



## EVACUATE OUR ALLIES

### Factsheet: Afghan Adjustment Act

[H.R.8685](#) and [S. 4787](#)

The Afghan Adjustment Act (H.R. 8685/S.4787) is bipartisan legislation in the House and Senate that

- 1) ensures eligible Afghans may apply for lasting protection to stay in the U.S. long-term,
- 2) expands Special Immigrant Visa eligibility for certain Afghans who worked and served alongside U.S. forces,,
- 3) establishes an Interagency Task Force responsible for creating and implementing a strategy to continue the relocation and resettlement of eligible Afghan partners from Afghanistan over the next ten years, and providing much-needed intra-governmental coordination,
- 4) requires the State Department to create an office capable of reviewing visa applications and providing other consular services for Afghans as long as there is no operational embassy in Afghanistan, and
- 5) requires the U.S. Department of State to respond to congressional inquiries related to SIV applications or U.S. Refugee Admissions Program (USRAP) referrals.

#### Why the Afghan Adjustment Act is Necessary

Following the chaotic U.S. military withdrawal from Afghanistan, tens of thousands of U.S.-affiliated and at-risk Afghans have been welcomed into the United States via humanitarian parole. The Department of Homeland Security (DHS) has the authority to use this process to allow people outside the United States to enter for humanitarian reasons, but it is typically only granted for 1 or 2 years to provide safety for people under threat. Unlike immigrant visa or refugee programs, humanitarian parole is not a pathway to permanent status; it is a temporary allowance to enter and remain in the United States. As such, **Afghans who entered the U.S. with humanitarian parole under Operation Allies Welcome find themselves under a cloud of legal uncertainty**, and in a worse position in terms of immigration status than had they entered as Special Immigrant Visa holders (SIVs) or refugees through the U.S. Refugee Admissions Program (USRAP).

The Afghan Adjustment Act, patterned after similar legislation such as the Cuban Adjustment Act following the Cuban Revolution and the Indochinese Parole Adjustment Act after the fall of Saigon, offers an important correction by allowing these Afghan allies to apply for lawful permanent resident status, the same legal status they would have received had they been admitted as refugees or Special Immigrant Visa recipients. Rather than punishing Afghan arrivals for being evacuated, Congress has an urgent obligation to ensure they have a chance to become lawful permanent residents.



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Many of the Afghans are or would have been eligible for processing through the SIV program, which grants visa-holders immediate lawful permanent resident (LPR/green card) status on arrival. **Virtually all of the Afghans arriving via humanitarian parole meet the legal definition of a refugee** and, had they been admitted through USRAP, they would have been eligible to adjust to LPR status after one year.

In short, the effect and purpose of this legislation is to **put our new Afghan neighbors on the same legal footing they would have enjoyed had they been admitted through the U.S. resettlement program**, rather than through the chaotic and dangerous Kabul evacuation. After a harrowing and life-threatening experience saving themselves and their families from violence, they should not be further traumatized by an immigration system that simply was not adequately prepared for their arrival.

### **The Afghan Adjustment Act would provide a roadmap to permanent status for Afghans on humanitarian parole or otherwise lawfully admitted to the U.S.**

#### **Who is Eligible**

The Afghan Adjustment Act would cover at-risk Afghans who 1) have been admitted to the U.S. before the President signs the bill into law, 2) were paroled into the U.S. between July 30, 2021 and when the President signs the bill into law, 3) have had their travel to the U.S. facilitated or coordinated by the U.S. government, 4) arrive in the U.S. after the President signs the bill into law and supported the U.S. mission in Afghanistan, and 5) the spouses or unmarried children under the age of 21 of eligible individuals.

It relieves the immediate burden on the SIV process — which has over 70,000 applications in the backlog — and asylum process — which currently has over 400,000 cases in the backlog — and prevents Afghans paroled in the U.S. from losing their jobs or being deported to a third-country while their applications for these statuses are pending.

#### **Application and Vetting Process**

When Afghans apply to adjust status, DHS will run additional background checks, complete a comprehensive biometrics analysis again, and conduct an additional interview for each applicant before approving an applicant to make sure individuals are not national security or public safety threats to the United States.

#### **Extends Protection to Additional U.S. Allies**

Under current law, Afghans who were employed by the U.S. government or military for a minimum of one year are eligible to apply for a Special Immigrant Visa. The Afghan Adjustment Act makes additional Afghan Allies eligible for a Special Immigrant Visa, these include: (1) members of the Afghanistan National Army Special Operations Command, (2) the Afghan Air Force, (3) the Special Mission Wing of Afghanistan, (4) the Female Tactical Teams



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of Afghanistan and (5) spouses and unmarried children under the age of 21 of certain members and veterans of the armed forces.

### **Expand and improve upon ongoing efforts to protect Afghans left behind**

The bill would require the establishment of both an interagency taskforce to coordinate efforts to support Afghan nationals remaining at risk in Afghanistan or neighboring countries and requires the State Department to create an office capable of reviewing visa applications and providing other consular services for Afghans as long as there is no operational embassy in Afghanistan.

**The Alternative: if Congress fails to act, it will force Afghans to navigate the traumatizing and resource-intensive asylum system while placing tremendous additional strain on already-overwhelmed asylum and immigration court systems.**

Without an Afghan Adjustment Act, these tens of thousands of recently arrived Afghans will have to find an existing immigration pathway in order to remain in lawful status once their parole expires, or risk deportation to serious harm. **In all likelihood, that will mean tens of thousands of new asylum claims.** Given what the whole world knows about the worsening persecution in Afghanistan, putting our new Afghan neighbors through the asylum process is a needless waste of precious time and resources, not to mention additional trauma for people who have only recently escaped Afghanistan with their lives. The asylum process is also incredibly complex, meaning people will have to find (and, likely, pay for) attorneys or risk denial of their claim.

Further, many of these Afghans arrived with little more than the clothes on their backs. Many were forced to destroy important documentation in order to avoid Taliban persecution while waiting to be evacuated. Many more had important documentation destroyed by the U.S. Embassy in Kabul as the city fell. Such complications could make asylum claims more difficult to win and increase the likelihood that Afghan parolees will end up in already-overwhelmed immigration courts. While service providers and pro bono volunteers have stepped-up, there is simply not enough support to ensure counsel for all Afghans in complex asylum proceedings— an Afghan Adjustment Act would allow them to navigate more straight-forward adjustment proceedings instead.

The bottom line is that the Afghan Adjustment Act is desperately needed to provide fundamental fairness to Afghan neighbors who have just escaped a deadly situation. The administration's moral obligations further require avoiding years of needless asylum processing for tens of thousands of people whose risk of return is otherwise in doubt. It would further save precious government resources and avoid any unintended harm to the hundreds of thousands of already-existing asylum seekers that could be caused by dropping this new group into the same pipeline. And, it will ensure legal service providers can better



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meet the need to ensure counsel. **Congress must act now to pass an Afghan Adjustment Act.**