

HONG KONG

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

This includes people who are currently in Hong Kong seeking non-refoulement protection only.

Please note that there are **no dedicated** programs or pathways in Hong Kong specifically for those impacted by the crisis in Afghanistan. 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.

PEOPLE ALREADY IN HONG KONG

People who are in the Hong Kong and who are afraid to return to their home country, can find information about process for claiming protection here:

Making a Claim for Non-refoulement Protection

- If you are afraid to return to Afghanistan because you might be killed, tortured or seriously harmed, or your rights are at risk of being seriously restricted, you may apply for 'non-refoulement protection' in Hong Kong.
- You do this by making a *non-refoulement claim* through the 'Unified Screening Mechanism' ("USM"). The USM is the process the Hong Kong Government uses to decide all claims lodged by persons who do not have the right to enter and remain in Hong Kong, and who fear a serious harm, risk of persecution, to life and/or torture upon return to their country of origin.
- You cannot lodge an asylum claim in Hong Kong before your visa has expired. If your visa has expired and you wish to make an asylum claim, below is step-by-step guide on how to apply for protection through the USM:

Step 1: Submit a Written Signification

- A written signification is a letter to the Hong Kong Immigration Department explaining why you cannot return safely to Afghanistan and what has happened to you or will happen to you if you return.
- You should include the following information in your written signification:
 - (i) your name,
 - (ii) country of origin,
 - (iii) why you fear returning to your country of origin, and
 - (iv) what harm you may encounter.
- You can submit your written signification to these two addresses:
 - General Investigation Section, 5/F Skyline Tower, 39 Wang Kwong Road, Kowloon Bay, Kowloon.
 - Removal Assessment Section, 9/F Skyline Tower, 39 Wang Kwong Road, Kowloon Bay, Kowloon.
- Please note that people suspected of violating immigration rules, like overstaying in Hong Kong, may be at risk of being detained in an Immigration Detention Centre. However, the Immigration Department must have good reasons if they decide to detain someone.

Step 2: Attend a Briefing Session

- After you submit your written signification, the Immigration Department will mail you a “Notice to persons making a non-refoulement claim” and schedule an appointment to take your fingerprints and photograph and provide a briefing of the relevant procedures going forward.
- During the briefing session, the following will likely happen:
 - The Immigration Department will provide you with an application form for non-refoulement protection.
 - You will be assigned a free lawyer to help you with your application, from the Duty Lawyer Service, if you do not have the ability to pay for a lawyer.

Step 3: Complete the Non-Refoulement Claim Form

- Complete and return the [non-refoulement claim form](#) within 28 days, together with any available evidence or additional documents.

Step 4: Attend a screening interview

- Attend your screening interview on the scheduled date.
- On the day of the screening interview, it will be you, your Duty Lawyer (if applicable), an interpreter (if requested) and your family members who are part of your claim.

Step 5: Receive your Immigration Decision

- The Immigration Department will make a decision about whether or not you will be granted non-refoulement protection/asylum in Hong Kong.
- Your claim will be accepted or rejected.
 - If your claim is accepted, you will be granted non-refoulement protection. This means that you will not be returned to Afghanistan.
 - If your claim is rejected, you may appeal, with assistance of a duty lawyer (where applicable), within 14 days after the notice of the decision is provided.
- For further information about the asylum process please see:
 - <https://www.unhcr.org/hk/en/2675-usm-procedures-2.html>
 - https://www.immd.gov.hk/eng/useful_information/non-refoulement-making-claim.html (For further detail of the USM process, click “Processing Non-Refoulement Claims under the USM”.)

For help with the application process please see the ‘free legal help’ section [below](#).

Making a Subsequent Claim for Non-refoulement Protection

If you have made a claim for asylum (or non-refoulement protection) under the Unified Screening Mechanism (“USM”) and your claim was refused or withdrawn, you may be able to make a subsequent claim if there has been a significant change in circumstances since that refusal or withdrawal.

At what stage can I make a subsequent claim?

You may be able to make a subsequent claim when your claim for asylum under the USM has been finally determined (refused) or withdrawn. An asylum claim rejected by an immigration officer is finally determined when:

- (i) if you do not file an appeal / petition against the officer’s decision and the time period for making that appeal / petition has expired, **or**
- (ii) (ii) if you file an appeal / petition and
 - a. the Torture Claims Appeal Board (“TCAB”) has refused the appeal / petition; or
 - b. if you withdraw your appeal/petition to the TCAB.

A claim is withdrawn when you notify an immigration officer in writing, and is deemed to be withdrawn if you leave Hong Kong for whatever reason, or fail to return a completed torture claim form.¹

¹ https://www.immd.gov.hk/pdf/notice_non-refoulement_claim_en.pdf

How can I make a subsequent claim?

You may make a subsequent claim if you provide sufficient evidence in writing to satisfy an immigration officer that:

- a) there has been a significant change in circumstances since your previous claim was finally determined or withdrawn; **and**
- b) the change, when taken together with the material previously submitted in support of your previous claim, would give the subsequent claim a realistic prospect of success.

