

United States

This information sheet outlines key information for people seeking legal help who are impacted by the crisis in Afghanistan.

This includes Afghan nationals who are currently:

1. In the United States seeking asylum/protection; or
2. In Afghanistan or another country and want to relocate to the United States.

This information is collated by a collective of legal actors to support legal needs arising from the crises in Afghanistan. Should you have any updates or resources you would like included please contact: grfpledge@pilnet.org.

PILnet, APNOR, APRRN, and AMERA are unable to provide direct legal assistance or referrals, but if you are an asylum seeker, refugee or stateless person in need of legal assistance please see the list of local legal aid providers and their contact details [below](#). In addition to this contact information, you can find further details about local legal aid providers in the countries covered on the country pages of [UNHCR Help](#) or AMERA's [Rights in Exile](#) platform.

AFGHANS ALREADY IN THE UNITED STATES

People who are in the U.S. and wish to apply for asylum can find information about their options here:

Because U.S. immigration law is complicated, we recommend using the “Free Legal Help” section [below](#) to reach an immigration lawyer for advice about an individual case. Legal practitioners can find detailed training and guidance materials in the “Other Resources” section below.

Asylum

- **Individuals in the United States who fear persecution in their home country may be eligible to apply for asylum.**
- Asylum status is a form of protection available to people who meet the definition of a “refugee” under U.S. law.
 - Under U.S. law, a refugee is someone who:
 - Was persecuted or fears persecution in their home country due to race, religion, nationality, political opinion, or membership in a particular social group;
 - Is not firmly resettled in another country; and
 - Is admissible to the United States.



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- When applying for asylum, applicants can at the same time apply for two related kinds of protection from deportation— withholding of removal and Convention Against Torture (CAT) protection.
- Afghans in the U.S. who are not in “removal proceedings” before an immigration judge may file a Form I-589, Application for Asylum and for Withholding of Removal with U.S. Citizenship and Immigration Services (USCIS).
- Asylum applications must be filed within one year of entering the U.S., but important exceptions may apply— maintaining a valid status or parole before filing an asylum application is one ground for a possible exception.
- The applicant’s spouse and unmarried children under 21 may be granted derivative asylum status. If the applicant’s spouse or children are with the applicant in the U.S., they can be included in the principal applicant’s application. If they are not in the U.S., see the information in the section [below](#) for Afghans Seeking to Relocate.
- There is no fee to apply for asylum.

Special Immigrant Visas (SIVs) for Afghans

- **Afghans who worked alongside the U.S. government in Afghanistan may be eligible for lawful permanent residence through the SIV programs.**
- There are two SIV programs for Afghans.
 - In the first and more common SIV program, Afghans may qualify if they were employed in Afghanistan for a minimum of one year by or on behalf of the U.S. government, **or** by the International Security Assistance Force (ISAF), or a successor mission, while working with the U.S. military.
 - For this program, Afghans must apply to the Chief of Mission (COM) with specific evidence of their employment in order to receive a COM approval letter confirming they meet SIV eligibility requirements. After they receive COM approval, some Afghans may also need to file an I-360 petition with USCIS.
 - In the second and much less common SIV program, Afghans may qualify if they worked as interpreters or translators with U.S. forces or the Department of State (DOS) for a minimum of one year and have a letter of recommendation from a General or equivalent rank official.
 - For this program, Afghans must file an I-360 petition with USCIS.
- Afghans in the United States who have completed the initial steps above and have received COM approval or if required, I-360 approval, would then need to apply to adjust status to lawful permanent resident by filing an I-485, Application to Register Permanent Residence or Adjust Status.
- The applicant’s spouse and unmarried children under 21 may be granted derivative SIV status. If the applicant’s spouse or children are with the applicant in the U.S., they should file their own adjustment of status applications at the same time as the principal. If they are not in the U.S., see the information in the section [below](#) for Afghans Seeking to Relocate.
- There are no fees to apply for SIV status or to adjust status through SIV eligibility.

