

April 28, 2020

United States Embassy (Kabul)  
Chargé d'Affaires Ross Wilson  
Bibi Mahru  
Kabul, Afghanistan  
[kabulACS@state.gov](mailto:kabulACS@state.gov)

**Re: Emergency Refugee Protection for Sikhs and Hindus in Afghanistan**

Dear Ambassador Wilson:

This is a supplement to a letter dated April 8, 2020 concerning Sikhs and Hindus who are in imminent danger and who face religious persecution and genocidal violence in Afghanistan.

As American attorneys, we believe the U.S. Embassy in Kabul has authority and grounds to refer these communities for emergency refugee protection in coordination with federal interagency partners and the U.N. High Commissioner for Refugees (UNHCR), and we respectfully request that you do so **immediately** to prevent further persecution, injury, and loss of life.

A. Authority of U.S. Embassy to Refer Individuals for Emergency Refugee Protection

The United States has proposed resettling 18,000 refugees in Fiscal Year 2020, including up to 5,000 individuals who have been persecuted or have a well-founded fear of persecution on account of religion or other protected grounds, and up to 7,500 individuals referred to the U.S. Refugee Admissions Program (USRAP) by a U.S. Embassy in any location.<sup>1</sup> Direct referrals are authorized “to ensure protection or provide a durable solution in compelling circumstances.”<sup>2</sup> A U.S. ambassador may make referrals “for persons still in their country of origin if the ambassador determines that such cases are in need of exceptional treatment, and the Department of State and [Department of Homeland Security] concur.”<sup>3</sup> According to U.S. Citizenship and Immigration Services (USCIS), “there may be instances when an applicant is facing a particularly urgent situation, such as an acute medical or protection concern that would warrant expedited processing of the case.”<sup>4</sup>

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<sup>1</sup> U.S. Department of State, Report to Congress on Proposed Refugee Admissions for FY 2020, *available at* <https://www.state.gov/reports/report-to-congress-on-proposed-refugee-admissions-for-fy-2020>.

<sup>2</sup> U.S. Foreign Affairs Manual and Handbook, U.S. Embassy Referrals to the U.S. Refugee Program, 9 FAM 203.4-2 (2016), *available at* <https://fam.state.gov/FAM/09FAM/09FAM020304.html>.

<sup>3</sup> U.S. Department of State, Report to Congress on Proposed Refugee Admissions for FY 2020, *available at* <https://www.state.gov/reports/report-to-congress-on-proposed-refugee-admissions-for-fy-2020>.

<sup>4</sup> U.S. Citizenship and Immigration Services (USCIS), Questions and Answers: Refugees, *available at* <https://www.uscis.gov/humanitarian/refugees-and-asylum/refugees/questions-and-answers-refugees>.

## B. Grounds for Referring Afghan Sikhs and Hindus for Emergency Refugee Protection

Sikhs and Hindus are facing genocidal violence on top of religious persecution in Afghanistan. These are compelling and urgent circumstances of the sort that warrant emergency referral for refugee protection under the USRAP.

### 1. Genocidal Violence

Despite financial and military backing from the United States, the Afghan government is demonstrably incapable of protecting Sikhs and Hindus from violence. The departure of international troops from Afghanistan will make these communities even more vulnerable to attacks by extremist groups. In the words of an Afghan Sikh, who spoke to the Wall Street Journal this month on condition of anonymity due to safety concerns: “When the U.S. leaves, life for us will become impossible. It’s only a matter of time that all of us will be eliminated. We want refugee status and protection in a U.S. Army base here. We want this soon.”<sup>5</sup>

A 2018 report by the Office of International Religious Freedom at the U.S. Department of State estimated the total population of Sikhs and Hindus in Afghanistan to be approximately 700 individuals.<sup>6</sup> Terror attacks against these communities since then have claimed at least 43 lives. This means up to six percent of the Sikh and Hindu population in Afghanistan has been eliminated because of targeted violence in the last two years alone. This underscores the genocidal nature of violence against these communities. In these circumstances, when Afghan Sikhs and Hindus are facing existential threats, the United States cannot, in good conscience, deny these communities the benefit of emergency refugee protection.

### 2. Religious Persecution

Year after year, the U.S. Department of State and U.S. Commission on International Religious Freedom (USCIRF) have documented systemic religious persecution against Afghan Sikhs and Hindus, including constitutional limitations on the political rights of non-Muslims, judicial bias against Sikhs and Hindus, illegal seizure of Sikh and Hindu properties, bullying and harassment of Sikh and Hindu children, and restrictions on Sikh and Hindu religious practices.<sup>7</sup>

If these discriminatory practices are the ‘high-water mark’ for Sikhs and Hindus under the current Afghan government, we believe conditions for these communities will worsen if religious extremists regain substantial control over Afghanistan. It must be recalled that when the Taliban was providing safe haven to Al Qaeda in the years prior to the 9/11 terrorist attacks

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<sup>5</sup> Jessica Donati and Ehsanullah Amiri, “The Last Sikhs and Hindus in Afghanistan Plead for U.S. Help,” *Wall Street Journal* (Apr. 18, 2020), available at <https://www.wsj.com/articles/the-last-sikhs-and-hindus-in-afghanistan-plead-for-u-s-help-11587218401>.

<sup>6</sup> U.S. Department of State, 2018 Report on International Religious Freedom: Afghanistan (2018), available at <https://www.state.gov/reports/2018-report-on-international-religious-freedom/afghanistan>.

<sup>7</sup> See, e.g., U.S. Commission on International Religious Freedom, Annual Report 2019: Afghanistan (2019), available at [https://www.uscifr.gov/sites/default/files/Tier2\\_AFGHANISTAN\\_2019.pdf](https://www.uscifr.gov/sites/default/files/Tier2_AFGHANISTAN_2019.pdf); U.S. Department of State, 2018 Report on International Religious Freedom: Afghanistan (2018), available at <https://www.state.gov/reports/2018-report-on-international-religious-freedom/afghanistan>.

against our nation, their regime forced Hindus and Sikhs to wear special clothing identifying them as non-Muslims – a policy reminiscent of Nazi Germany.<sup>8</sup>

It is clear that Sikhs and Hindus currently face persecution on account of their religion in Afghanistan and have well-founded fears of persecution in the future. On these additional grounds, separate from the threat of genocide, which is sufficient reason for your office to take life-saving action, we request that you immediately refer Afghan Sikhs and Hindus for refugee protection under the Fiscal Year 2020 USRAP.

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For questions about this letter, please contact Deepak Ahluwalia, Esq. at [deepak@singhahluwalia.com](mailto:deepak@singhahluwalia.com) or Rajdeep Singh Jolly, Esq. at [raj@jollylawoffice.com](mailto:raj@jollylawoffice.com). Affiliations listed below are for identification purposes only. Thank you for your consideration.

Sincerely,

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<sup>8</sup> Associated Press, "Taliban: Hindu Labels 'Not Discrimination'," (Feb. 19, 2001), *available at* <https://www.cbsnews.com/news/taliban-hindu-labels-not-discrimination>.

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