdf/LSB/LSB10874 (accessed 31 July 2025).

Santamaria K. (2024). *Humanitarian Parole Authority: A Legal Overview and Recent Developments*. Congressional Research Service LSB11102. https://crsreports.congress.gov/product/pdf/LSB/LSB11102 (accessed 31 July 2025).

Schacher Y. (2022). *Supplementary Protection Pathways to the United States: Lessons from the Past for Today's Humanitarian Parole Policies*. Refugees International. https://www.refugeesinternational.org/reports-briefs/supplementary-protection-pathways-to-the-united-states-lessons-from-the-past-for-todays-humanitarian-parole-policies/ (accessed 31 July 2025).

Schoenholtz A., Ramji-Nogales J., Schrag P. (2021). *The End of Asylum.* Washington, DC: Georgetown University Press.

Schultz J. (2021). An End to Asylum? Temporary Protection and the Erosion of Refugee Status, in: C. Jacobson, M.A. Karlson, S. Khosravi (eds) *Waiting and the Temporalities of Irregular Migration*, pp. 170–185. London and New York: Routledge.

Texas vs DHS (2024) Case No. 6:23-cv-00007, Memorandum & Opinion, (S.D. Tex. Mar. 8, 2024). https://litigationtracker.justiceactioncenter.org/cases/texas-v-dhs-tx-chnv-parole-district-court/memorandum-opinion-pdf (accessed 31 July 2025).

Transactional Research Access Clearinghouse (2021). *A Mounting Asylum Backlog and Growing Wait Times*. https://tracreports.org/immigration/reports/672/ (accessed 31 July 2025).

Transactional Research Access Clearinghouse (2022). *Á Sober Assessment of the Growing U.S. Asylum Backlog*. https://tracreports.org/reports/705/ (accessed 31 July 2025).

Transactional Resource Access Clearinghouse (2024). *Two-Thirds of Court Asylum Applicants Found Legally Entitled to Remain*. https://tracreports.org/reports/742/ (accessed 31 July 2025).

Ukrainian Adjustment Act (2023). H.R. 3911, 7 June 2023.

UNHCR (2011). *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status, Under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees*, https://www.refworld.org/pdfid/4f33c8d92.pdf (accessed 31 July 2025).

UNHCR (2022). *The EU Temporary Protection Directive in Practice 2022*. https://reliefweb.int/report/world/eu-temporary-protection-directive-practice-2022 (accessed 31 July 2025).

UNHCR (2023). *Global Trends Report 2022*. https://www.unhcr.org/global-trends-report-2022 (accessed 31 July 2025).

United Nations Treaty Collection (2024). *Chapter 5: Refugees and Stateless Persons*, *2. Convention Related to the Status of Refugees*. https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en (updated 29 September 2024).

U.S. Department of State (2021). *U.S. Mission to Afghanistan*. https://af.usembassy.gov/visas/ (accessed 25 July 2024).

U.S. Department of State (2024). *Refugee Admissions: U.S. Refugee Admissions Program*. https://www.state.gov/refugee-admissions (accessed 25 July 2024).

U.S. General Accounting Office (1979). *The Indochinese Exodus: A Humanitarian Dilemma*, report to Congress. https://www.google.com/books/edition/The_Indochinese_Exodus/zLQ82XN5bAwC?hl=en&gbpv=1&amp (accessed 31 July 2025).

U.S. General Accounting Office (1990a). *Refugee Program: The Orderly Departure Program from Vietnam*, report to Chairman, Subcommittee on Immigration, Refugees, and International Law, U.S. House of Representatives, 11 April 1990. https://www.gao.gov/assets/nsiad-90-137.pdf (accessed 31 July 2025).

U.S. General Accounting Office (1990b). *Soviet Refugees: Issues Affecting Domestic Resettlement*, report to Sen. Charles E. Grassley, 26 June 1990. https://www.gao.gov/assets/hrd-90-106br.pdf (accessed 31 July 2025).

USCIS, U.S. Citizenship and Immigration Services (2023a). *Extension and Redesignation of Somalia for Temporary Protected Status*. 88 Federal Register 15434, 13 March. https://www.federalregister.gov/documents/2023/03/13/2023-04735/extension-and-redesignation-of-somalia-for-temporary-protected-status.

