



**Rainbow Railroad Submission to**

# **The Canadian Parliamentary Special Committee on Afghanistan**

May 16th, 2022

## Summary of Recommendations

Vulnerable LGBTQI+ Afghan refugees need additional targeted and expedited resettlement pathways. We propose two policy mechanisms the government can activate to make this happen:

- 1. We ask the Minister of Immigration to use their authority under Section 25 of the Immigration and Refugee Protection Act (IRPA)<sup>1</sup> to create a public policy to urgently resettle at least 300 pre-identified LGBTQI+ Afghan refugees as Government Assisted Refugees (GARs).**
- 2. We ask the Government of Canada to make Rainbow Railroad a direct referring partner to allow the organization to immediately refer vulnerable LGBTQI+ individuals from Afghanistan, Ukraine, and beyond for resettlement in Canada.**

### Rainbow Railroad's Engagement in Afghanistan

On August 13, 2021, the Government of Canada committed to creating 20,000 resettlement slots for “vulnerable Afghans threatened by the Taliban and forced to flee Afghanistan.”<sup>2</sup> On September 27, 2021, that number was doubled to 40,000. While the government has made strides toward fulfilling its commitment, there are still opportunities to enhance these efforts in the coming months.

As of April 21st, 2022, 11,365<sup>3</sup> Afghans have been relocated to Canada via two special program resettlement streams: the first is for Afghans who assisted Canada in its efforts in Afghanistan, and the second is a humanitarian program for vulnerable groups including women leaders, human rights defenders, journalists, persecuted religious minorities, family members of previously resettled interpreters, and LGBTQI+ individuals.

When Canada signaled it was going to target LGBTQI+ populations in its Afghan response, Rainbow Railroad's requests for help spiked dramatically. Since August, over **4,500 LGBTQI+ Afghans have requested help from Rainbow Railroad**, and this number is rising. As a result, LGBTQI+ Afghans comprised one third of our requests for help last year.

To-date, only 5,720 Afghans have arrived in Canada through the special humanitarian stream.<sup>4</sup> LGBTQI+ refugees who fled Afghanistan face unique, imminent, and severe risks to their lives and safety in neighbouring countries due to laws restricting diverse sexual orientation, gender identity and expression, and sex characteristics (SOGIESC); vigilante violence; and state-sponsored persecution. Consequently, LGBTQI+ Afghan refugees require exceptionally urgent and expedited resettlement assistance given that local integration and voluntary repatriation are not viable or durable solutions. Many are relegated to safe houses, while others cannot leave Afghanistan without a clear path to a safer third country. **These individuals are in hiding and at severe risk.**

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<sup>1</sup> [Section 25\(1\)](#) of the IRPA affords the Minister of Immigration, Refugees, and Citizenship the power to grant permanent residency on humanitarian or compassionate grounds to a foreign national who is otherwise inadmissible or who does not meet the requirements of the IRPA.

<sup>2</sup> Government of Canada, “[Canada expands resettlement program to bring more Afghans to safety](#)”, date: 2021-08-13.

<sup>3</sup> Government of Canada, “[#WelcomeAfghans: Key figures](#)”, date: 2021-04-21.

<sup>4</sup> Ibid.

Rainbow Railroad began working on the ground in Afghanistan after the fall of Kabul in August 2021, and our work intensified immediately after the Taliban takeover in September 2021. We immediately started working in neighboring countries where we assisted displaced and at-risk LGBTQI+ individuals, providing them sanctuary in our partnered safe houses. We are among the few global non-profit organizations that facilitate international evacuations, and the only one with an LGBTQI+-specific mandate.

Rainbow Railroad has already undertaken significant engagement in Afghanistan due to the extreme and widespread nature of the threats facing LGBTQI+ people in the country. We have visited the region multiple times, established a civil society network with the limited remaining resources on the ground, and continue to work in collaboration with several European governments. Rainbow Railroad has facilitated the safe and legal passage of over 100 at-risk LGBTQI+ people out of Afghanistan since August 2021, while providing indirect support for hundreds of others.

We also have an ongoing referral partnership with the United States, that will result in 200 LGBTQI+ Afghans ultimately re-settling in Canada. As a Canadian organization, we believe there is a real opportunity to work with the Canadian government to help resettle vulnerable LGBTQI+ individuals from Afghanistan and beyond.

