

TOPICS ON IMMIGRATION: REFUGEES
prepared for the University YMCA Welcome Center
by David Dorman (rev. 7/1/2018)

AN OVERVIEW OF ENTERING AND RESIDING IN THE US AS A NON-CITIZEN (7/1/2018)

There are three ways that a foreign national can enter the US:

1. By receiving a green card which entitles one to permanent residence
2. By receiving a temporary visa which allows one to stay in the US temporarily
3. By entering the US without permission

These three ways of entering the US have given rise to the following three broad categories of foreign nationals residing in the US:

1. Immigrants with permanent resident status, also called green card holders
2. Those with temporary permission to reside in the US. This diverse group includes:
 - A. Visitors with temporary visas
 - B. People who have received temporary protection from adverse circumstances such as persecution, war, natural disaster or crime
 - C. People who entered or stayed in the US without permission and who have been given temporary permission by the Executive branch of the Federal Government to remain in the US under the Deferred Action for Childhood Arrivals (DACA)
3. Those who lack proper authorization to be in the US. This group includes:
 - A. People who entered the US without going through customs, also referred to as undocumented immigrants
 - B. Visitors who overstayed their temporary authorization to be in the US
 - C. People who lost their permanent immigration or temporary resident status by committing a serious crime or by committing fraud in their immigration or visa application, and who remain in the US without authorization.

In many cases, people with temporary resident status can apply for a permanent resident status, and there are well defined criteria that permit permanent residents to obtain citizenship. After a resident obtains naturalized citizenship, they have all the rights and privileges of native-born citizens. However, even having permanent resident status does not prevent a resident from being deported due to immigration fraud or other serious crimes.

US residents who become naturalized citizens have the same rights and privileges as native born citizens with one exception: naturalized citizens can be denaturalized and then deported by a Federal Court for any of the following reasons:

1. Falsification or Concealment of Relevant Facts During Immigration or Naturalization Application;
2. Refusal to Testify Before Congress (This requirement to testify in order to maintain citizenship; status expires after 10 years of becoming naturalized)
3. Becoming a member, within five years of becoming a naturalized citizen, of a group designated as subversive by the US government, such as Al Qaeda or the Nazi Party;
4. Dishonorable Military Discharge following a general court-martial within five years of beginning military service.

Source: <https://immigration.findlaw.com/citizenship/can-your-u-s-citizenship-be-revoked-.html>
<https://www.ilrc.org/essentials-of-asylum-law>

The book this website describes is a comprehensive overview of asylum law.

https://therefugeecenter.org/resources/daca-and-the-travel-ban-update/?gclid=CjwKCAjw9-HZBRAwEiwAGw0QcWO1twEhpoVYwpDK79eSGtihXP2t2kyjRX1RrM4vagqkZDhSC1p1IRoC1OYQAvD_BwE

A. What is a Refugee? (5/15/2018)

The US distinguishes between refugees and asylees. There are several significant differences under US law between them:

1. Refugees have fled their countries and reside temporarily in another location. They are determined to be refugees by UNHCR. Asylum seekers are either in the US or have arrived at a US port of entry.
2. The number of people receiving refugee status in the US is limited by law and executive order. There is no legal limit on the number of people who can receive asylum status.
3. Refugees must typically apply for admission to the US through the UN or an affiliated agency. Asylum seekers apply directly to either the State Department or to USCIS (US Citizenship and Immigration Services).
4. Refugees admitted to the US are generally expected to transition to permanent residents after one year in the US. Asylum seekers are given only temporary resident status and their ability to achieve permanent resident status is much less certain.

This overview deals only with refugees.