Other Humanitarian Immigration Options

- **The U.S. immigration system has various humanitarian pathways that individuals in certain, specific situations may be eligible to pursue.**
- U Visas may be available for the survivor of a serious crime in the United States and who has reported that crime to the police.
- T Visas may be available to survivors of human trafficking.
- Special Immigrant Juvenile status may be available to individuals who are under age 21 and whose parent(s) abused, abandoned, or neglected them.
- Violence Against Women Act (VAWA) relief may be available to the spouse or child of an abusive U.S. citizen or permanent resident.

Family-Based Immigration Options

- **Individuals in the U.S. who have U.S. family members who are lawful permanent residents (LPRs) or U.S. citizens may be eligible for permanent status based on those family relationships.**
- LPRs may file a family reunification petition for their spouse and unmarried children of any age.
- U.S. citizens may file a family reunification petition for their spouse, children (of any age, married or unmarried), parents, and siblings.
- The LPR or U.S. citizen must begin the family reunification process by filing a form I-130. The filing fee for an I-130 is \$535; fee waivers are not available.
- For many family relationships, the U.S. government limits the number of people who can immigrate through family-based eligibility through a system known as “priority dates.” DOS publishes the wait times for different family relationships in its Visa Bulletin. Some categories have wait times of many years.
- If an individual is already located in the U.S. when a family reunification petition is approved and a visa is available, the relative seeking to immigrate to the United States may apply to adjust status to lawful permanent resident by filing an I-485 application to Register Permanent Residence or Adjust Status. Some individuals are not eligible to apply to adjust status from within the United States, for example if they entered the United States without authorization.
- Individuals who are the spouse, unmarried child under 21, or parent of U.S. citizens are considered “immediate relatives” whose visas are not limited in number. If their petition is approved, they may immediately apply to immigrate. They may also file their adjustment of status application at the same time (concurrently) with the family-based petition (I-130) on their behalf.

Employment-Based Immigration or Other Options

- **The U.S. immigration system has various employment-based immigration visas, diversity visas, and non-immigration pathways that individuals in certain, specific situations may be eligible to pursue.** Applicants can use the Other Resources [below](#) to find out more information.

Parole

IRAP

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- **Parole allows individuals to enter the U.S. for a temporary period of time. The U.S. granted parole to over 70,000 evacuated Afghans in 2021.**
- Afghans who were paroled July 31, 2021, through December 16, 2022 may receive the same benefits granted to refugees. Afghans paroled during this time were generally granted parole for two years. Parolees can apply for employment authorization.
- **Parole is not permanent.** Individuals may apply for “re-parole” before their period by filing an form I-131 with required fees. Afghan parolees who do not have a permanent immigration status before their parole ends may also choose to apply for Temporary Protected Status (TPS).

Temporary Protection Status (TPS)

- **Afghans in the U.S. may apply for TPS, a temporary status that protects people from deportation, allows them to work and to request travel authorization, and allows for adjustment to permanent immigrant status.**
- To be eligible, Afghans must have resided in the U.S. since March 15, 2022 and must have been continuously physically present in the U.S. since May 20, 2022.
- Eligible Afghans seeking TPS must apply before November 20, 2023 by filing a form I-821 Application for Temporary Protected Status.
- The TPS process requires a filing fee, but individuals may seek a fee waiver. Individuals applying for TPS must separately apply for employment authorization.

AFGHANS AT THE U.S.-MEXICO OR U.S.-CANADA BORDER

As of November 16, 2022, the U.S. policy relied on since 2020 to prevent individuals from seeking asylum at the U.S. land borders (known as Title 42) is scheduled to be rescinded effective December 21, 2022. However, this could change depending on the developments in court cases.

