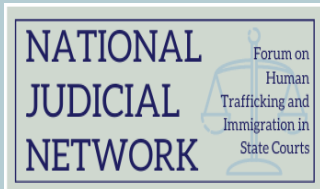


National Judicial Network  
Forum on Human Trafficking and Immigration  
in State Courts

Afghan Refugees Experiencing Domestic  
and Sexual Violence: What Courts Need to  
Know and Judicial Leadership  
Opportunities

NCJFCJ 85<sup>th</sup> Annual Conference  
Reno, Nevada  
July 19, 2022



# Faculty



**Ramona Gonzalez**  
Presiding Judge  
La Crosse County Circuit Court,  
La Crosse, Wisconsin,  
Court of General Jurisdiction  
2019-2020 NCJFCJ President



**Aisha Rahman**  
President  
Sugarlimb Consulting, LLC



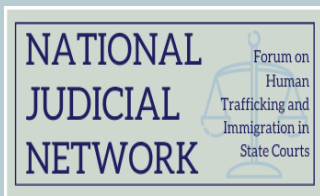
**Leslye Orloff**  
Director  
National Immigrant  
Women's Advocacy Project,  
American University  
Washington College of Law

# Thank You OVW and SJI

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# Join the National Judicial Network (NJNI)

- Forum on Human Trafficking and Immigration in State Courts
- What is the NJN
  - Opportunity to engage in discussions with other judges
  - Receive latest information
  - Peer-to-Peer training opportunities
  - Get your questions answered
  - Receive the information you need through
    - Webinars, trainings, and technical assistance
    - Bench cards, tools and training materials
  - **We are circulating a sign up sheet**



# Learning Objectives:

As a result of this workshop you will be better able to:

- Identify resources available to victims of domestic violence and/or child abuse in Afghan and other refugee and asylee families
- Understand the range of barriers refugee/asylee victims encounter when seeking help
- Better able to understand cultural difference and apply this information in the decisions you make
- Apply legally correct information when drafting effective orders in cases involving refugee and asylee families experiencing domestic violence and/or child abuse.

What is a Refugee vs. an Asylee?



# Who is a Refugee?

Refugees are defined and protected in international law.

The [1951 Refugee Convention](#) is a key legal document and defines a refugee as:

“someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”



# Who is a Asylee?

U.S. Department of Homeland Security:

“An asylee is a person who meets the definition of refugee and is already present in the United States or is seeking admission at a port of entry.”





Are the Afghans and Ukrainians who recently arrived refugees or asylees?



# FY 2020 Reception and Placement Program Affiliate Sites

July 2020



If I encounter an Afghan, Refugee, or Asylee family experiencing domestic violence or child abuse in my court what are the issues I should be aware of?



# Key Issues for Family and Juvenile Courts:

- Refugee resettlement agencies and family violence
  - Services geared toward economic independence
    - Match grant and preferred communities programs
- Afghan's receive services = refugee assistance
- Refugees and Afghans are eligible for all state and federal public benefits and driver's licenses
  - Asylum applicants only eligible after granted asylum
    - Ukrainians will be asylees
- Humanitarian Parole & Temporary Protected Status
  - Driver's licenses, work authorization, SSNs
  - Purchase health care on exchanges

# Interactive Public Benefits Map



NIWAP

Web Library About NIWAP Maps by Benefit Demogr

NIWAP

Web Library About NIWAP Maps by Benefit Demographics

Legal Services

## Maps by Benefit

These maps break down available public benefits based on immigrant's state and immigration status.

We are still working on this site, so if you cannot click on your state, check back soon for completed maps.



### Cash Assistance (TANF)

Temporary Assistance for Needy Families (TANF) provides cash assistance to low income families with children.

[Go to Map](#)



### Child Care

Child Care services may be provided through public benefits.

[Go to Map](#)



### Children's Health Insurance Program

Medical assistance is available to children through the Children's Health Insurance Program (CHIP).

[Go to Map](#)



### Driver's License

State-specific requirements to be issued a driver's license.

