



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

CLINIC Policy Brief:

Afghans in America Are Still at Risk: The Need for a Pathway to Lawful Permanent Residency

By Elnora Bassey, Elizabeth Carlson and Karen Sullivan

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The Catholic Legal Immigration Network, Inc., CLINIC, promotes the dignity and protects the rights of immigrants in partnership with our network of immigration legal services providers. Visit us at [cliniclegal.org](https://www.cliniclegal.org).

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Summary

The Biden Administration is failing the Afghan citizens that they evacuated to the United States a year ago and those who still need to be evacuated. The Biden Administration and Congress must take immediate steps to pass legislation that would allow affected Afghan nationals to apply for lawful permanent resident status in the United States, build capacity for free or affordable legal services to assist Afghans with their immigration status, and maintain temporary humanitarian protections for as long as Afghanistan is unsafe. If permanent immigration status and other necessary support are not established for Afghans in the United States immediately, United States officials are on track to deport many Afghans back to the life-threatening situation from which they were rescued.

If Congress and the Biden Administration do not act to make Afghan evacuees' status in the United States permanent, there would be merit to accusations that they carried out evacuations of our allies to reap the rewards of public praise, but then abandoned their beneficiaries as soon as the limelight faded. Congress and the Biden administration must finish the job that they started by providing a pathway to lawful permanent resident status in the United States and the tools necessary for them to access it. Otherwise, displaced Afghan men, women, and children will be vulnerable to deportation, persecution and possibly death at the hands of the Taliban.

CLINIC Network's Service to Afghan Nationals

Catholic Legal Immigration Network, Inc., or CLINIC, is the nation's largest network of non-profit legal services organizations with nearly 450 affiliates in 49 states and the District of Columbia. For more than 30 years, CLINIC has protected the legal rights of immigrant families and promoted their dignity in the Catholic tradition of welcoming the stranger. Many of our affiliates are already serving Afghan nationals. Our network's Afghan cases number in the thousands and are continually

growing. We have received feedback from our network about the struggles of the Afghan populations they serve, and we are lifting up those stories on their behalf.

In February 2022, we sent a survey to our affiliates to gather information about their recent experiences working with Afghan evacuees. In their responses, our affiliates expressed concern that none of the current immigration options available to Afghans is sufficient to provide them the protection and stability they need to rebuild their lives. The options that could lead to permanent protection are limited, and not all Afghan evacuees are eligible. The temporary options leave Afghans and their families without the stability of knowing where their future lies, so they cannot put down roots, establish a permanent home, or plan for their future. They also live in fear that this protection will end and they will be sent back into peril as Afghans with strong ties to the United States.

CLINIC affiliates also expressed concern that the current legal options available for Afghans require significant time and effort from legal services providers. Nonprofit legal services providers, who often are the primary resource for Afghan evacuees, do not have sufficient capacity or funding to support the extensive legal work necessary to represent all affected Afghans in complex or long-term legal cases.

CLINIC affiliates affirm that legislation establishing a pathway to lawful permanent residence, such as an Afghan Adjustment Act, would be the most effective, fair, and efficient way to ensure long-term protection for the Afghan community. Permanent Residence would provide permanent protection from return to peril, would allow Afghans to put down roots and plan for their futures, and would require far fewer resources from the nonprofit legal services community who would need to guide them through the process.

The Evacuation of Afghanistan

In August of 2021, President Biden instructed the Department of Homeland Security to lead a coordinated effort in support of bringing vulnerable Afghans fleeing their country into the United States after the United States military's withdrawal and the Afghan government fell to the Taliban. Over 70,000 Afghans, including children, fearing imminent danger or death were evacuated to the United States, and upon admission were given humanitarian parole status.ⁱ "Humanitarian parole allows an individual who may be inadmissible or otherwise ineligible for admission in the United States to be in the United States for a temporary period for urgent humanitarian reasons or significant public benefit."ⁱⁱ

Generally, foreign nationals seeking permanent refugee status in the United States would have to begin the process from abroad through a lengthy and time-consuming application. Unfortunately, for Afghan nationals, such a long process would leave them in grave danger while the application is processed. The safer option was to immediately evacuate their home country through humanitarian

parole in the United States. While humanitarian parole offers a solution for those who needed to flee immediately, the relief is only temporary with no direct path to lawful permanent residence or citizenship. Parole status does grant the evacuees the right to work and live in the U.S. temporarily, but that status will eventually expire. Due to the ongoing persecution and violence in Afghanistan, temporary protection is not sufficient.