At least until December 21, 2022, individuals cannot seek asylum at the U.S. land borders with Mexico or Canada. The U.S. government uses a law called Title 42 to prevent people from seeking asylum at the land borders. Individuals with humanitarian reasons they cannot stay in Mexico can seek Title 42 exemptions to have permission to enter the United States on parole. Typically this means that an individual granted an exemption is permitted to enter the United States and then put into removal proceedings before an immigration judge when they are paroled into the United States. They may apply for asylum or other statuses for which they are eligible once in the United States.

As of the time of writing, it is not clear what the border policies will be like for individuals seeking to enter the United States on or after December 21, 2022. It is likely that individuals seeking to enter at land borders without a visa will need to request asylum and immediately present information in an interview about why they are afraid to return to their home country, including why they meet the refugee definition. Please see the section on asylum [above](#) for more detail about this.

AFGHANS SEEKING TO RELOCATE TO THE UNITED STATES

Afghans seeking to relocate to the U.S. can find legal information about some options below:

Because the U.S. Embassy in Kabul is closed, these processes cannot be completed within Afghanistan; many processes can be initiated in Afghanistan and completed in other countries.

U.S. Refugee Admissions Program (USRAP)

- **The U.S. resettles a limited number of refugees through USRAP. Afghans must be referred to USRAP; they cannot apply on their own without a referral.**
- Afghans may currently be referred in one of three “priority” categories:
 - Priority-1 Individual Cases (P-1): Cases identified and referred to the program by the United Nations High Commissioner for Refugees (UNHCR), a U.S. embassy, a designated non-governmental organization, or, for Afghans who are personally known to a U.S. government official, by that official.
 - For Afghans who are personally known to U.S. government officials, that official seeking to make a referral must contact their agency about the process.
 - Priority-2 Groups of humanitarian concern (P-2): The U.S. has designated a P-2 group for U.S.-affiliated Afghans who:
 - Would be eligible for an SIV except that they do not meet the one-year employment requirement; or
 - Worked for entities that received certain non-SIV-eligible U.S. government funding such as grants or cooperative agreements; or
 - Worked for U.S.-based media or non-government organizations.
 - For all of these categories, a U.S. citizen at the U.S. government agency or the senior-most U.S. citizen employee of the U.S.-based NGO or media organization must make the referral.
 - Priority-3 Family Reunification: P-3 access is for the spouses, unmarried children under the age of 21, or parents of individuals already admitted to the U.S. as refugees or asylees. The U.S. refugee or asylee must start the process by completing a form that is only available through U.S. resettlement agencies (see list [below](#) in Free Legal Help). DNA testing will be required when applicable.
 - **Note:** the Refugee/Asylee Follow-to-Join process described [below](#) is also available for a refugee or asylee’s spouse and unmarried children under the age of 21.
- If someone is referred into USRAP, they must complete processing that includes an interview, medical screenings, and security screenings. There is no USRAP processing in Afghanistan.



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- During the interview, USCIS will determine whether the applicant meets the requirements to be resettled as a refugee including that the applicant:
 - Was persecuted or fears persecution in their home country due to race, religion, nationality, political opinion, or membership in a particular social group;
 - Is not firmly resettled in another country; and
 - Is admissible to the United States.
- There are no fees to apply for refugee status.

Special Immigrant Visas (SIV) for Afghans

- **Afghans who worked alongside the U.S. government in Afghanistan may be eligible to apply for an immigration visa based on their SIV eligibility if they meet one of the SIV program requirements.**
- Please see the section [above](#) on SIVs for Afghans within the United States for an explanation of the eligibility requirements and initial steps to apply for an SIV. The initial steps of COM approval and/or, if applicable, I-360 petition, are the same in any location.
- Upon receiving COM approval or, if required, I-360 approval, applicants overseas would have their case forwarded to the National Visa Center (NVC). The NVC would contact the applicant via email with information on how to apply for a visa through the DS-260 visa application form and how to submit the required civil documents to be scheduled for an interview at a U.S. embassy or consulate.
- There are no fees to apply for SIVs.

