

NATIONAL IMMIGRANT JUSTICE CENTER

A HEARTLAND ALLIANCE PROGRAM



www.immigrantjustice.org

Legal Orientation for Afghan Evacuees: Know Your Options, Responsibilities, and Rights



Legal Orientation

- Who we Are
- What is a Legal Orientation
- Your Family
- Your Options
- Your Rights and Responsibilities
- Next Steps
- Questions and Answers

Who We Are: National Immigrant Justice Center (NIJC)



Who We Are Not



**The U.S.
Government**



**A Refugee
Resettlement
Organization**
- World Relief
- Refugee & Immigrant
Community Services
- RefugeeOne



**Immigration
Officers**



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Legal Orientation

Educate

- Learn about your options, responsibilities, and rights as a non-citizen and Afghan evacuee
- Learn about your legal options and what immigration applications you may need to file

Prepare

- Access resources to prepare for obtaining permanent status
- Learn to identify and look out for people who make take advantage of you and your immigration status

Take Action

- Begin planning to apply for permanent status if eligible
- Coordinate with refugee resettlement organizations to obtain benefits

Legal Orientation

- Most Afghan evacuees do not have permanent status
- The process to obtain permanent status, if you are eligible, is complicated
- Noncitizens in the United States have certain responsibilities and do not have the same benefits as citizens
- Learn your options, responsibilities, and rights to best protect yourself (and your family)

Legal Orientation

Who we Are

What is a Legal Orientation

Your Family

Your Options

Your Rights and Responsibilities

Questions and Answers

Your Family

- Options for Afghan nationals *IN* Afghanistan to leave and come to the United States are uncertain
 - U.S. citizen or permanent resident (“green card”) parents/spouses/children may be able to petition for certain family
 - Humanitarian Parole: special permission to enter the United States for “humanitarian” reasons
 - Difficult to obtain
 - Requires access to a U.S. embassy
 - No evidence it’s a real option at this time
 - NIJC is not current assisting with humanitarian parole

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Your Options: Employment Authorization (Work Permit)

- Afghans who entered with **PAROLE** can apply for employment authorization (work permit) and a restricted social security card
 - Right to work lawfully until your permit expires
 - Employers cannot ask you how you obtained your work permit
 - If the work permit will soon expire, employers can ask you for an updated work permit, but cannot terminate you until after it has expired.
- If you did not apply for a work permit at a base OR you filed for a work permit at a base, but have not received it:
 - Talk to your refugee resettlement case worker



Important Points to Remember:

- **Social Security Number...**

- This is your number for life!
- You can use it for other purposes even after your work permit/parole expires
- To use it for work, you will need a valid work permit



- **Driver's License**

- In Illinois, you can obtain an IL drivers license with a work permit, social security number, and proof of Illinois residence
- Federal law allows Afghan evacuees to obtain drivers licenses – talk to your resettlement org.



Your Options: Paths to Permanent Status

- **Unique options for Afghan Nationals**
- **Asylum**
- **U Visa**
- **T Visa**
- **Special Immigrant Juvenile Status**
- **Family petitions**



Your Options: SIV

- Path to permanent residency for certain Afghans who worked in Afghanistan for the U.S. and meet other demanding requirements.
- Lengthy process that requires support of prior U.S. employer
- If you have believe you may be eligible for SIV or
- If you have a pending SIV petition or
- If you have an approved petition, but do not yet have residency
 - speak with an immigration attorney

Your Options: P1/P2

- Option for Afghans who do not qualify for SIV to seek U.S. resettlement through the U.S. Refugee Admissions Process.
- Must be referred by the U.S. government, or a U.S.-affiliated company that employed the Afghan citizen in Afghanistan.
- You must be outside of the U.S. to qualify for P1/P2 refugee processing.
- Process may take years.

Your Options: Asylum

Immigration status for people who can't return to their country of citizenship because they:

- 1) Have been **harmed in the past** or are afraid they **will be harmed in the future**
- 2) Because of a **characteristic** they cannot or should not be required to change
- 3) By the government in their country, or a person/group the government **cannot or will not control**

**General violence, fear of war, or generalized crime
is not sufficient for asylum!**

What Characteristics Make You Eligible For Asylum?