An Afghan Adjustment Act

One way that the U.S. can provide a pathway to lawful permanent residence for Afghan evacuees is through an Afghan Adjustment Act. The thousands of Afghan people who aided U.S. interests in various capacities, and those whose lives would be in danger in Afghanistan, should not be forgotten or left behind to save themselves. Through the passing of legislation, Afghan evacuees who have resided in the U.S. for at least one year after being paroled in, would be eligible to apply.ⁱⁱⁱ

Obtaining permanent residence by way of an AAA would ensure that Afghans can remain in the United States without fear of having to return to an unsafe country. It is also a more inclusive and efficient path compared to the pathways discussed in more detail below: the Special Immigrant Visa (SIV) or asylum, which are currently facing significant backlogs.^{iv} Not only is the AAA a workable solution for Afghan evacuees fleeing their country, but it is a safe option. Afghan arrivals seeking refuge in the U.S., either through SIV or asylum, including those who have already been paroled in, must be heavily vetted. The screening and vetting process ranges and involves biometrics, counterterrorism screening, checks by the FBI, in addition to other intelligence checks.^v

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After surveying our affiliates, the one consistent push for advocacy included the need for an Afghan Adjustment Act to be passed. The desire and heart to assist the evacuees are present, but unfortunately, many organizations are limited in resources and do not have sufficient volunteers to provide representation to all Afghans who need it. The creation of such an Act would not be the first of its kind. Congress has passed similar adjustment legislation for other populations where U.S. involved conflicts or humanitarian crises have occurred. In 1975, the U.S. government offered such help to Vietnamese evacuees who had to escape during the Vietnam War.^{vi} The Vietnamese were not only paroled into the U.S. but were also given resettlement assistance and later given the option to adjust their status to that of a permanent resident. Congress has also done the same for Iraqis, Cubans, and Southeast Asians.^{vii}

As established by the precedent set by adjustment legislation for other groups of foreign nationals in similar crises, passing an Afghan Adjustment Act is an appropriate and necessary step to secure lasting protection for Afghan nationals. Without this solution, many Afghans will be left with deficient

options. Those who are eligible for a long-term option such as the Special Immigrant Visa (SIV) or asylum will need to go through a long and daunting process and will need significant legal assistance, usually from nonprofit organizations with limited capacity and funding. There are also some Afghans whose situations do not fit within the narrow eligibility definitions of SIV and asylum. Their only options are temporary protection, including the humanitarian parole they entered with, or Temporary Protected Status, which will also eventually expire forcing their return to possible persecution or death in Afghanistan. Rather than putting evacuees through the grueling asylum process or risk evacuees being forced out of the country and back into danger due to temporary protections, an Afghan Adjustment Act must be passed to provide fundamental fairness to those who have risked their lives in support of U.S. forces.

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The Special Immigrant Visa (SIV) is not a Substitute for An Afghan Adjustment Act

Some Afghan evacuees are eligible to obtain permanent residency through the Special Immigrant Visa (SIV) process. The Afghan Allies Protection Act of 2009 authorizes the issuance of SIVs to Afghan nationals who meet certain requirements and who were employed for at least one year by or on behalf of the U.S. government in Afghanistan, or by the International Security Assistance Force (ISAF), or a successor mission.^{viii}

Seeking permanent residency through this program is generally a three-step process. First, the applicant must seek Chief of Mission (COM) approval. Second, the applicant must file a Form I-360. Finally, upon approval of that petition, the applicant must file a Form I-485, Application to Register Permanent Residence or Adjust Status. Spouses and minor children are also eligible to file for adjustment of status. In July 2022, DHS and DOS announced changes to the SIV program, including eliminating the need to file an I-360 petition in certain circumstances.