According to Article 1 of the 1951 UN Convention, as modified by the 1967 Protocol, a refugee is defined as a person who has fled their country due to persecution or a well-founded fear of persecution, is living abroad, and has not found permanent residence in another country. War is the most common cause of refugees. The US has adopted this definition in its laws and regulations governing who can be admitted to the US as a refugee. People who flee economic or natural disasters are not legally considered refugees even though they may have fled their countries due to such hardships. Such displaced persons can apply for what the US government calls Temporary Protected Status (TPS). This paper deals only with people who are considered refugees because they have fled persecution or threatened persecution. For the official US government's definition of a refugee, see section [101\(a\)\(42\) of the Immigration and Nationality Act \(INA\)](#).

Sources:

<https://www.uscis.gov/humanitarian/refugees-asylum>

Chapter Seven of "Introduction to Immigration Law: Training manual", published by CLINIC, The Catholic Legal Immigration Network Inc., which can be found at

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&ved=0ahUKEwjEyoTy p9HZAhWL2YMKHTOaDVUQFghWMAQ&url=https%3A%2F%2Fcliniclegal.org%2Fsites%2Fdefault%2Ffiles%2Fintro_manual_july_2013.pdf&usg=AOvVaw2s5smoGSyxpEsdF7Ijm5k

The Website of the American Immigration Council:

<https://www.americanimmigrationcouncil.org/research/asylum-united-states>

B. Current Trends and Conditions Affecting Refugees Seeking Entry Into the US (5/17/2018)

In 2016, the most recent year for which there are official US and UN statistics, there were about 22.5 million refugees around the world. Of those, about 125,600 were resettled, of whom 84,994 were resettled in the US. (These numbers do not include the hundreds of thousands of migrants and refugees who were admitted into the European Union from 2015 to 2017.)

The number of people able to obtain refugee status in the US annually is limited by law and executive order. In 2016 the number was increased from 85,000 to 110,000 by executive order of the Obama administration. In 2017 that number was reduced to 50,000 by executive order of the Trump administration. In July of 2017, by which time about 42,000 refugees had been admitted to the US, the State Department announced that for the remainder of the year only spouses and parents or children of people and their spouses with existing refugee status or permanent resident status in the US will be admitted as refugees for the remainder of 2017. In the first 4 months of 2018, less than 7,000 refugees were given refugee status by the US.

The Trump administration has put forth, and subsequently withdrawn, a number of policy initiatives to restrict the countries of origin which immigrants, including refugees, can come from. As of May 2018, refugees from anywhere in the world are eligible to apply for refugee status in the US, but refugees from the following countries will be subject to more rigorous screening than other refugee applicants: Egypt, Iran, Libya, South Sudan, Yemen, Sudan, Iraq, Mali, North Korea, Somalia and Syria.

Sources and References:

<https://www.dhs.gov/immigration-statistics/refugees-asylees>

<http://www.unhcr.org/en-us/figures-at-a-glance.html>)

<https://www.thelocal.de/20170901/10-things-to-know-about-refugees-and-asylum-in-germany>

<http://www.pewresearch.org/fact-tank/2017/01/30/key-facts-about-refugees-to-the-u-s/>

<https://www.americanimmigrationcouncil.org/research/asylum-united-states>

[http://www.migrationpolicy.org/article/refugees-and-asylees-united-](http://www.migrationpolicy.org/article/refugees-and-asylees-united-states?gclid=EAIaIQobChMIw4Lhtff42gIVx4-zCh1rpwI REAAYASAAEgLKTPD_BwE)

[states?gclid=EAIaIQobChMIw4Lhtff42gIVx4-zCh1rpwI REAAYASAAEgLKTPD_BwE](http://www.migrationpolicy.org/article/refugees-and-asylees-united-states?gclid=EAIaIQobChMIw4Lhtff42gIVx4-zCh1rpwI REAAYASAAEgLKTPD_BwE)

<https://www.cbsnews.com/news/u-s-hits-refugee-limit-for-2017/>

[There's a problem with Calculator. Contact your system administrator about repairing or reinstalling it.](#)

https://www.washingtonpost.com/world/national-security/us-lifts-ban-on-refugees-from-high-risk-nations-but-pledges-tougher-scrutiny/2018/01/29/1c8a33f4-051a-11e8-8777-2a059f168dd2_story.html?utm_term=.334d2a1a3acb

