



U.S. Citizenship
and Immigration
Services

Memorandum

TO: All Refugee, Asylum and International Operations (RAIO) Employees

FROM: Ted H. Kim **TED H KIM**
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Refugee, Asylum and International Operations

SUBJECT: Revised Guidance on Informal ("Camp") Marriages

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PURPOSE

As of the date of this memorandum, RAIO is rescinding marriage guidance previously issued by RAIO divisions: "*Guidance for the treatment of refugee cases that include an informal marriage to an RE-2 derivative spouse (2018)*"¹ and "*Form I-730 Informal Marriage Guidance (2019)*."² RAIO officers shall no longer apply this previous guidance. RAIO will instead return to the prior interpretation of the place-of-celebration rule, recognizing that, in certain circumstances, a spousal relationship may exist for the purpose of obtaining derivative refugee and/or asylee status if there is evidence of an informal marriage for adjudications of Form I-589, *Application for Asylum and for Withholding of Removal*, Form I-590, *Registration for Classification as Refugee*, and Form I-730, *Refugee/Asylee Relative Petition*.

DISCUSSION

Historically, informal ("camp") marriages have been recognized in certain circumstances for the purpose of refugee adjudications due to the unique and humanitarian nature of refugee status.³ The legacy Immigration and Naturalization Service (INS) Refugee Program had a long-

¹ See memorandum by the former RAIO Refugee Affairs Division, entitled "Guidance for the treatment of refugee cases that include an informal marriage to an RE-2 derivative spouse" (dated May 3, 2018) ("RAD 2018 Marriage Guidance").

² See memorandum by the former RAIO International Operations Division, entitled "Form I-730 Informal Marriage Guidance" (dated Feb. 14, 2019) ("IOD 2019 Marriage Guidance").

³ The term "informal marriage" includes marriages that are not legally recognized in the place of celebration for the reasons described in this memo. While the term "camp" marriage was historically used to describe recognition of certain marriages for the purpose of refugee classification, the term "informal marriage" includes marriages that may have occurred outside of a camp, and marriages a refugee is unable to perfect in their

standing practice of interpreting the meaning of derivative spouse⁴ to permit the recognition of informal marriages in certain circumstances because a country of first asylum may not permit, or may deny individuals access to, marriage under its jurisdiction. Until 2018, USCIS maintained this INS-initiated approach for refugees and recognized this as a narrow exception to the place-of-celebration⁵ rule for refugee informal marriages.⁶

RAIO divisions issued revised marriage guidance pertaining to the place-of-celebration rule on January 29, 2018⁷ for accompanying refugee applicants and February 14, 2019⁸ for following-to-join refugee and asylee beneficiaries. Under this revised framework, a marriage was recognized for immigration purposes only if the marriage was valid under the law of the jurisdiction in which it was performed. Upon the issuance of the 2018 and 2019 guidance, RAIO no longer applied the narrow exception to the place-of-celebration rule which had previously been in effect.

Neither the federal courts nor the Board of Immigration Appeals (BIA) have addressed the unique circumstances of refugees who are unable to return to their country of citizenship or origin to marry, and who are also not afforded the same rights or access to institutions as citizens and other residents to marry or have their marriages recognized by the government of

country of origin or country of first asylum. Therefore, RAIO will use the term “informal marriage”. The term “informal marriage,” for purposes of this memorandum, does not include marriages that are legally valid in the place of celebration even if they lack formality, such as certain common law marriages.

⁴ An accompanying or following-to-join spouse as expressed in Immigration and Nationality Act (INA) section 207(c)(2)(A).

⁵ USCIS is generally bound by the “place-of-celebration” rule that requires the legal validity of a marriage be determined by the law of the place where the marriage was celebrated for immigration purposes. See, e.g., *USCIS Policy Manual Vol. 12, Part G, Chapter 2* (citing to *Matter of Lovo-Lara*, 23 I&N Dec. 746 (BIA 2005); *Matter of Da Silva*, 15 I&N Dec. 778 (BIA 1976); *Matter of H-1*, 1 I&N Dec 640 (BIA 1962)).

⁶ The legacy INS Refugee Program had a longstanding policy to interpret INA 207(c)(2)(A) (providing for derivative refugee status for the spouse of an individual admitted as a refugee) as allowing the recognition of “camp marriages” in certain circumstances. When USCIS was established it maintained this approach, and continued to do so for refugees who were prevented from complying with formal marriage registration requirements based on circumstances that are beyond their control and result directly or indirectly from their flight from persecution. In 2006, RAIO formalized the de facto recognition of a narrow exception to the place-of-celebration rule for refugee informal marriages. The exception was applicable to the marriages of refugees who were unable to lawfully marry or have their marriages recognized by the authorities of the host country on the basis that the restriction(s) resulted from their flight from persecution. On May 28, 2015, RAIO issued internal guidance memorializing this interpretation.

⁷ See RAD 2018 Marriage Guidance. The guidance rescinded the previous RAD marriage guidance that recognized the narrow exception, and stated instead that the place-of-celebration rule should now apply in determining eligibility for refugee derivative spouses. Note, the January 29, 2018 guidance was superseded by the RAD May 3, 2018 guidance. See also Response to Query from Refugee Affairs Division, Policy Branch regarding Guidance for the treatment of refugee cases that include an RE-2 derivative spouse, dated Feb. 14, 2019.