While some Afghan evacuees are on the road towards becoming lawful permanent residents (LPRs) through the SIV process, the SIV program is inaccessible to many individuals who advocated for the interests of the United States in Afghanistan. CLINIC has observed the following issues with the SIV program, with the first step in the SIV Process, the process of seeking COM approval, being the most cumbersome and difficult for applicants.

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First, even those applicants who have the required term of service by or on behalf of the U.S. government or ISAF have difficulty in obtaining supporting documentation in support of their case. Nearly all applicants for COM approval are required to obtain two supporting letters: a human resources letter from the U.S. government agency or private employer that contracted with the U.S. government as well as a recommendation letter from a director, senior supervisor. The burden is on the applicant to obtain these supporting documents, but there is no centralized process for doing so.^{ix} The difficulties that applicants have in obtaining the documentation to support their SIV applications has been well-documented for years.^x For example, an applicant who worked for a U.S. contractor will have the burden of seeking out human resources contacts for companies that may no longer exist and almost certainly no longer operate in Afghanistan. An applicant who worked directly with the U.S. government will similarly have the burden of reaching out to government contacts, many of whom they knew only by nicknames or aliases, to obtain this proof of service. CLINIC affiliates have reported inconsistency in response times or non-responsiveness by employers, with limited ability to follow up or for applicants to understand the reasons for the delay.

A further concern is the length of processing times for the COM application process. An applicant seeking COM approval must submit all supporting documents over email to a centralized email address managed by the National Visa Center (NVC). Some practitioners report they are still awaiting receipts for cases filed in the late summer and fall of 2021, indicating a processing time of nearly a year simply to assign a case number to the COM request. There is limited ability to follow up on the status of a pending case, as practitioners have reported that the NVC is often non-responsive to follow-up inquiries. Many practitioners must resort to Congressional assistance just for confirmation that the case is indeed in process. The backlog in assigning receipt numbers and the lack of clear information as to processing times has made some practitioners reluctant to pursue the SIV process for their clients or has forced them to turn to consider filing for asylum as a back-up option. This creates an additional burden on organizations that are already strapped for resources.

In addition, the SIV program is underinclusive of those who worked for U.S. interests in Afghanistan and who were evacuated in the summer of 2021. The requirement that the applicant be employed “by or on behalf of the U.S. government” has been interpreted narrowly by the State Department to include only those who worked pursuant to a U.S. contract or subcontract. Under the DOS interpretation, the phrase does not include, for example, those who worked for employers pursuant to a U.S. grant, award, cooperative agreement, or license. Therefore, individuals who worked with NGOs, such as human rights and women’s rights organizations, that advanced U.S. interests in

Afghanistan may not qualify for the SIV program. Many evacuees also served directly with the Afghan government or military in capacities that required them to cooperate extensively with the U.S. government and military. However, Afghan government or military service does not qualify them for the SIV process. Finally, the U.S. made a special effort to evacuate certain highly visible Afghan women who had worked, among other areas, as judges, journalists, or political advocates. In prioritizing these individuals for evacuation, the administration recognized the danger they would be in under Taliban rule. However, these women do not have a straightforward path to permanent residency in the United States because their work was not done “by or on behalf of” the U.S. government.

Temporary Protected Status (TPS) is not a Substitute for An Afghan Adjustment Act

The Department of Homeland Security’s March 16, 2022, announcement to designate Temporary Protected Status, or TPS, for Afghanistan was a critical step in providing urgently needed protection for Afghan evacuees and others already in the United States.^{xi} Under the law, TPS is designated for an entire country when safe return is impossible due to conflict, environmental disaster, or other humanitarian crises.^{xii} It provides protection from deportation and work permits for individuals already in the United States.^{xiii}

While TPS for Afghanistan provides critical humanitarian protection and will ensure that people are not returned to life-threatening conditions while the designation is in place, TPS does not provide a pathway to permanent protection or citizenship. It is no substitute for an adjustment act which would allow evacuees to more surely put down roots and move towards rebuilding their lives in the U.S.