Refugee / Asylee Follow-to-Join

- **Individuals who are the spouse or unmarried child under 21 years old of a person in the U.S. who was granted refugee or asylum status may apply for “follow-to-join” status.**
- The refugee or asylee in the U.S. must file a form I-730 on behalf of each family member (spouse, unmarried children under 21) who is seeking to relocate to the U.S. The form I-730 must be filed within two years of the grant of refugee or asylum status, and the family relationship must have existed at the time of the grant.
- After initial USCIS processing, the family member outside of the U.S. will be interviewed at the embassy, consulate, or in some locations USCIS office in the country where they are located.
- In the follow-to-join process, the spouse and children do not need to meet the refugee definition (as they would for the P-3 family reunification pathway noted above). However, the applicant must not be inadmissible to the United States.
- There is no fee to apply for Refugee / Asylee Follow-to-Join.

Follow-to-Join Immigrant Visas (Including SIV)

- **Individuals who are the spouse or unmarried child under 21 years old of a person who was admitted to the U.S. on an Afghan SIV or who adjusted status in the U.S. based on Afghan SIV eligibility (or based on another other immigrant visa (IV) pathway that allows for qualifying derivatives) may apply for “follow-to-join” visas.**

- If the principal applicant received a visa abroad and was admitted to the U.S. on that visa, then the principal applicant or qualifying family member should contact the National Visa Center (NVC), which should have a record of the principal applicant's case. The NVC would email information on how to electronically apply for a visa through the DS-260 visa application form and how to submit the required civil documents to be scheduled for an interview at a U.S. embassy or consulate.
- If the principal applicant did not enter the U.S. on an immigrant visa and instead applied to adjust status (for example, if an Afghan was paroled into the U.S. and then applied for adjustment of status based on SIV eligibility), then the DOS website indicates that the principal applicant must file a form I-824 with USCIS to request that USCIS send the case file to the NVC. Following the approval of the I-824, the NVC would email information on how to apply for a visa through the DS-260 visa application form and how to submit the required civil documents to be scheduled for an interview at a U.S. embassy or consulate.

Family Reunification for Afghan Parolees

- **Afghans who are the spouse or unmarried child under 21 years old of an Afghan who was paroled to the U.S. and remain a parolee or in Temporary Protected Status may be eligible to reunify through refugee processing.**
- According to a Department of State website, the parolee or TPS holder in the U.S. must file a Form DS-4317, Family Reunification Assistance for Afghan Parolees who are in the United States, with the Department of State. The form has not yet been released. The website indicates that family members will be processed as refugees.

Family-Based Immigration

- **Individuals who have U.S. family members who are lawful permanent residents (LPRs) or U.S. citizens may be eligible to apply for an immigrant visa through family-based immigration.**
- Please see the section [above](#) on family-based immigration for Afghans within the United States for an explanation of the eligibility requirements. The initial step to apply for family-based immigration is for the U.S. LPR or citizen to file a form I-130 for the relative(s) abroad.
- Upon approval of an I-130, applicants overseas would have their case forwarded to the National Visa Center (NVC). The NVC would contact the applicant via email with information on how to electronically apply for a visa through the DS-260 visa application form and how to submit the required civil documents to be scheduled for an interview at a U.S. embassy or consulate.
- In addition to family-based immigration, a U.S. citizen may apply for a K-1, Nonimmigrant Visa for a Fiancé(e), by filing a form I-129F. If a form I-129F is approved, the case would be forwarded to the NVC and the fiancé(e) would apply for a non-immigrant visa which could allow travel to the U.S. with the intention to marry the U.S. citizen sponsor within 90 days.
- Family-based immigration requires various fees, including a fee to file a petition and to apply for a visa.

Other Humanitarian Immigration, Non-Immigration & Employment-Based Immigration

- **The U.S. immigration system has various employment-based immigration visas, diversity visas, and non-immigration pathways that Afghans in certain, specific situations may be eligible to pursue.** This guide does not list all of them here, but additional information may be available in the Other Resources section [below](#) .