⁸ See IDD 2019 Marriage Guidance. The guidance stated, “...there are no exceptions to the general place-of-celebration rule that we may apply to maintain bona fide family units whose unions are not valid under applicable foreign laws.”

the country to which they have fled. Further, the BIA has never explicitly prohibited the long-standing narrow exception RAIO previously recognized.

On February 4, 2021, the President issued Executive Order (E.O.) 14013 on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration, which provided an opportunity for RAIO to review its current informal marriage policy.⁹ As a result of this review, RAIO has determined that renewing the legally permissible narrow exception to the place-of-celebration rule for derivative refugee and/or asylee spouses furthers DHS directives in E.O. 14013, is consistent with long-standing RAIO policy and practice, and promotes family unity. Without this narrow exception, individuals in committed relationships with refugees and asylees who are unable to formally perfect their marriage could remain separated from their families and may need to independently establish access to the U.S. Refugee Admissions Program and eligibility as a refugee.

Therefore, RAIO will return to its prior interpretation of the place-of-celebration rule, which recognizes that in certain circumstances a spousal relationship may exist for the purposes of obtaining derivative refugee and/or asylee status if there is evidence of an informal marriage.

IMPLEMENTATION GUIDANCE

Effective immediately, RAIO is rescinding the marriage guidance previously issued in 2018 and 2019: *“Guidance for the treatment of refugee cases that include an informal marriage to an RE-2 derivative spouse,”* and *“Form I-730 Informal Marriage Guidance”* and all associated materials, or portions thereof, developed in reliance on these guidance documents. RAIO will instead return to its prior interpretation of the place-of-celebration rule and will recognize that, in certain circumstances described below, a spousal relationship may be evidenced by an informal marriage for the purposes of adjudicating derivative refugee and/or asylee claims for pending and newly filed Forms I-589, I-590, and I-730.¹⁰

⁹ The E.O. directs the Department of Homeland Security (DHS) to consider appropriate actions to recognize “spouses” for purposes of derivative status in the U.S. Refugee Admissions Program, including same-sex, interfaith or camp-based marriages. The E.O. also directs DHS to administer U.S. humanitarian programs to reflect the principle that family reunification is in the national interest. See Sections 1(f) and 4(j) of [Executive Order 14013, Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration](#), 36 Fed. Reg. 8,839 (Feb. 9, 2021). This memorandum addresses guidance concerning informal marriages only for certain RAIO adjudications.

¹⁰ RAIO has weighed alternatives to this memo and considered if the change in policy to revert to the 2015 policy implicates any reliance interests, if reliance interests were significant, and weighed any reliance interests against competing policy concerns. RAIO cannot think of any party that would have taken actions or incurred economic costs based on RAIO continuing to not recognize marriages unrecognized in the place of celebration (informal marriages). Therefore, RAIO has concluded that there are no serious reliance interests that would be negatively affected by rescinding the current marriage guidance and recognizing that a spousal relationship may exist if there is evidence of an informal marriage. RAIO will reconsider previously denied Forms I-590 or I-730 in accordance with this guidance subject to further instructions (note the previous guidance did not apply to the Form I-589).

This guidance outlines an exception to the general place-of-celebration rule for certain RAIO adjudications where the spouses demonstrate that they are unable to have their marriage legally recognized in the place of celebration as a result of their flight from persecution and circumstances beyond their control¹¹ or due to restrictive laws or practices in their country of origin or country of first asylum. For the exception to apply, spouses who have been prevented from obtaining a valid marriage or formal perfection of the marriage must also show indicia of a marriage.¹²

Thus, for Forms I-589, I-590, and I-730, RAIO officers may be able to recognize the following:

- Informal marriage
- Informal divorce of an informal marriage
- Informal marriage following the informal divorce of an informal marriage

However, RAIO officers are not able to recognize the following:

- Informal divorce of a legally valid marriage recognized in the place of celebration
- Subsequent marriage (informal or legal) following the informal divorce of a legally valid marriage recognized in the place of celebration.

During the adjudication of a Form I-589, I-590, or I-730, RAIO officers shall not apply or consider any guidance or materials that are inconsistent with this memorandum. RAIO will update any internal resources as needed to align with this guidance. RAIO officers may direct questions regarding this guidance to the appropriate HQ mailbox.



USE

This Policy Memorandum is intended solely for the guidance of RAIO officers in the performance of their official duties, but it does not remove their discretion in making adjudicatory decisions. It may not be relied upon to create any right or benefit, substantive or procedural, enforceable under law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

¹¹ Failure to perfect a marriage may include, for example, inability to comply with formal registration requirements in that jurisdiction. Additional examples of circumstances beyond the couple's control and relating to the flight from persecution would include but are not limited to an inability to access host country institutions due to refugee policies or conditions, discriminatory government policies or practices, or other consequences of the flight from persecution.

¹² A non-exhaustive list of indicia of a marriage includes the color of a marriage ceremony, cohabitation over a period of time, holding themselves out to be spouses over a period of time and children born to the union.