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This being said, TPS should remain in place for as long as life-threatening conditions exist in Afghanistan in order to catch people who slip through the cracks in the U.S. immigration system, as Congress intended.

Asylum is not a Substitute for an Afghan Adjustment Act

For the reasons listed above, many Afghan evacuees are ineligible to pursue the SIV process. The other main option for them under U.S. law is asylum. Many Afghans have either filed for asylum or are in the process of seeking asylum in the United States. However, CLINIC strongly believes that the affirmative asylum process is ill-suited to adjudicate these applications in a fair, humane, and expeditious fashion. CLINIC has numerous concerns with asylum as a back-up plan for these individuals. Chiefly, the affirmative asylum system is already overburdened and produces inconsistent results; the asylum process is traumatizing for applicants, and the preparation and representation process is crushing for legal services providers.

1. The affirmative asylum system is overburdened and produces inconsistent results

The problems of the affirmative asylum process have been well-documented. The backlog in pending affirmative asylum cases has grown tremendously, with hundreds of thousands of applications awaiting adjudication by USCIS.^{xiv} Many applicants wait for years for an initial asylum interview to be scheduled, with no end in sight to how long they will have to wait.^{xv}

In contrast to the wait time that most affirmative asylum seekers face, Afghan asylum cases are generally being expedited by the asylum office. Pursuant to sections 2502(a) and 2502(c) of the Extending Government Funding and Delivering Emergency Assistance Act, certain Afghan nationals are being prioritized for the scheduling of affirmative asylum interviews.^{xvi} For those Afghan nationals paroled into the United States between July 31, 2021 and Sept. 30, 2022, USCIS is required to conduct an initial interview no later than 45 days after the date the application is filed. In the absence of exceptional circumstances, USCIS is required to issue a final decision within 150 days of the filing of the application. Practitioners have reported that USCIS is generally complying with this timeline. However, even if Afghan asylum cases are scheduled quickly, the system may become even more overburdened with tens of thousands of new asylum cases. Many asylum seekers in the backlog have already waited years to have their affirmative asylum cases heard, and CLINIC is concerned about the impact that adding tens of thousands of Afghan asylum cases to the system could have on asylum seekers from other countries.

In addition to the issue of the asylum backlog, CLINIC is concerned about the way that asylum cases are adjudicated by the asylum offices. The national grant rate for asylum applications in FY21 was just 27 percent.^{xvii} However, there was also great variety among asylum offices, with the San Francisco asylum office granting 52.4 percent of asylum applications and the New York asylum office granting just 10.6 percent. While the asylum process is supposed to be non-adversarial, many offices have fostered a culture of suspicion towards asylum applicants and a bias towards denying applications or referring cases to immigration court rather than granting them at the asylum office level.^{xix}

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Asylum interviews are also uniquely inefficient. Most asylum officers conduct just two interviews a day. An asylum interview that lasts four to six hours is standard procedure. Asylum officers typically divide the interview into three sections: the first part of the interview is spent reviewing each and every biographic question on the I-589 application for asylum; the second part delves into the applicant’s fear of return; and the third part is spent on mandatory background and security questioning.

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In other contexts, USCIS has streamlined interview processing or review of cases in a way that can serve both the applicant and the agency. For example, adjustment of status and citizenship applications, which can also present complex issues of law and fact, are routinely resolved in 20 to 30-minute interviews. USCIS has also created dedicated VAWA, T, and U visa units to adjudicate these applications on paper, through review of affidavits and supporting evidence, without the need for an hours-long interview. The immigration courts can also often resolve asylum applications in a much quicker time period than USCIS if the parties are able to reach an agreement as to relief. Counsel for Immigration and Customs Enforcement’s Office of the Principal Legal Advisor may review an applicant’s statement and supporting evidence in advance of the hearing and agree to stipulate either to a grant of relief or to narrow the issues so that the focus is only on one or two contested areas. In contrast, the asylum office seemingly has no procedure for narrowing of any issues.