Humanitarian Parole

- **Individuals may apply for humanitarian parole to enter the U.S. based on urgent humanitarian reasons or a significant public benefit to the U.S.**
- As of May 2022, USCIS had received, between July 1, 2021 and May 1, 2022, over 66,000 humanitarian parole applications for Afghans and had approved 123 applications with an approval rate of less than 2% for processed applications.
- Applicants may file on their own behalf, or someone may file one on their behalf, by filing Form I-131 with USCIS. The filing fee is \$575; a fee waiver may be requested.
- Applicants must have a sponsor within the U.S., which can be an individual or an organization, and that sponsor must provide a Form I-134 or, if the sponsor is a nonprofit organization, a letter explaining the sponsor's support.

U.S. Government Assistance to Depart from Afghanistan

- **The U.S. government has said it may provide departure assistance to a limited number of Afghans in Afghanistan who have already completed initial steps of family reunification or SIV processing.**
- The State Department's Office of the Coordinator for Afghan Relocation Efforts (CARE) affirmatively contacts eligible individuals in those processes about departure options.
- Family reunification departure assistance may be available for:
 - Spouse, unmarried children under 21, and parents of U.S. citizens whose family-based visa applications are ready for interview; or
 - Spouse and unmarried children under 21 of LPR's whose family-based visa applications are ready for interview; or
 - Spouse and unmarried children under 21 of SIV holders whose SIV follow-to-join visas are ready for interview; or
 - Spouse and unmarried children under 21 of refugees and asylees whose refugee/asylee follow-to-join cases are ready for interview; or
 - Spouse and unmarried children under 21 of parolees (or parolees with TPS) who have completed the (not-yet-released) DS-4317 process.
- According to advocacy groups, SIV applicants whose cases are ready for interview may be contacted; however, Afghans with P1/P2 referrals to USRAP or humanitarian parole applications are not currently deemed eligible.
- Individuals receiving departure assistance must have a valid passport.

FREE LEGAL HELP

For those **inside the USA**, the following legal service providers have ways for Afghans to request free immigration legal assistance:

Human Rights First (HRF)

- Afghans in the U.S. can use the [Project Afghanistan Legal Assistance \(PALA\) form](#) to request legal assistance.
 - [HRF's PALA web page](#) also has resources and information related to pathways for Afghans in the U.S, and HRF has a [specific resource for Afghans to use to protect their online identity from the Taliban](#).

Tahirih Justice Center

- Afghan women, girls, and others fleeing gender-based violence can use [Tahirih Justice Center's](#) toll-free Afghan Asylum Line, 888-991-0852 from 10am to 4pm ET, Monday to Friday. Pashto and Dari interpreters are available.

Immigration Legal Service Directories

- The directories below have lists of free immigration legal service providers and can be searched by state or zip code:
 - [ImmigrationLawHelp.org](#)
 - In addition to the directory, [Immi](#) also has an immigration pathways quiz and learning center to identify U.S. immigration options.
 - [Executive Office of Immigration Review \(EOIR\) List of Pro Bono Legal Service Providers](#).

Refugee Resettlement Agency Directory

- [The Office of Refugee Resettlement \(ORR\) State Programs Directory](#) lists refugee resettlement agencies that may provide support or assistance to evacuated and resettled Afghans.

Although there are no generally available free legal service options available for Afghans outside of the U.S., some of the organizations listed [below](#) may provide assistance in specific situations.

OTHER RESOURCES

The **U.S. government** maintains information for Afghans navigating immigration pathways, including the websites below:

U.S. Citizenship and Immigration Services (USCIS)

- [USCIS has a webpage, Information for Afghan Nationals](#), consolidating information on many of the pathways mentioned above, including asylum, SIVs, other humanitarian pathways, family-based immigration, humanitarian parole, and TPS.

