

What are the Terrorism Bar and the Persecutor Bar? An explanation for Afghan Asylum Seekers

What are the Bars to Asylum?

- The asylum bars prevent a person from receiving asylum even if they otherwise meet the test to obtain asylum.
- There are many different bars to asylum, including the one-year filing deadline bar, the firm resettlement bar for individuals who had permanent status in another country before coming to the United States, and bars related to prior criminal activity.
- If you are found barred from asylum, you may still be eligible for other protection in the United States called withholding of removal and Convention Against Torture (CAT) relief. You apply for these forms of relief at the same time you apply for asylum.

What is the Persecutor Bar?

A bar to asylum for individuals who ordered, encouraged, assisted or participated in the harm of someone else. This could include someone who was forced to do these things or did them under threat of harm to themselves or others.

Afghan asylum seekers who have worked in a prison, for the police or military, or for government security forces where there are reports that those groups have tortured or unlawfully harmed others could face this bar. The bar could apply even if the torture or harm was inflicted on a terrorist or criminal or as part of an interrogation of a suspect.

Why is it Important that Afghan Asylum Seekers Know about the Persecutor and Terrorism Bars?

- The persecutor and terrorism bars often affect people who have lived in communities where there has been significant, violent conflict or where the government has a history of human rights abuses.
- Due to the various conflicts in Afghanistan during the past decades and the numerous armed groups that have operated in Afghanistan, it is likely that many Afghan asylum seekers will face questions about these bars and some may be found ineligible for asylum as a result, even if their activities or relationship with a particular group was forced or involuntary.
- It is very important that you be honest about any interaction with armed groups or governmental groups when speaking to immigration officers or other U.S. government agents.
- If you believe one of these bars might apply to you, we strongly recommend that you obtain an attorney before seeking asylum.

This document does not provide legal advice. Asylum seekers are strongly encouraged to speak to an experienced asylum attorney for advice on the application of these bars to their claims.

What is the Terrorism Bar?

A bar to asylum for anyone who has participated in or threatened to use unlawful violence to harm others or damage property or who has supported (through money, speech, or other items) a group that uses unlawful violence.

- The Taliban is a designated terrorism organization, which means any activity or support related to the Taliban you provided (even if committed against your will or under threat of violence) would likely make you subject to the terrorism bar.
- Iran's Revolutionary Guard Corps (IRGC) is a designated terrorist organization. Anyone who participated in activity related to the IRGC, including receiving training from the IRGC, participating in military operations related to the IRGC, or working for groups that were funded by or received assistance from the IRGC is likely to face the terrorism bar.
- Other unlawful armed groups in Afghanistan, even those allied with the U.S. military, could be considered terrorist groups under U.S. law. Participating in or providing support to any kind to an armed group (food, shelter, transportation) could make you subject to the terrorism bar, even if the armed group no longer exists today.
- If the activity that makes you subject to the terrorism bar happened in the past five years, your spouse and children may also be subject to the bar, although there are some exceptions.

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Frequently Asked Questions

1. **How do I know if the terrorism or persecutor bar apply to me?**
It can be difficult to know in advance whether immigration officials will apply a bar to a case, but if you have experienced any of the situations or activities described in this document, NIJC encourages you to consult with an immigration attorney.

In an asylum interview, if the officer believes a bar may apply, they will likely take a "sworn statement" in which they write down exactly what you said on paper and have you sign the paper to confirm it is accurate. This is separate from the signature on your I-589 asylum application.
2. **If immigration officers determine that a bar applies to my case, does that mean I will be deported?**
No. You can still be considered for a form of relief under the Convention Against Torture (CAT). You apply for CAT relief when you apply for asylum by checking the CAT box on page 1 and page 5 of the I-589 asylum application. Only an immigration judge can grant this relief.
3. **If I am subject to a bar, does this mean my spouse or children will be barred too?**
It depends. As explained in the other box, sometimes a spouse or child can be subject to the terrorism bar just because of their family relationship. But if that part does not apply, then a spouse or child could apply for asylum on their own to avoid being subject to the bar.