## The Opportunity

**Rainbow Railroad seeks a partnership with the Government of Canada that will allow the organization to immediately refer vulnerable LGBTQI+ individuals for resettlement in Canada.**

Since August 2021, Rainbow Railroad has successfully partnered with the United States, Ireland, and the United Kingdom to refer and resettle 250 triaged LGBTQI+ Afghan refugees. As a Canadian organization, we believe that formalizing a similar referral partnership with Canada is a critical next step to enhance pathways to permanent safety for the most vulnerable LGBTQI+ refugees from Afghanistan and around the world.

Rainbow Railroad is connected to the global underground networks that keep vulnerable LGBTQI+ people safe, and has the institutional knowledge and practical experience to provide them with passage to Canada. And while Canada's existing special humanitarian program for Afghan refugees<sup>5</sup> and the expanded Rainbow Refugee Assistance Partnership (RRAP)<sup>6</sup> provide needed support to LGBTQI+ Afghan refugees, individuals facing the most extreme risk require an emergency pathway to safety as government-assisted refugees. Now is the time for the Government of Canada to implement new policy measures to support LGBTQI+ Afghans at risk by working directly with Rainbow Railroad.

Thousands of LGBTQI+ Afghan refugees are in dire circumstances, and the Canadian Government has an opportunity to take direct, life-saving action to support these individuals. Right now,

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<sup>5</sup> Government of Canada, "[Humanitarian program for Afghan nationals in need of resettlement: How the program works](#)", date: 2021-11-29.

<sup>6</sup> Government of Canada, "[Canada announces new initiative to support LGBTQ2 refugees](#)" date: 2019-06-01.

Rainbow Railroad has identified over 300 LGBTQI+ Afghan individuals and counting with immediate and urgent evacuation needs who can be quickly resettled to Canada. These people are waiting for help in regional countries that criminalize same sex intimacy and diverse gender identity and expression, and are running out of time.

**A public policy under the Ministerial Authority of Section 25 of the IRPA would provide an immediate, temporary solution for at least 300 at-risk LGBTQI+ Afghans with the most urgent resettlement needs.**

**A referral partnership with Rainbow Railroad would allow us to leverage our internal expertise to triage cases, connect with local civil society networks, and support the Canadian government to pursue targeted responses for the most vulnerable cases.**

## Partnering with Rainbow Railroad

In recent years, we have witnessed Canada's commitment to prioritizing LGBTQI+ refugees, including introducing the Rainbow Refugee Assistance Partnership, as well as making inroads on gender recognition on passports<sup>7</sup>. While these are crucial developments, they are not enough to support LGBTQI+ persons facing immediate persecution and in need of refugee resettlement in Canada. This is because LGBTQI+ individuals face insurmountable barriers at every stage of the existing refugee process. As an LGBTQI+ organization with over 15 years of experience helping LGBTQI+ people the world over find safety, we know where the individuals with the most urgent protection needs are, and how to reach them, and urge the Government of Canada to make a historic commitment to partner with us. We're seeking a referral partnership similar to the refugee stream for human rights defenders<sup>8</sup> to help LGBTQI+ persons resettle in Canada.

Interventions of this nature require direct facilitation on the ground, and we have been successfully doing this from the beginning. Rainbow Railroad is sufficiently resourced and experienced to work in crisis situations, such that when the Afghanistan crisis hit, we immediately mobilized and began working on the ground to evacuate people on some of the first flights to depart to neighbouring Pakistan.

Rainbow Railroad has already begun collaborating directly with international governments to facilitate safe and legal passage of asylum seekers. As a Canadian organization that works at the nexus of the two named priority constituent groups of this federal government, refugees and LGBTQI+ people, there is an opportunity to collaborate with the government of Canada and advance protection pathways for them.

Canada is also in a unique position to champion LGBTQI+ rights globally. Canada is a founding member of the Organization of the American States (OAS) LGBTI Core Group. Canada also served as co-chair of the intergovernmental Equal Rights Coalition (ERC) from 2017 to 2019, and hosted the inaugural ERC Global Conference on LGBTI Human Rights and Inclusive Development. In 2019, Canada became a member of the UN LGBTI Core Group, a cross-regional group of UN

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<sup>7</sup> Government of Canada, "[Canadians can now identify as "X" on their passports](#)", date: 2021-06-04

<sup>8</sup> Government of Canada, "[Minister Mendicino launches a dedicated refugee stream for human rights defenders](#)", date: 2021-07-16.

member states. The government has a distinct opportunity to expand on this global legacy in a material way via direct referral pathways for vulnerable LGBTQI+ asylum seekers.

