

CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

Assisting Afghan Nationals with Re-Parole and Beyond

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Agenda

- What is re-parole/extension of parole and who is eligible?
- Employment authorization considerations
- Eligibility for ORR benefits
- Trends and issues in asylum filings
- Adjustment of status based on asylum
- Family Reunification

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What is re-parole/extension of parole for certain Afghan nationals?

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Who is eligible for re-parole or extension of parole?

- Paroled into US on or after July 31, 2021
- Paroled under OAR/OAW/PAR
- Afghanistan as country of citizenship



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What is extension of parole and to whom does it apply?

- Afghan nationals who have pending applications for permanent benefits:
 - Adjustment of status
 - Asylum
- Note: TPS is NOT an application for permanent benefit

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Poll: Who has received an I-131 approval or I-797C?

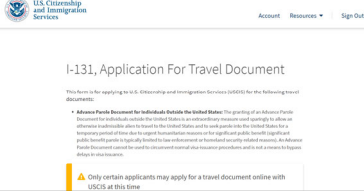
- Do you have a client with a pending permanent benefit application who has already received an extension of parole?
 - Yes
 - No
- Do you have a client who filed Form I-131 and has already received an approval notice?
 - Yes
 - No

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Who should apply for re-parole?

- Afghan nationals without pending adjustment of status or asylum
- Paroled under PAR or OAW/OAR on or after July 31, 2021
- Those who have only filed for TPS



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Employment Authorization Considerations

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Employment Authorization and Extension of parole vs. Re-Parole

<ul style="list-style-type: none"> • Parole extension: • I-797C sent – work authorization valid incident to parole • I-797C proof of work authorization for duration of parole • EAD not automatically sent, need to file I-765 	<ul style="list-style-type: none"> • Re-Parole: • I-797 Receipt Notice does not grant extension of parole or extension of EAD • Request EAD on the I-131 form • EAD processed and sent to address listed on I-131
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Multiple EAD bases

The diagram consists of five overlapping circles. The leftmost circle contains '(a)(12) (c)(19) TPS'. The top circle contains '(c)(9) Pending AOS'. The rightmost circle contains '(c)(8) Pending Asylum'. The central intersection of all three circles contains '(c)(11) Parole'. The bottom intersection of the left and top circles is empty. The bottom intersection of the top and right circles is empty. The bottom intersection of the left and right circles is empty.

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Practice Pointer on Extension of Parole and Work Authorization

- As a practitioner, you can add the case number from the first parole-based EAD to your USCIS account
- For pro se people – point them to the I-94 website as USCIS indicated this would likely be the first place that reflects a grant of an extension of parole
- File G-28 for initial (c)(11) EAD receipt number to receive a courtesy copy of the I-797C
- Reminder that physical EAD is not required to satisfy I-9 document requirements for those granted extension of parole

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Eligibility for ORR Benefits

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Afghan Parolees and ORR Benefits

- Afghan Parolees are eligible for ORR benefits
- Afghan parolees whose initial period of parole expires while their applications for re-parole, asylum, adjustment of status are pending can continue to receive ORR benefits



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Afghan Parolees Applying for Asylum

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Afghans Seeking Asylum Are Priority

- Section 2502 of the Afghanistan Supplemental Appropriations Act, 2022 (P.L. 117-43) requires USCIS:
 1. Conduct the initial asylum interview within 45 days of filing; and
 2. Complete final adjudication within 150 days of filing.

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The Law vs. Reality: What are you all experiencing?

1. What is currently the average wait for the scheduling of an initial asylum interview for an Afghan parolee?
 - a. Within 45 days of the I-589 receipt.
 - b. Within 2-3 months.
 - c. >3 months.
2. What is currently the average wait for a decision post-interview?
 - a. Within 150 days of filing.
 - b. Within 5-9 months.
 - c. >9 months.

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Delays in Scheduling Asylum Interviews

- Experiencing >45 days to schedule initial asylum interview.
- Resource shift to the border with end of Title 42 and New Asylum Processing Rules.



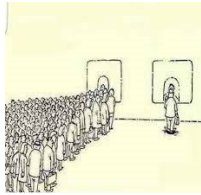
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Delays in Adjudication

- Adjudication of only 11% of the ~16,000 asylum applications pending as of April 2023.
- 99.6% Grant Rate.



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Other Reasons for Delay in Adjudication

- Complexity of many Afghan cases.
 - Terrorism-Related Inadmissibility Grounds (TRIG).
 - 3 DHS/DOS exemptions
- Concerns surrounding the Persecutor Bar to asylum.
 - E.g., Former Membership in the Afghan Military/NDS
- Application filings of extended family members based on similar claims.
 - Consistency in statements and review of evidence submitted

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Heightened Scrutiny at Interview

- Increasing number of questions relating to support of any kind to the Taliban.
 - 1990's
 - Post August 2021
- Sworn Statements.
 - Carefully review and demand a copy!
- Re-interview Requests.