USCIS, U.S. Citizenship and Immigration Services (2023b). *Afghan Operation Allies Welcome (OAW) Parolee Asylum-Related Frequently Asked Questions*. https://www.uscis.gov/humanitarian/information-for-afghan-nationals/afghan-operation-allies-welcome-oaw-parolee-asylum-related-frequently-asked-questions (updated 19 October 2023).

USCIS, U.S. Citizenship and Immigration Services (2024a). *In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)*. https://www.uscis.gov/CAM (updated 11 October 2024).

USCIS, U.S. Citizenship and Immigration Services (2024b). *Re-Parole Process for Certain Ukrainian Citizens and Their Immediate Family Members*. https://www.uscis.gov/humanitarian/uniting-for-ukraine/re-parole-process-for-certain-ukrainian-citizens-and-their-immediate-family-members (updated 11 October 2024).

USCIS, U.S. Citizenship and Immigration Services (2024c). *Information for SAVE Users: Cuban and Haitian Entrants*. https://www.uscis.gov/save/save-resources/information-for-save-users-cuban-haitian-entrants (updated 5 September 2024).

USCIS, U.S. Citizenship and Immigration Services (2025a). *Consideration of Deferred Action for Childhood Arrivals (DACA)*. https://www.uscis.gov/DACA (updated 24 January 2025).

USCIS, U.S. Citizenship and Immigration Services (2025b). *Temporary Protected Designated Country: Honduras*. https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-honduras (updated 28 May 2025).

USCIS, U.S. Citizenship and Immigration Services (2025c). *Temporary Protected Designated Country: El Salvador*. https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-el-salvador (updated 28 May 2025).

USCIS, U.S. Citizenship and Immigration Services (2025d). *Temporary Protected Designated Country: Afghanistan*. https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-afghanistan (updated 20 May 2025).

USCIS, U.S. Citizenship and Immigration Services (2025e). *Temporary Protected Designated Country: Haiti*. https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-haiti (updated 1 July 2025).

USCIS, U.S. Citizenship and Immigration Services (2025f). *Temporary Protected Designated Country: Ukraine*. https://www.uscis.gov/humanitarian/temporary-protected-status/TPS-Ukraine (updated 17 January 2025).

USCIS, U.S. Citizenship and Immigration Services (2025g). *Temporary Protected Designated Country: Venezuela*. https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela (updated 20 June 2025).

USCIS, U.S. Citizenship and Immigration Services (2025h). *Discretionary Options for Military Members, Enlistees, and their Families*. https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families (updated 25 January 2025).

USCIS, U.S. Citizenship and Immigration Services (2025i). *Frequently Asked Questions About Urgent Humanitarian and Significant Public Benefit Parole for Afghans*. https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-humanitarian-parole/frequently-asked-questions-about-urgent-humanitarian-and-significant-public-benefit-parole-for (updated 23 April 2025).

USCIS, U.S. Citizenship and Immigration Services (2025j). *Form I-589, Application for Asylum and for Withholding of Removal*. https://www.uscis.gov/sites/default/files/document/forms/i-589.pdf (updated 20 January 2025).

USCIS, U.S. Citizenship and Immigration Services (2025k). *Instructions for Form I-589, Application for Asylum and for Withholding of Removal*. https://www.uscis.gov/sites/default/files/document/forms/i-589instr.pdf (updated 20 January 2025).

USCIS, U.S. Citizenship and Immigration Services (2025l). *Form I-131, Application for Travel Document*. https://www.uscis.gov/sites/default/files/document/forms/i-131.pdf (updated 20 January 2025).

USCIS, U.S. Citizenship and Immigration Services, DHS, U.S. Department of Homeland Security (2025a). *Vacatur of 2025 Temporary Protected Status Decision for Venezuela*, 90 Federal Register 8805, 3 February. https://www.federalregister.gov/documents/2025/02/03/2025-02183/vacatur-of-2025-temporary-protected-status-decision-for-venezuela (accessed 31 July 2025).

USCIS, U.S. Citizenship and Immigration Services, DHS, U.S. Department of Homeland Security (2025b). *Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status*. 90 Federal Register 9040, 5 February. https://www.federalregister.gov/documents/2025/02/05/2025-02294/termination-of-the-october-3-2023-designation-of-venezuela-for-temporary-protected-status (accessed 31 July 2025).