In short, Rainbow Railroad is ready to partner with the Government of Canada to facilitate and coordinate the evacuation of at-risk Afghans. We strongly believe this represents an opportunity for Canada to demonstrate its global leadership in the protection of LGBTQI+ asylum seekers and refugees.

### Why a Partnership is Necessary

There are 85 million displaced people in the world, and states must address the global forced displacement crisis by creating proactive asylum seeker protection pathways. Forces of displacement including conflict, climate change, political destabilization, humanitarian crises, and anti-LGBTQI+ crackdowns exacerbate pre-existing and ongoing persecution LGBTQI+ individuals face in-place and in forced displacement. LGBTQI+ persons are uniquely vulnerable in these situations.

We are extremely pleased at the swift action the Government continues to take in response to Russia's ongoing invasion of Ukraine, including the creation of the *Canada-Ukraine Authorization for Emergency Travel* which provides unlimited temporary relocation visas<sup>9</sup>. We know from our extensive work with vulnerable populations that humanitarian visas are a vital resource for reaching LGBTQI+ individuals and are most effective when paired with qualified civil society organizations facilitating direct referrals. At the same time, we need the same tools to address the ongoing humanitarian crisis in Afghanistan.

States enacting relocation and resettlement refugee policies in response to crises are necessary and welcome, and yet, highly vulnerable LGBTQI+ persons experience multiple barriers to availing themselves of the existing refugee apparatus. LGBTQI+ persons need countries like Canada to lead the way and create comprehensive Internally Displaced Persons (IDP) and refugee crisis response policies. Currently, there is only one LGBTQI+-specific humanitarian corridor globally, and that's Canada's Rainbow Refugee Assistance Partnership (RRAP). Canada is already demonstrating leadership in international LGBTQI+ rights protection and has an opportunity to create an enduring legacy on this emerging global challenge.

**Establishing a referral partnership will help vulnerable LGBTQI+ refugees from Afghanistan, Ukraine and beyond find safety in Canada.**

This year, Rainbow Railroad projects to receive at least 10,000 requests for help from LGBTQI+ people all over the world, and the most efficient way to reach them is to innovate by partnering with governments directly. We operate through global partnership networks that provide ongoing monitoring in crisis-prone environments, and create pathways to safety when they occur. Presently, we are monitoring anti-LGBTQI+ persecution in many countries. This includes LGBTQI+ persons in Ukraine, human rights defenders who are at this moment being actively targeted in Chad, individuals displaced in the Kakuma refugee camp, and thousands stuck in Afghanistan. We need to develop proactive responses urgently that include protections for IDPs before further escalation occurs.

### Challenges facing LGBTQI+ Refugees and IDPs

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<sup>9</sup> Government of Canada, "[Canada to welcome those fleeing the war in Ukraine](#)", date: 2022-03-03.

Where legal protections for LGBTQI+ people do not exist, and where countries actively persecute the community, people face unimaginable human rights violations including killings, torture, arbitrary detention and widespread discrimination in access to health care, education, employment and housing. In recent years, we have seen an unsettling number of state-sponsored crackdowns, specifically targeting larger groups of LGBTQI+ persons and their allies. In these cases, human rights defenders and grassroots organizations are lifelines to individuals at risk, and in so doing, often become victims of violence themselves. **The result is an environment where the only option is to evacuate.**

When LGBTQI+ people do flee across borders to neighboring countries, refugee camps are often dangerous places for them. For example, many LGBTQI+ Ugandan's seek safety in Kenya in places such as in the Kakuma Refugee camp. As detailed in our co-authored report on Kakuma, LGBTQI+ displaced persons at Kakuma faced food shortages, flooding, unsanitary and inadequate shelter and facilities, violence and threats of violence from others within the camp and from the surrounding area, few options to gain a livelihood, and the ongoing denial of their human rights to express their authentic gender identity and/or sexual orientation.<sup>10</sup> LGBTQI+ asylum seekers can be barred from gaining refugee status determination, and state and civil society organizations that support refugees in these countries are often unresponsive or actively hostile to LGBTQI+ refugees.