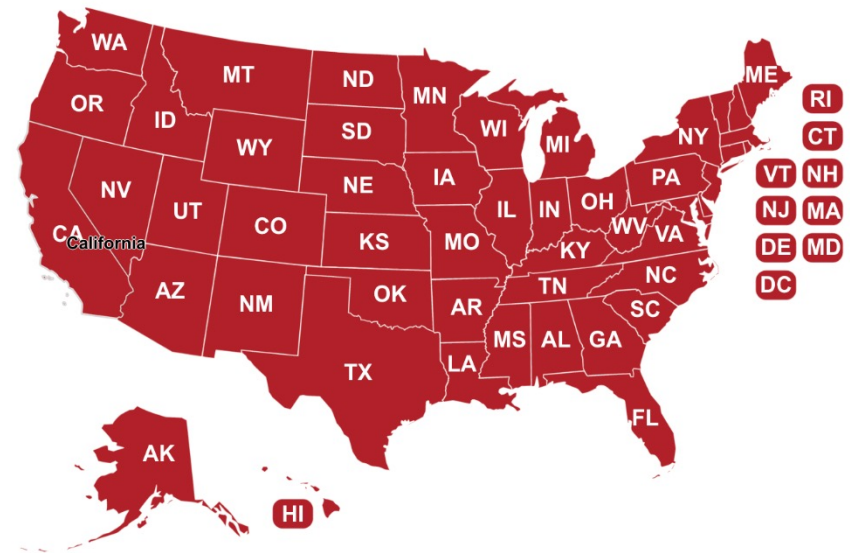
[Go to Map](#)



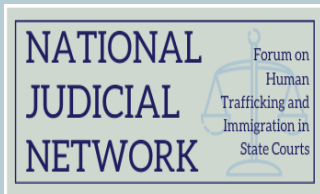
### Earned Income Tax Credit



### Emergency Housing & Safety Programs



<http://map.niwap.org/>



# All Services are Geared Toward Economic Independence

- Match Grant: case management, employment/skills training, job referrals, family budget planning, housing/food/utility support, transportation, health/medical, English language training, social/cultural adjustment
- Preferred Communities (for vulnerable refugees)  
Long term case management, health and medical interventions, social and cultural adjustment services

# Key Family Law Issues for Domestic Violence in Refugee and Asylee Families

- Immigration law practices lead to dependence on family member who is the primary applicant
- Refugees must apply for green cards after 1 year
- Asylees may apply for green cards after 1 year
- Divorce has no effect on refugees
  - Divorce permanently cuts off dependent family members with asylum from green cards and naturalization

# Afghan Family Violence Scenario

- Abusive husband primary applicant for asylum
- Abused wife and children included in his application
- All have had asylum for over a year
- All have green card applications pending
- Husband files for divorce and is trying to expedite the divorce proceeding
  - What concerns might a judge have?
  - What steps might the court take?
  - What might judges include in their orders.



How does the fact that convictions/findings of domestic violence are deportable offenses impact Afghan families experiencing domestic violence?



# Family Law FOR the American Muslim Community

How does religion show up  
in cases involving Afghan or  
other refugees?



# How Does Religion Show Up in Cases Involving Afghan and other Refugees?

- As power and control?
- As a factor in safety planning?
- As a way to design safety planning for victims needs?

Beyond religion, what are some cultural issues that might arise?



# Abuse of Islamic Law

- Not granting an Islamic divorce – impeding civil divorce.
- Threatening custody because of internalized patriarchy – talk about custody rules
- Child marriage
- Forced marriage
- “secret marriage”
- Temporary marriage
- Polygyny

# Let's Talk About Marriage

- Is the Islamic marriage contract just a formality?
  - Just tradition?
  - Is it enforceable in the American court?
  - Are there court order provisions that are helpful?
- What provisions are in a marriage contract?
- What if the marriage occurred in a different country?

# Islamic Marriage Contract in American Courts

- Islamic marriage contracts can **ABSOLUTELY** be relevant in American courts.



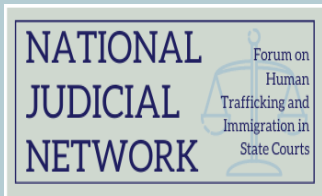
# Beware of Who is an “Expert”

- Gendered Islamophobia
- Qualifications of privately funded “cultural witnesses”
  - Chesterfield case
  - New Jersey Case
- Follow your state legal standards for qualification of witnesses

# How Does Islamic Divorce Fit In?

- How many types of divorce are there in Islam?
  - Talaq
  - Khul'
  - Tafriq

# Q & A



# Contact Information

Aisha Rahman, President  
Sugarlimb Consulting, LLC

678.534.2529

[sugarlimbconsulting@gmail.com](mailto:sugarlimbconsulting@gmail.com)

# Technical Assistance and Materials

- Power Point presentations and materials for this conference: <http://niwaplibrary.wcl.american.edu/NCJFCJReno2022>
- All SJI and OVW funded judicial training materials: <http://niwaplibrary.wcl.american.edu/sji-jtn-materials/>
- **NIWAP Technical Assistance**
  - Call (202) 274-4457
  - E-mail [info@niwap.org](mailto:info@niwap.org)
- Web Library: [www.niwaplibrary.wcl.american.edu](http://www.niwaplibrary.wcl.american.edu)