U.S. Department of State (DOS)

- DOS has separate web pages containing information on many of the pathways for Afghans mentioned above including
 - [Family reunification for Afghans](#),
 - The [main Afghan SIV program](#)
 - The [Afghan SIV program for translators and interpreters](#)
 - The [Afghan P1/P2 refugee pathways, USRAP](#)
 - Various [immigration visa pathways including family and employment-based visas](#), and resources related to the now-closed [U.S. Embassy in Afghanistan](#).

Below are resources that are primarily about pathways or assistance for **Afghans or refugees outside of the U.S.:**

International Refugee Assistance Project (IRAP)

- IRAP has a [Legal information page](#) on U.S. immigration pathways for refugees outside of the U.S., including a [form for Afghan SIV applicants](#) to request assistance with denials. Other resources are available for [U.S. immigration attorneys](#).
 - IRAP and VECINA maintain [a course on SIVs](#) and IRAP has an “[Ask-an-Expert](#)” portal for questions from legal practitioners working on SIV cases.

IRC - Beporsed-Ma-Ra & Info Digna

- [Information and resources](#) via Facebook, WhatsApp, and Messenger for Afghans living inside or outside Afghanistan seeking legal options for resettlement or relocation to other countries
- For migrants in Mexico, information and resources are available on the [Info Digna](#) website or Facebook page (note- currently only available in Spanish)

United Nations High Commissioner for Refugees (UNHCR)

- [UNHCR Help Afghanistan's relocation program website](#) has information on U.S. pathways; [UNHCR Help USA's website](#) has information for refugees in the U.S., and UNHCR Help's [main page](#) has links to other country-specific websites.
- For Afghans in Mexico or at the U.S.-Mexico border, the [UNHCR Help Mexico](#) website has information about legal processes and support services.

Awaaz Afghanistan

- [Awaaz](#) has a toll-free, confidential helpline for Afghans to receive information on humanitarian assistance.

No One Left Behind (NOLB)

- [NOLB's website](#) has information and forms for Afghan SIV applicants to request assistance.

#AfghanEvac



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- [#AfghanEvac's website](#) has infographics and information about U.S.-government departure assistance and pathways for Afghans.

Project ANAR

- [Project ANAR's website](#) has resources for Afghans filing for humanitarian parole.

Talent Beyond Boundaries (TBB)

- [TBB's website](#) has resources on skilled migration (employment-based) pathways for refugees and a "Talent Catalog" to register for job opportunities.

Below are resources providing legal information about immigration options and other resources for **Afghans inside of the U.S.:**

SettleIn

- [SettleIn](#), a Facebook page launched by the Cultural Orientation Resource Exchange (CORE) and maintained by the International Rescue Committee (IRC), has information on resettlement, employment, housing and education, and allows for direct messaging in Dari and Pashto.

USAHello

- [USAHello's Afghan Resource Center](#) has information in English, Dari, and Pashto for Afghans to connect with local service providers, learn about immigration pathways, and search for jobs.

Refugee Council USA (RCUSA)

- [RCUSA's "For Afghans" webpage](#) contains information in English, Dari, and Pashto on different immigration pathways for Afghans.

American Immigration Lawyers' Association (AILA)

- AILA's [Resources for Assisting Afghan Clients](#) is a collection of information for legal practitioners about U.S. immigration processes for Afghans.
- AILA's [Featured Issue: Border Processing and Asylum](#) is a collection of information for legal practitioners about seeking asylum at land borders.

Catholic Legal Information Network (CLINIC)

- [CLINIC's Assistance for Afghans page](#) has resources for legal practitioners representing Afghans.

VECINA

- VECINA has a [course for legal practitioners](#) on filing asylum for Afghans.

DISCLAIMER

This information sheet outlines key information on U.S. asylum and immigration law and does neither intend to provide a comprehensive overview nor replace legal advice in the individual case.

Please note the draft was prepared by the Leitner Center on 20 October 2021 and reviewed by the International Refugee Assistance Project (IRAP) on November 20, 2022

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