What can be a significant change in circumstances?

In general, a significant change in circumstances should be different in nature from that of the original claim. Any new threats should also be considered together with the situation in Afghanistan. The decision on whether a person can make a subsequent claim depends on the individual circumstances of each case. You will need to provide further clear evidence or information on the current situation in Afghanistan establishing a substantial risk of harm, and the significant change in circumstances would put a claimant at increased risk of torture or persecution if returned.

PEOPLE WISHING TO RELOCATE TO HONG KONG DUE TO RISK OF HARM

Hong Kong does not have any formal program or pathways for Afghan refugees to enter Hong Kong to seek asylum.

All Afghanistan nationals are required to have a visa to enter Hong Kong for whatever purpose. (For further information about visa requirements in Hong Kong, see: <https://www.immd.gov.hk/eng/services/visas/visit-transit/visit-visa-entry-permit.html>).

As mentioned above, the only pathway for asylum seekers in Hong Kong is through the USM process by claiming for non-refoulement protection, once they are subject or liable to removal or deportation from Hong Kong.

PEOPLE WISHING TO RELOCATE TO HONG KONG WITH FAMILY LINKS

Although Hong Kong generally has pathways for entry arrangement for residence as dependents, this entry arrangement does not apply to nationals of Afghanistan. There is no

specific pathway for people to reunite with family members in Hong Kong, under the USM process.

Additional information for dependent visas can be found at:

https://www.immd.gov.hk/eng/services/visas/residence_as_dependant.html.

FREE LEGAL HELP

The following organizations or legal service providers can support with free legal help for those already in Hong Kong:

- **Justice Centre Hong Kong**
 - **Types of services or specialization:** Legal, social welfare, and counselling services to refugees/asylum seekers
 - **Website:** <https://www.justicecentre.org.hk/>
 - **Email:** info@justicecentre.org.hk
 - **Contact number:** +852 3109 7359
 - **Hours:** 9:30 am – 6:00 pm, Monday to Friday
 - **Other info:** Justice Centre Hong Kong sees clients by appointment only.

- **The Duty Lawyer Service – Free Legal Advice Scheme**
 - **Types of services or specialization:** The Free Legal Advice Scheme provides preliminary one-off legal advice to members of the public as to their legal position in genuine cases.
 - **Website:** <http://www.dutylawyer.org.hk/en/free/free.asp>
 - **Legal Advice Centres:** There are 9 available centres, with their details listed on the website.
 - **Hours:** available appointment sessions are between 6:25 p.m. - 7:45 p.m.

OTHER USEFUL RESOURCES

- **HK Asylum Guide Mobile App & Website**
 - A comprehensive step-by-step guide to the USM process
 - <https://www.justicecentre.org.hk/hkasylumguide/>

- **Branches of Hope**
 - **Services:** Serves refugees, asylum seekers and human trafficking survivors in Hong Kong.

- **Address:** 29 Burrows Street, Wan Chai, Hong Kong
 - **Contact:** +852 3527 6048 | info@branchesofhope.org.hk
 - **Website:** <https://branchesofhope.org.hk/>
- **Refugee Union**
 - **Services:** Aims to safeguard refugee rights and improve the protection, well-being and future prospect of all refugees.
 - **Address:** Unit E, 2 Floor, Lee Fung Building, 315-319 Queen's Road Central, Sheung Wan, Hong Kong
 - **Contact:** +852 9828 7176 | info@refugeeunion.org
 - **Website:** <https://www.facebook.com/refugeeunionHK/>
- **Run HK**
 - **Services:** Supports vulnerable refugees, particularly women, to build resilience and nurture self-reliance, in particular through sports and education.
 - **Address:** Suite 502, 5th Floor, Sun Hing Industrial Building, 46 Wong Chuk Hang Road, Aberdeen, Hong Kong
 - **Contact:** +852 6593 8159 | info@runhk.org
 - **Website:** <https://www.runhk.org/>
- **Grassroots Future**
 - **Services:** Envisions to build capacity among refugee-led initiatives, focusing on community-building through education, well-being, events, and projects driven by members of the refugee community.
 - **Address:** Makerbay, 23 Mei Wan Street, Tsuen Wan, Hong Kong
 - **Contact:** info@grassrootsfuture.org
 - **Website:** <https://grassrootsfuture.org/>

DISCLAIMER

This information sheet outlines general information on Hong Kong asylum and immigration law only. It is not intended to provide a comprehensive overview nor replace legal advice in the individual case, and should not be relied upon. You should urgently seek legal advice on these matters from the Duty Lawyer Service, the Legal Aid Department, or a qualified Hong Kong lawyer.

Please note the information sheet was prepared by Justice Centre Hong Kong with pro bono assistance in April 2023. Justice Centre Hong Kong is not a law firm and does not engage in the practice of law or provide legal advice or direct legal representation.

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