Afghan asylum cases can also present special legal complications. For example, many Afghans will apply for asylum based on a well-founded fear of persecution rather than past persecution. Generally speaking, asylum eligibility can be established in one of two ways: by an applicant showing that he or she suffered past persecution on account of race, religion, nationality, membership in a particular social group, or political opinion; or by demonstrating a well-founded fear of future persecution on account of a protected ground. INA § 101(a)(42)(A). A case involving past persecution is an easier case to prove because, once past persecution is established, a presumption of a well-founded fear of persecution arises. 8 CFR § 208.13(b)(1).

Some Afghans may have been able to live in relative freedom prior to the takeover of the country by the Taliban and may not have suffered past persecution. However, they may have a well-founded fear of persecution now that the Taliban is again in power in Afghanistan. Proving a well-founded

fear case is much more difficult than proving a case involving past persecution. Although the applicant need only show that there is a “reasonable possibility” of persecution on account of a protected ground, in practice USCIS often applies an exacting standard that more closely resembles a “more likely than not” standard.^{xx} Many advocates find it difficult to obtain asylum grants from USCIS based solely on a future fear standard, even when the country conditions evidence strongly supports such a finding. The well-founded fear standard is too amorphous and has often been applied inconsistently by asylum offices, which has the potential to impact Afghan asylum seekers’ chances of success at the asylum office.

2. The asylum process is traumatizing for applicants

CLINIC is also concerned about the potential for the asylum process to be re-traumatizing for Afghan applicants. As noted above, asylum interviews are incredibly thorough. Asylum officers will review every question on the form and question the applicant about their past trauma and the reasons they do not want to return to their home country. There have been reports of Afghan asylum interviews lasting up to seven hours for a single application.^{xxi}

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Most Afghan evacuees have already endured an incredible amount of trauma, fleeing their homes and families after the collapse of the Afghan government. Many of them endured hellish conditions outside the Kabul airport, fighting to gain seats on an evacuation flight, as families were separated, children were killed, and people were trampled to death.^{xxii} CLINIC affiliates serving this population are reporting high rates of anxiety, confusion, and depression among Afghan evacuees. The asylum process should not add to their pain and despair as they make their new lives in the United States.

3. The asylum process is burdensome for small legal services providers

Many CLINIC affiliates have reported being overwhelmed by the needs of Afghan evacuees and the complexity of their cases. Afghan evacuees have been resettled by resettlement agencies, which help them with housing, employment, and other federal benefits. These services are typically available only to refugees in the United States, who already have a permanent status. However, Afghan evacuees are unique in that, while they lack permanent immigration status, they are eligible for refugee services and benefits. Some resettlement agencies may have a counterpart legal services program at the same umbrella agency, but these programs often employ only a few individuals, most of whom are already carrying crushing caseloads. These immigration legal services programs simply do not have the capacity to take on hundreds of complex Afghan asylum or SIV applications, which may require between 50-100 hours of work per additional case. Many legal services providers are

exhausted and burned out, and some describe operating in an environment of constant panic and uncertainty as they work to serve the needs of their clients.

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Encouragingly, CLINIC affiliates do report a high degree of interest in their communities in helping Afghan evacuees. They have received support from their local city governments, volunteer private attorneys, and local bar associations. This interest in supporting this community could easily be harnessed towards legal clinics that would help eligible applicants file an I-485 application pursuant to an Afghan Adjustment Act. However, finding representation for asylum cases will prove more challenging, given the complexity of the cases and the amount of work required. A volunteer attorney may be willing to spend a day helping an Afghan client complete an I-485 form. However, when the requirement to represent even a single client is to attend asylum trainings, gather supporting documentation, argue for eligibility under the constantly evolving asylum standards, and sit through an intense multi-hour interview, it becomes more difficult to recruit pro bono legal assistance. CLINIC affiliates have repeatedly mentioned the need for passage of the Afghan Adjustment Act as a necessity in order to adequately serve their Afghan clients.