While some people are able to flee, many factors prevent persecuted LGBTQI+ people from even escaping their country, leaving them internally displaced. Many LGBTQI+ people cannot turn to family for practical assistance, and lesbians and trans people may not be allowed to leave their homes without the support of male relatives. LGBTQI+ asylum seekers are systematically excluded from the labour market, severely limiting their ability to cover travel costs associated with escape. Trans women face a disproportionate risk of entrapment into sex trafficking. These individuals may face surveillance and threats from gangs, making the prospect of escape extremely difficult. In addition, trans people are also often unable to access travel documents that align with their gender, and trans, gender diverse and intersex people face heightened scrutiny at borders. Bisexual persons are often forced to conceal their identity in order flee, and for people who marry and start a family, they may be forced to flee without their children.<sup>11</sup>

**These are just some of the reasons why a referral partnership is important and why the partnership needs to address the needs of internally displaced persons (IDPs) and refugees.**

If protection policies are to reach the most vulnerable persons, Rainbow Railroad must be empowered to refer cases to the government. Over the past 10 years, Rainbow Railroad and our coalition partners at the Rainbow Coalition for Refuge,<sup>12</sup> have made significant progress in working with the Government of Canada – including: 1) Piloting the Rainbow Refugee Assistance Partnership in 2010, which became a durable program in 2019; 2) Making progress on gender recognition on passports; and 3) Establishing a refugee stream for human rights defenders (HRDs) with LGBTQI+ persons as a named priority group. In recent years, we have been asking the

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<sup>10</sup> Read Rainbow Railroad's Kakuma report in partnership with the Organization for Refugee, Asylum & Migration (ORAM) [here](#).

<sup>11</sup> Read Rainbow Railroad's report on The Impact of COVID-19 on Displaced LGBTQI+ Persons [here](#).

<sup>12</sup> The Canadian Rainbow Coalition for Refuge is an umbrella organization of LGBTQI+ refugee resettlement organizations in Canada. Its steering committee consists of Calgary Rainbow Railroad Station (End of the Rainbow Foundation), Capital Rainbow Refuge, Metropolitan Community Church of Toronto, Rainbow Railroad (co-chair), Rainbow Refugee (co-chair), and the Rainbow Refugee Association of Halifax.

government to prioritize the needs of LGBTQI+ asylum seekers including through the creation of a dedicated response plan which includes LGBTQI+ Internally Displaced Persons (IDPs), by establishing a direct referral partnership with Rainbow Railroad to identify and reach this particularly vulnerable population.<sup>13</sup> Enacting such a policy now would be vital to reaching at-risk LGBTQI+ asylum seekers in Afghanistan and neighbouring countries.

### **Why the Rainbow Refugee Assistance Partnership (RRAP) is Insufficient**

The government's move to expedite and increase Private Sponsorship of Refugees (PSR) spots as an option for resettlement is an important step. The RRAP program benefits a variety of demographics including: individuals who have the means to shelter in place in neighbouring countries for a longer period with lower risk of detection; individuals who fled Afghanistan in advance of the most recent crisis; individuals who are able to collaborate with coalition partners on detailed PSR application packages; and individuals whose sexuality was not disclosed in Afghanistan, or who have not been tracked or located by the Taliban or hostile community members in their new location.

However, there are a significant number of LGBTQI+ Afghans who need protection outside of the RRAP program. They include: individuals whose identities have been disclosed to the Taliban; individuals who fled Afghanistan to countries that criminalize same-sex intimacy with limited visa status and who are at risk of refoulement; trans, non-binary, and other visibly LGBTQI+ individuals who could be easily identified and persecuted in Afghanistan or neighbouring countries; individuals with complex medical or mental health concerns that limit their ability to safely flee and access the refugee apparatus.

**Rainbow Railroad strongly believes that additional, expedited slots under the RRAP will benefit only a certain demographic of Afghan refugees at risk. Therefore, additional, more immediate public policy solutions are necessary to meet the varied needs of our beneficiaries.**

Due to the protection concerns and persecution in Afghanistan long before this most recent crisis, many individuals who qualify for PSR under the RRAP fled the country prior to its fall to the Taliban last year. However, it remains that those most critically affected by the current crisis have severe and time-sensitive needs that require immediate action and processing either in Afghanistan, Pakistan, the UAE, or Iran.

The PSR program, even where highly expedited by IRCC, requires months of organizational investment from coalition members in order to recruit volunteers, prepare application paperwork, fundraise, prepare arrival logistics, and provide supportive communication with the applicant. Some Afghans already within the refugee apparatus can survive the wait for this medium-term solution; this is the best pathway to safety for these individuals, and LGBTQI+ civil society in Canada is ready to support them through existing streams. However, for the majority of individuals who have reached out to Rainbow Railroad since the most recent Taliban insurgency, awaiting the limited program offerings under PSR would be a death sentence - they simply do not have the time.