<http://publish.illinois.edu/projectwelcome/files/2017/02/IL-Refugee-Resettlement-Program-FY16-Annual-Report.pdf>

<https://www.nytimes.com/2018/05/16/us/refugee-admissions.html>

C. Eligibility Requirements for Refugee Status in the US (5/9/2018)

GENERAL OBSERVATIONS

The criteria for determining asylum are very similar to the criteria for refugee status. However, the decision to grant or deny asylum status can depend on legal requirements or political considerations that may vary significantly for each of these categories of asylum seekers. Approval or denial can even depend on the circumstances of the individual asylum seeker, even if they are not related to formal criteria.

For example, the number of refugees allowed admittance to the US each year is set either by law or administrative decree, which means that even if a refugee met the eligibility criteria and were accepted, they might be put on a waiting list for many years. There is no such numerical limits for non-citizens seeking asylum from within the US. However the evaluation process for affirmative asylum requests is not subject to open scrutiny and can thus seem arbitrary, and the outcome of defensive asylum requests, which are more public, are often influenced by the sensibilities of individual judges as well as political considerations.

ELIGIBILITY REQUIREMENTS

Persecution, or the legitimate fear of persecution, due to any of the following factors make a foreign national eligible for refugee status in the US:

1. Race
2. Religion
3. Nationality
4. Membership in a particular social group
5. Political opinion

Even if an applicant is judged eligible by the preceding criteria, they may be found ineligible if they:

1. Ordered, incited, assisted, or participated in the persecution of any person on account of race religion, nationality, membership in a particular social group, or political opinion;
2. Were convicted of a serious crime (including aggravated felonies);
3. Committed a serious nonpolitical crime outside the United States;
4. Pose a danger to the security of the United States;
5. Were firmly resettled in another country prior to arriving in the United States.

Dependent children under 21 and spouses of non-citizens who are with the person seeking refugee status can also be included in the application.

Sources:

<http://www.unhcr.org/>

<http://www.culturalorientation.net/about/partners/rscs>

<https://www.state.gov/j/prm/ra/admissions/>

<https://www.state.gov/j/prm/releases/factsheets/2016/254650.htm>

D. Benefits of Obtaining Admittance to the US as a Refugee? (5/9/2018)

Obtaining admittance to the US as a refugee has the following benefits:

1. The right to live and work in the US, which include the ability to apply for a Social Security card.
2. The ability to petition to bring family members to the United States.
3. The right to apply for a driver's license or an alternative state identification card.
4. The ability to travel overseas, with prior permission of the US government, while still maintaining one's asylum status.
5. Eligibility for US government resettlement benefits, including medical assistance, and the likelihood of receiving significant amounts of aid from the many NGO's that help asylees resettle and manage their new lives in the US.
6. The right to apply for lawful permanent resident status (i.e. a green card) after one year in the US. "If you are admitted as a refugee, you must apply for a green card one year after coming to the United States. To apply for permanent residency, file [Form I-485](#)."
7. The right to apply for citizenship after 4 years of being a permanent resident.

Sources:

<https://www.americanimmigrationcouncil.org/research/asylum-united-states>
<https://www.nolo.com/legal-encyclopedia/your-rights-after-grant-asylum.html>
<https://www.uscis.gov/humanitarian/refugees-asylum/asylum/benefits-and-responsibilities-asylees>
<https://www.uscis.gov/humanitarian/refugees-asylum/refugees>

E. What are the Obligations of Persons Who Have Received Refugee Status in the US? (5/9/2018)

Residents with refugee status who travel abroad must obtain permission by applying for a Refugee Travel Document (Form I-131) before traveling. Travel abroad without first receiving a Refugee Travel Document may prevent a refugee from re-entering the US. Refugees must also apply for a green card after one year of residence in the US. Failure to do so could lead to deportation.