- Race
- Religion
- Nationality
- Political Opinion (or the political opinion imputed to you)
- Membership in a Particular Social Group

What is a “Particular Social Group?”

People who share a characteristic they cannot or should not be required to change

- Family
- Sexual orientation or gender identity (gay, lesbian, transgender)
- Former status (former attorneys; journalists; etc.)
- Past acts (witness)
- Women from certain families, communities, countries (domestic violence)

What Bars You From Asylum?

- One-Year Filing Deadline (with exceptions)
- Residence in another country
- Persecutor of others
- Connection to “terrorist” group or activity (broad definition)
- Certain crimes (in the United States or abroad), whether convicted or not

Asylum Bars: One Year Deadline

- Immigration must receive your asylum application within one year of the date you last entered United States.

Last Entered the United States	Immigration Must Receive Your Application By
August, 28, 2021	August 27, 2022

- Exceptions exist – including having lawful status – but don't risk it

Asylum Bars: Firm Resettlement

- If you previously had permanent status in another country, you may be barred from asylum.
 - Other protection may be available to you
- If you have citizenship in another country besides Afghanistan, you will have to proof asylum eligibility for BOTH countries

Asylum Bars: Persecutor Bar

- If you participated in, assisted in, or supported someone in harming another, you may be barred from asylum. For example:
 - Serving as a prison guard where abuse occurred
 - Working for a government agency where other government officials were harming others
 - May apply even if you were forced and did not want to act

- If you were a soldier or were ever connected to a formal or informal militia, your activity will likely be examined.

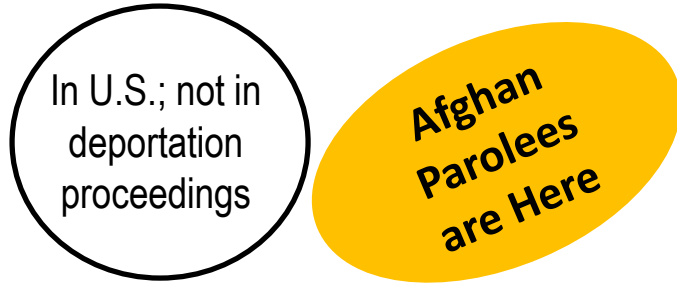
- If you think this may apply to you, speak with an attorney and proceed carefully.

Asylum Bars: Terrorism Bars

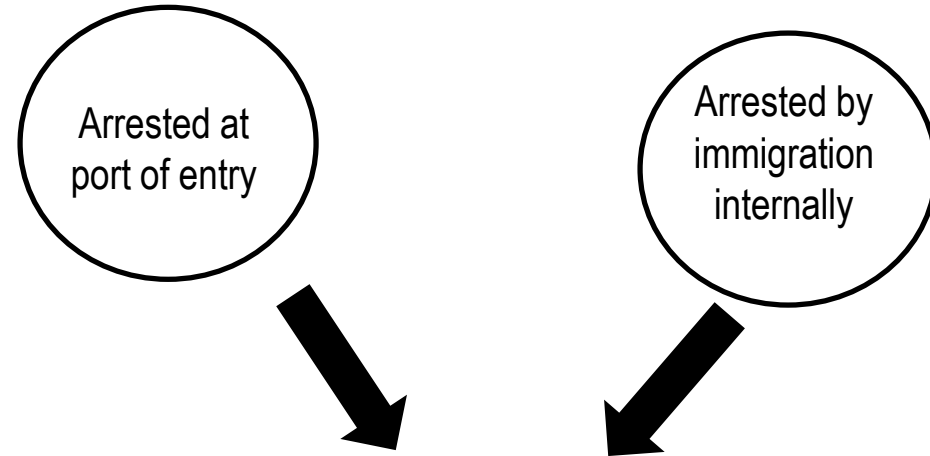
- If you ever assisted a group that used violence against a government, you may be barred from asylum
 - This may include:
 - Paying a ransom
 - Providing food or shelter
 - Giving money or goods
- Even if someone forced you and you did not want to act, the bars may apply
- If you think this may apply to you, speak with an attorney and proceed carefully

The Asylum System

Asylum Office/Affirmative Process



Immigration Ct/Defensive Process



Grant Referral → “Notice to Appear” Issued

↙ ↘
Master Calendar Hearing

↓
Merits Hearing

How to Apply for Asylum?