USCIS, U.S. Citizenship and Immigration Services, DHS, U.S. Department of Homeland Security (2025c). *Partial Vacatur of 2024 Temporary Protected Status Decision for Haiti*, 90 Federal Register 10511. 24 February. https://www.federalregister.gov/documents/2025/02/24/2025-02970/partial-vacatur-of-2024-temporary-protected-status-decision-for-haiti (accessed 31 July 2025).

USCIS, U.S. Citizenship and Immigration Services, DHS, U.S. Department of Homeland Security (2025d). *Termination of the Designation of Nepal for Temporary Protected Status*, 90 Federal Register 24151. 6 June. https://www.federalregister.gov/documents/2025/06/06/2025-10363/termination-of-the-designation-of-nepal-for-temporary-protected-status (accessed 31 July 2025).

USCIS, U.S. Citizenship and Immigration Services, DHS, U.S. Department of Homeland Security, DOJ, U.S. Department of Justice (2023). *Circumvention of Lawful Pathways*. 88 Federal Register 31314, 16 May.

https://www.federalregister.gov/documents/2023/05/16/2023-10146/circumvention-of-lawful-pathways (accessed 31 July 2025).

USCRI, U.S. Committee for Refugees and Immigrants (2024). *USCRI Statement on Launch of New Re-Parole Process for Ukrainians*. https://refugees.org/uscri-statement-on-launch-of-new-re-parole-process-for-ukrainians/ (accessed 31 July 2025).

VanSickle A., Liptak A. (2025). Supreme Court Lets Trump Lift Deportation Protections for Venezuelans. *New York Times*, 19 May. https://www.nytimes.com/2025/05/19/us/politics/supreme-court-protected-status-venezuelans.html (accessed 31 July 2025).

White House (2023). *Statement: U.S. Withdrawal from Afghanistan*. 6 April 2023. https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/06/the-u-s-withdrawal-from-afghanistan/ (accessed 25 July 2024).

White House (2024a). *Fact Sheet: President Biden Announces New Actions to Secure the Border*. 4 June 2024. https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/04/fact-sheet-president-biden-announces-new-actions-to-secure-the-border/ (accessed 25 July 2024).

White House (2024b). *Fact Sheet: President Biden Announces New Actions to Keep Families Together*. 18 June 2024. https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/18/fact-sheet-president-biden-announces-new-actions-to-keep-families-together/ (accessed 25 July 2024).

White House (2025a). *Executive Order: Securing Our Borders §7(b).* 20 January 2025. https://www.whitehouse.gov/presidential-actions/2025/01/securing-our-borders/ (accessed 24 June 2025).

White House (2025b). *Executive Order: Realigning the Refugee Admissions Program.* 20 January 2025. https://www.whitehouse.gov/presidential-actions/2025/01/realigning-the-united-states-refugee-admissions-program/ (accessed 24 June 2025).

White House (2025c). *Executive Order: Guaranteeing the States Protection Against Invasion.* 20 January 2025. https://www.whitehouse.gov/presidential-actions/2025/01/guaranteeing-the-states-protection-against-invasion/ (accessed 24 June 2025).

White House (2025d). *Executive Order: Addressing Egregious Actions of the Republic of South Africa*. 7 February 2025. https://www.whitehouse.gov/presidential-actions/2025/02/addressing-egregious-actions-of-the-republic-of-south-africa/ (accessed 29 June 2025).

Wilson J. (2024). *Temporary Protected Status and Deferred Enforced Departure*. Congressional Research Service RS20844. https://sgp.fas.org/crs/homesec/RS20844.pdf (assessed 31 July 2025).

Wolfe L., Vanderlip S. (2023). Afghan Allies Pay for Chance at US Asylum, but It's Easier for Ukrainians. *New Lines Magazine*, 9 May. https://newlinesmag.com/reportage/afghan-allies-pay-for-chance-at-us-asylum-but-its-easier-for-ukrainians/ (accessed 31 July 2025).

Yakoob N. (1999). Report on the Workshop on Temporary Protection: Comparative Policies and Practices. *Georgetown Immigration Law Journal* 13: 617–633.

Zhou L. (2024). Trump's Immigration Policies Are His Old Ones – but Worse. *Vox*, 29 February. https://www.vox.com/politics/24080265/trump-immigration-policies-2024 (accessed 31 July 2025).

How to cite this article: Inlender T. (2025). Temporary Protection in the Shadow of the Refugee Convention: A View from the United States. *Central and Eastern European Migration Review*, 8 September, doi: 10.54667/ceemr.2025.17.