Recommendations For Congress And The Biden Administration

Based on the information and analysis above, in order to ensure that the Afghans in the United States are provided sufficient protection and stability, CLINIC recommends that government entities take the following actions:

- **The Biden administration must prioritize and Congress must pass an Afghan Adjustment Act.** It will give the thousands of Afghan evacuees a clearer and more stable path to lawful permanent residence. Passing the legislation is a just act after thousands of evacuees had to endure the traumatizing evacuation in Kabul and after devoting and sacrificing their lives to support the U.S. interests, including in many cases armed forces. Precedent demonstrates that passing an AAA is a tenable option, as it has been done for other foreign nationals who experienced similar crises. Passing an AAA means that thousands of innocent lives will have a new opportunity to resume their lives in a place where they feel safe and secure. Our Afghan allies are worthy of a future filled with a calm that many have never known, and the U.S. can serve as a place of refuge for them and their families, we ask that Congress and the White House promptly move to pass this legislation. Additionally, the United States Conference of Catholic

Bishops supports the enactment of an Afghan Adjustment Act. For more information on such legislation, contact David Spicer: dspicer@uscceb.org.

- **The Biden administration must ensure that Afghan nationals have access to counsel in order to navigate the legal system to successfully apply for benefits.** Nonprofit immigration legal services capacity can be increased by augmenting the DOJ Recognition and Accreditation program, which provides credentials to educated and qualified non-attorneys to represent low-income clients at nonprofit legal services organizations.
- **The Biden administration must keep TPS in place for as long as dangerous conditions in Afghanistan persist, adjusting cut off dates as needed.**
- **The NVC and DOS must ensure that requests for COM approval are processed in a timely fashion.** Currently, SIV applicants wait many months to even receive confirmation that their request for COM approval is in process. This delay in assigning case numbers has left applicants and their legal representatives confused and in the dark as to where their application is in the process. The NVC should work to reduce backlogs and aim to issue receipt numbers within one month of filing a request for COM approval.
- **The government should expand its use of centralized databases in order to confirm SIV applicant's terms of service.** Only the DOD currently has a process for contractors to submit their employees' information through an initiative called Project Rabbit. These individuals may be able to proceed without obtaining the human resources verification and recommendation letter. The U.S. government should expand the use of databases for employment verification purposes, including for direct government hires, so that the burden is not on the applicant to track down former supervisors and human resources contacts.
- **Asylum officers must receive specialized training on conditions in Afghanistan.** All asylum officers must receive specialized training on conditions in Afghanistan to have a full understanding of the dire conditions that currently exist under Taliban rule. Such training could reduce the length of interviews by not requiring the officer to solicit information on conditions in Afghanistan directly from the applicant.
- **Asylum offices should consider a paper-based process or truncated interview process when asylum eligibility has been clearly established.** The asylum offices currently have no process for shortening interviews or granting asylum based on a paper filing, even for the most meritorious cases. Such a system should be implemented in order to save valuable resources and reduce the trauma experienced by vulnerable asylum applicants.
- **There must be a robust, culturally competent, and comprehensive outreach plan to ensure that Afghan evacuees have the information they need when they need it to make decisions.** Given the complexity and intersecting nature of immigration protections related to Afghan evacuees the U.S. government must prioritize outreach and engagement with impacted populations and those who serve them. Without robust and comprehensive outreach, those engaged in the unauthorized practice of immigration law will have more opportunities to harm Afghans in need of assistance and impacted people will be less likely to access protection and stability.