- You can apply for asylum even if you don't have an attorney
 - If you can obtain an experienced asylum attorney, you should.
- Asylum application = Form I-589
 - Form and instructions at <https://www.uscis.gov/i-589>
- NO FEE: the U.S. government does not charge a fee for asylum is free
- NIJC will conduct clinics for asylum seekers who are applying without attorneys in the next few months

How Long Does It Take To Get an Asylum Decision?

IT DEPENDS (on a lot)

Afghan Asylum Seekers who were Paroled:

- New law says :
 - Asylum interview must happen within 45 days of filing
 - Decision within 150 days of filing UNLESS there are exceptional circumstances
- What could = an exceptional circumstances?
 - Asylum bars?
 - Too many applications and not enough officers?

What Benefits Does Asylum Provide?

- Protection from deportation
- Path to citizenship
- Status for spouse and children
- Automatic employment authorization and certain public benefits
- Right to apply for a refugee travel document

Asylum v. SIV

ASYLUM

- Gives you permanent status and a pathway to citizenship in the U.S.
- Allows you to work legally.
- Allows you to file petitions for spouses and unmarried children under age 21.
- Allows you to apply for lawful permanent residence (green card) after one year.
- Length of process is uncertain, it could be quick and it could take a long time.

SIV

- Gives you permanent status and a pathway to citizenship in the U.S.
- Allows you to work legally.
- Once SIV status is approved you can apply for lawful permanent residence (green card)
- After receiving a green card you can petition for family members to come to the U.S.
- The process takes a very long time.

Your Options: U/T Visa and SIJS

- You may be eligible to apply for permanent status if:
 - You were the victim of a serious crime **in the United States** and reported it to the police.
 - You were **forced** to work or to participate in sex acts.
 - You are under age 21 and one of your parents abused, abandoned, or neglected you or has died.

Your Options: Other Things to Know

- Education: Children can and must attend school regardless of immigration status
- Healthcare: Can access medical benefits in Illinois:
 - All children, no matter their immigration status
 - Adults who intend to file for asylum
- Refugee benefits: available to Afghan parolees even though they are not legally “refugees”

Your Options: Final Notes

Legal consultations are very important
BUT beware of fraud.

Only immigration attorneys and
“accredited representatives” can
complete and file immigration
applications

Dept. of Justice (DOJ) recognized
organizations are non-profits. Verify
that your representative is accredited
here →

www.justice.gov/eoir/ra/raroster.htm

Ask lawyers if they have
immigration experience and
review their licenses.

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Your Rights and Responsibilities

- If you move, you must change your address with immigration
 - Form AR-11: <https://www.uscis.gov/ar-11>

- Follow U.S. laws
 - Breaking the law could lead to termination of your parole status, deportation proceedings, and/or immigration detention
 - Some U.S. rules may be unfamiliar to recent arrivals:
 - You could get into trouble if you drink alcohol and then drive car. Never drink and drive.
 - You could get into trouble if you use physical punishments to correct your children.

Other Reminders:

- Do not register to vote if you are not a citizen
- Do not say or write that you are a citizen
- Do not seal your criminal record
- Do not have items hanging in the rearview mirror of your car
- Pay Your traffic fines

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What's Next?

- Stay in touch with your refugee resettlement caseworker for changes in immigration law and policy for Afghans.
- Watch NIJC's website at <https://immigrantjustice.org/AfghanSupport> for upcoming clinics for Afghan asylum seekers and other legal orientation sessions.
- If you move, remember to update your address with the U.S. government so you are able to continue with your legal case.

Questions...



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