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<sup>13</sup> Read our report on three steps the Canadian government can take to provide more pathways to safety for LGBTQI+ Refugees [here](#).

**Rainbow Railroad's proposal is complementary to the RRAP.** Along with the Rainbow Coalition for Refuge, we commit to submitting RRAP applications under the PSR program. However, given the distinct differences in beneficiary profiles that the proposed program and RRAP serve, we contend that it is Canada's duty to activate both channels expeditiously.

Establishing a referral partnership with Rainbow Railroad and/or activating Section 25 of the IRPA would expedite the resettlement of triaged, high-risk LGBTQI+ Afghans in neighbouring countries. **Right now, we are asking the government to use one of these mechanisms to immediately allow 300 LGBTQI+ Afghans to enter Canada as GARs.**

## Conclusion

**LGBTQI+ asylum seekers need proactive protection mechanisms which include urgent humanitarian corridors, and comprehensive refugee and IDP policies.**

Over the past several years, Canada has begun to take a leadership role in advancing LGBTQI+ human rights internationally. Canada can continue to do so if they partner with organizations, such as Rainbow Railroad, that can operationalize expertise in refugee and asylum crisis response. We need to develop proactive crisis response solutions right now that include protections for refugees and IDPs before further escalation occurs.

LGBTQI+ persons experience barriers to fully availing themselves of the existing international refugee apparatus, and partnership with SOGIESC CSOs will help reach them. Rainbow Railroad operates through global partnership networks that provide ongoing monitoring in crisis-prone environments, and create pathways to safety when they occur. Since August 2021, Rainbow Railroad has collaborated directly with governments in Ireland, the U.K., and the U.S., to enable the passage of LGBTQI+ Afghan refugees with the most urgent protection needs. This year, we will receive at least 10,000 requests for help from LGBTQI+ people all over the world, and the most efficient way to reach them is to innovate by partnering with governments directly.

**A direct referring partnership allowing Rainbow Railroad to immediately refer vulnerable LGBTQI+ individuals from Afghanistan, Ukraine, and beyond for resettlement in Canada is the next step.**

## Recommendations

We propose two existing Canadian policy mechanisms the government can activate:

- 1. We ask the Minister of Immigration to use their authority under Section 25 of the Immigration and Refugee Protection Act<sup>14</sup> to create a public policy to urgently resettle at least 300 pre-identified LGBTQI+ Afghan refugees as Government Assisted Refugees (GARs).**
- 2. We ask the Government of Canada to make Rainbow Railroad a direct referring partner to allow the organization to immediately refer vulnerable LGBTQI+ individuals from Afghanistan, Ukraine, and beyond for resettlement in Canada.**

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<sup>14</sup> [Section 25\(1\)](#) of the IRPA affords the Minister of Immigration, Refugees, and Citizenship the power to grant permanent residency on humanitarian or compassionate grounds to a foreign national who is otherwise inadmissible or who does not meet the requirements of the IRPA.



A direct referral partnership with Rainbow Railroad is the best way to reach LGBTQI+ asylum seekers with the most urgent protection needs from around the world, while also responding to the ongoing situation in Afghanistan. Rainbow Railroad is ready to work directly with the Canadian Government and settlement partners across the country to help LGBTQI+ Afghan refugees build prosperous, free lives in Canada.

### About Rainbow Railroad

Rainbow Railroad<sup>15</sup> was founded in 2006 as a volunteer-run advocacy organization. We became a registered charity in Canada in 2013, and a registered 501(c)(3) organization in the United States in 2016 with a mission to address violence toward LGBTQI+ people worldwide and help LGBTQI+ individuals find safe haven from state-enabled violence and persecution. Rainbow Railroad is recognized as a global leader in LGBTQI+ refugee protection with over 15 years of experience successfully triaging and referring vulnerable refugee cases to resettlement countries in Europe and North America.

In the spirit of and in homage to the Underground Railroad, the mission of Rainbow Railroad is to help LGBTQI+ people as they seek safe haven from state-directed violence, murder, or persecution. Since our founding Rainbow Railroad has supported over 3,100 people in their journey towards safety. Last year, over 8,500 LGBTQI+ individuals reached out to Rainbow Railroad from around the world.

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<sup>15</sup> For more information visit: [www.rainbowrailroad.org](http://www.rainbowrailroad.org)