F. Overview of Applying for Refugee Resettlement in the US (5/9/2018)

In general, refugees who have fled their country and wish to resettle in the US must be referred to the US Department of State. Referrals are typically made by UNHCR, the United Nations High Commissioner for Refugees or one of the nine Resettlement Support Centers around the world run by the US Department of State.

At the time this was written (May 2018), the State Department website explains another path into the refugee application process:

"Some refugees can start the application process with the RSC without a referral from UNHCR or other entity. This includes close relatives of asylees and refugees already in the United States and refugees who belong to specific groups set forth in statute or identified by the Department of State as being eligible for direct access to the program." (<https://www.state.gov/j/prm/ra/admissions/>)

Certain Iraqis also have direct access to the refugee program.

The following 7 steps, as outlined by the US Department of State, provide an overview of the Application and Relocation Process. Be aware that the process can vary depending on where the refugee is located when the process begins and what country the refugee comes from.

1. Registration and Data Collection
2. Security Checks Begin
3. Department of Homeland Security Interview
4. Biometric Security Checks
5. Cultural Orientation and Medical Check
6. Assignment to Domestic Resettlement Locations and Travel
7. Arrival

Annotated Sources:

The State Department has a comprehensive overview of the US Refugee Resettlement Program at <https://www.state.gov/j/prm/releases/factsheets/2018/277838.htm>.

For official details of the application and relocation process, see <https://www.state.gov/j/prm/ra/admissions/>. For a non-governmental overview of asylum and refugee resettlement, see <https://www.americanimmigrationcouncil.org/research/asylum-united-states>.

For more details about cultural orientation, view the Cultural Orientation Resource Center site at <http://www.culturalorientation.net/>. This NGO coordinates refugee cultural orientation for all refugees accepted into the US.

“Fact Sheet: Asylum in the US” is an excellent overview of asylum and refugee status <https://www.americanimmigrationcouncil.org/research/asylum-united-states/>

[For more information on applying for a green card as a refugee, see:](https://www.uscis.gov/greencard/refugees)
<https://www.uscis.gov/greencard/refugees>

G. Forms and Documents Required (5/15/2014)

The two basic forms which applicants or their representatives will need to fill out are:

- Form I-589, Application for Asylum and for Withholding of Removal
- Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative

The instructions also state what supporting documents are required. In addition to those required, the Form I-589 instructions state:

“You are strongly urged to attach additional written statements and documents that support your claim. Your written statements should include events, dates, and details of your experiences that relate to your claim for asylum.”

Depending on the applicant’s circumstances, the following forms may also need to be submitted:

- Form AR-11, Alien's Change of Address Card
- Form I-94, Arrival-Departure Record. A form that is often given when entering the United States.
- Form I-730, Refugee and Asylee Relative Petition
- Form I-765, Application for Employment Authorization

After one year of residence in the US, refugees must apply for permanent residence by filling out and submitting Form I-485.

USCIS forms can be viewed and downloaded at <https://www.uscis.gov/forms/>.

H. Costs Associated with Seeking Refugee Status (5/9/2018)

There is no fee to apply for refugee status, and either the UNHCR or affiliated organization help support the application process. If refugee status is obtained, the State Department and numerous NGOs will help with transportation and resettlement costs.

Typically the IOM (International Organization for Migration, an intergovernmental organization) arranges refugee transportation to the US on behalf of the State Department. The refugee must sign a promissory note agreeing to pay back the US Government for the travel expenses. These loans are typically paid off in about five years.

Sources:

<https://www.iom.int/>

<https://www.state.gov/j/prm/releases/factsheets/2018/277838.htm>

I. How Long Does it Take to Process An Application? (5/9/2018)

In May 2018, the US government announced more rigorous screening procedures for refugee applicants, particularly from 11 majority countries. Applicants from these countries may encounter longer processing times than refugees from all other countries. These 11 countries are:

- Egypt
- Iran
- Iraq
- Libya
- Mali
- North Korea
- Somalia
- South Sudan
- Sudan
- Syria
- Yemen

Palestinians living in these countries are also subject to the more stringent processing procedures.