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Tips to Expedite Scheduling/Adjudication

- Email the local asylum officer post 150-days.
- Reach out to local congressional representative.
- Challenge these delays in federal district court under the Administrative Procedure Act (APA) and/or the Mandamus Act?

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Ahmed v. Department of Homeland Security

- Federal Lawsuit Brought by NIJC and Kirkland & Ellis LLP representing class action of Afghan asylum seekers facing prolonged waits on adjudication of asylum claims.
- The plaintiffs ask the court to order DHS and USCIS to decide all overdue Afghan asylum adjudications within 30 days and to abide by the 150-day deadline in the future.

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Afghan Asylees Applying to Adjust Status

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Adjustment of Status for Afghan Asylees

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- Physically present in the United States at the time of filing;
- Physically present in the United States for at least one year after being granted asylum *at the time the application is adjudicated*;
 - Can file the I-485 earlier than before
- Continue to meet the definition of a refugee, or to be the spouse or child of a refugee;
- Not firmly resettled in any foreign country;
- Grant of asylum has not been terminated;
- Admissible to the United States for lawful permanent residence or eligible for a waiver of inadmissibility or other form of relief (Form I-602); and
- Merits the favorable exercise of discretion.

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Tips for Screening Clients for AOS

- Screen for potential grounds of inadmissibility.
- Thoroughly review the record.
 - Particularly for pro se applicants at the I-589 stage.
 - Failure to disclose information that could trigger inadmissibility/bars to asylum.
 - Obtain copy of file, such as filing a FOIA request.

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Family Reunification

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Traditional Paths to Family Reunification through USCIS

- Asylees/Refugees/LPRs based on asylee or refugee status file Form I-730 for spouse/child within two years of grant
- LPRs/USCs can file I-130 petitions for certain relatives, including lawful spouse and children
- Process for both petitions is similar
 - File with USCIS
 - Upon approval, petition is transferred to State Department for submission of documents and scheduling of interview

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Principal is LPR based on SIV

If an LPR entered the United States as an SIV holder, and if the SIV holder married or had a child **before** entering the United States, contact DOS so that the SIV holder's spouse or child can apply for an immigrant visa

If an LPR did **not** enter the United States as an SIV holder but instead adjusted to Special Immigrant status, and if the marriage occurred before or the child was born **before** adjusting to Special Immigrant status, file an I-824 to send the petition overseas

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DS-4317

- Parolee or Granted TPS may file form for lawful spouse and unmarried children (including children who were unmarried and were under the age of 21 on August 14, 2021)
- Process:** CARE/DOS (Department of State)
- Application filed:** DoS Website: <https://seirprod.servicenowservices.com/reunification>
- Timeframe:** No information
- Fee:** No Fee

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Departure Assistance if still in Afghanistan

- Following submission of DS4317, individuals report being contacted by CARE a few months later, usually from this email address: CARETravelData@state.gov
- Will request submission of passports, tazkeras, and marriage certificates
- May also assist those awaiting immigrant visa processing and (possibly) I-730 beneficiaries
- Processing will be slow and will happen through a third country

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POLLS

- 1) Have you been contacted by CARE post submission of a DS 4317 or regarding an immigrant visa case?
- 2) Have any clients received departure assistance from Afghanistan?

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Temporary Protected Status

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TPS Registration Period


- Registration period for initial registration runs through Nov. 20, 2023.
- Likely to be extended, usually announced 60 days prior to the expiration
- No downside to registering but client may not need it
 - Some Afghans may be eligible for late initial registration if have a pending application for asylum, adjustment of status or parole.

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Temporary Protected Status

No in-person interviews for TPS. If an indication that a bar applies (often triggered by disclosure of military service), USCIS may issue a Request for Evidence for a detailed statement issuing possible persecutor bar/TRIG issues



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Resources

- CLINIC Resource Page for Afghans
 - <https://www.cliniclegal.org/issues/assistance-for-afghans>
- I-730 Manual and ListServ
 - <https://www.cliniclegal.org/resources/asylum-and-refugee-law/i-730-refugeeasylee-family-reunification-practice-manual>
- ORR Benefits for Afghan Parolees
 - <https://www.acf.hhs.gov/sites/default/files/documents/orr/Benefits-for-Afghan-Humanitarian-Parolees.pdf>.
- VECINA
 - <https://vecina.teachable.com/p/re-parole-for-afghan-evacuees>
- HIAS
 - <https://hias.org/afghan-refugee-crisis-how-you-can-help/>
- Immigration Legal Services for Afghan Arrivals (ILSAA)
 - <https://ilsaa.acf.hhs.gov/afghan-arrivals/>

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Questions?



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CLINIC's Mission Statement

Embracing the Gospel value of welcoming the stranger, CLINIC promotes the dignity and protects the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration progrEC.

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