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- ⁱ Afghan Adjustment Act: Tell Congress to Act Now!, <https://www.ilcm.org/latest-news/afghan-adjustment-act-tell-congress-to-act-now/>.
- ⁱⁱ Humanitarian Parole, <https://www.uscis.gov/forms/explore-my-options/humanitarian-parole>.
- ⁱⁱⁱ Factsheet: Afghan Adjustment Act, December 2021, https://www.hias.org/sites/default/files/factsheet_afghan_adjustment_act_november_2021.pdf.
- ^{iv} Mounting Backlogs Undermine U.S. Immigration System and Impede Biden Policy Changes, <https://www.migrationpolicy.org/article/us-immigration-backlogs-mounting-undermine-biden>.
- ^v Operation Allies Welcome (Question: How are you vetting Afghan nationals who are arriving in the U.S.? How do you know they don't pose security risks?), <https://www.dhs.gov/allieswelcome>.
- ^{vi} Straight Path to Legal Permanent Residence for Afghan Evacuees Would Build on Strong U.S. Precedent, <https://www.migrationpolicy.org/news/afghan-adjustment-commentary>.
- ^{vii} Explainer: What We Can Learn From Prior Adjustment Acts and What They Mean for Afghan Resettlement, <https://immigrationforum.org/wp-content/uploads/2021/11/Adjustment-Acts-Explainer.pdf>.
- ^{viii} Special Immigrant Visas for Afghans - Who Were Employed by/on Behalf of the U.S. Government, travel.state.gov/content/travel/en/us-visas/immigrate/special-immg-visa-afghans-employed-us-gov.html.
- ^{ix} The Department of Defense ("DOD") has recently set up a process for DOD contractors to submit their employees' information through an initiative called Project Rabbit. Only this subset of individuals may be able to proceed without obtaining the human resources verification and recommendation letter.
- ^x International Refugee Assistance Project, Recommendations on the Reform of the Special Immigrant Visa Program for U.S. Wartime Partners, 20 (July 2020) (noting that "IRAP has witnessed hundreds of instances of Iraqis and Afghans who are unable to move forward with their applications because their former employers refuse to provide documentation of service to its current or former employees, keep incomplete or inaccurate records, or are now defunct").
- ^{xi} <https://www.dhs.gov/news/2022/03/16/secretary-mayorkas-designates-afghanistan-temporary-protected-status>.
- ^{xii} INA § 244.
- ^{xiii} *Id.*
- ^{xiv} Human Rights First, Protection Postponed: Asylum Office Backlogs Cause Suffering, Separate Families, and Undermine Integration 1 (April 2021) (noting that as of September 2020, the affirmative asylum backlog reached 386,000 cases).
- ^{xv} *Id.* at 1 (noting that asylum seekers face catastrophic, years long delays to be scheduled for asylum interviews, while separated from family members who remain in danger overseas).
- ^{xvi} P.L. 117-43.
- ^{xvii} Refugee and Human Rights Clinic at the University of Maine School of Law, Immigrant Legal Advocacy Project, American Civil Liberties Union of Maine, and Basileus Zeno, Lives in Limbo: How the Boston Asylum Office Fails Asylum Seekers 4 (March 2022).
- ^{xviii} *Id.*
- ^{xix} *Id.* at 20-21 (noting that many asylum officers will focus on minor inconsistencies in an applicant's testimony in order to deny a case or refer it to immigration court).
- ^{xx} Grace Kim, *Abandoning the Subjective and Objective Components of a Well-Founded Fear of Persecution*, 16 NW. J. L. & SOC. POL'Y. 192 (2021) (describing the vagueness of the "well-founded fear" standard and its inconsistent application by the BIA and Courts of Appeal).
- ^{xxi} Blog, Lindsay Harris, "This Should be Written by Someone Else," <https://thinkimmigration.org/blog/2022/01/18/this-should-be-written-by-someone-else/> (attorney describing seven-hours long asylum interview for Afghan client in which client was forced to relive experience of extreme domestic violence and death threats by the Taliban).
- ^{xxii} George Packer, "The Betrayal," *The Atlantic*, January 31, 2022 ("Children and parents lost each other. Troops saw children trampled underfoot. A Marine saw a Talib knife a boy who was climbing over a wall. A tear-gas canister struck the side of an 8-year-old girl's face, melting her skin. A new mother staggered through the gate with her baby, who had just died, sobbing so hard that she threw up on the shoes of a consular officer checking documents. By the East Gate, a

stack of corpses baked in the sun for hours. Outside the North Gate, the crushed bodies of four babies floated in a river of sewage.”)