At present (5/9/2018) it is not yet known how the application time is affected for applicants who come from the 11 countries above.

In 2016 the US Department of State estimated an application processing time of between 18 and 24 months from the time the US receives an application. And because the current annual limit for refugees is 50,000, even if an application is successful, the approved applicant may have to wait many years for permission to resettle in the US.

Sources and References:

<https://www.reuters.com/article/us-usa-immigration-refugees/under-trump-plan-refugees-from-11-countries-face-additional-u-s-barriers-idUSKBN1CT2IV.>)
<https://www.dhs.gov/news/2017/10/24/improved-security-procedures-refugees-entering-united-states>

J. How Long Does Refugee Status Last? (5/9/2018)

Refugee status has no formal expiration date, but refugees are required to apply for permanent resident status after one year of refugee status.

K. Are There Risks or Drawbacks to Applying for Refugee Resettlement in the US? (4/30/2018)

FOR REFUGEE RESETTLEMENT

UNHCR estimates that only 1% of refugees get referred to governments for refugee status. The risk is minimal and the opportunity for resettlement is slim but rewarding if refugee status is granted.

Read this: https://epic.org/privacy/us-visit/hrf_memo.pdf

SOURCES:

<https://www.uscis.gov/humanitarian/refugees-asylum/asylum/questions-and-answers-asylum-eligibility-and-applications>
<https://www.uscis.gov/faq-page/asylum-eligibility-and-applications-faq>
https://www.washingtonpost.com/opinions/dhs-keeps-separating-kids-from-their-parents--but-officials-wont-say-why-or-how-often/2018/03/20/0c7b3452-2bb4-11e8-8ad6-fbc50284fce8_story.html?utm_term=.1c093b26dd1e&wpisrc=nl_opinions&wpmm=1
https://epic.org/privacy/us-visit/hrf_memo.pdf
<https://www.pri.org/stories/2017-07-31/fearful-court-asylum-seekers-are-banished-absentia>

L. Is It Possible to Lose Refugee Status After it is Granted? (5/15/2018)

Refugees from abroad who obtain refugee status and are brought to the US for resettlement will not be sent back even if conditions in their home countries change and they no longer have to fear persecution. As regards refugee status being revoked for other reasons, US immigration law is unclear. As a general principle, any status short of naturalization that USCIS can grant, a USCIS court can also take away. However, based on actual practice, revocation is very rare and is done only for the same causes by which a green card holder can lose LPR status:

1. Serious Crime
2. Fraud or Misrepresentation on the Refugee Application
3. Living Abroad for 180 Days or More Annually

Source:

<https://www.montaglaw.com/2012/08/26/new-revocation-cases-answer-some-questions-but-raise-new-ones/>

M. Where Do Most Refugees Come From? (5/9/2018)

The Refugee Processing Center, a US inter-agency organization that operates the software platform that processes immigrants to the US, maintains a website (<http://www.wrapsnet.org/admissions-and-arrivals/>) showing a great deal of demographic information showing where refugees and holders of Special Immigration Visas come from and where they have settled in the US. As of 5/10/2018 the website had refugee and SIV immigration data through 5/4/2018.

The IECAM, the Illinois Early Childhood Assessment Map, a joint project of the Early Childhood and Parenting Collaborative of the College of Education at UIUC, has Illinois Refugee statistics for 2015, indicating that over 2,600 refugees have been resettled in Illinois in that year. In 2015, the IECAM statistics indicates that the bulk of the refugees came from 4 countries: Burma/Myanmar (1,031), Iraq (592), The Democratic Republic of Congo (316), and Syria (130). The IECAM statistics are not broken down by county.

Sources:

<http://www.wrapsnet.org/about-us/about/>
<http://iecam.illinois.edu/characteristics-other/refugees/>
<http://www.wrapsnet.org/admissions-and-arrivals/>