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Immigration Options for Immigration Parolees

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Immigration Options for Immigration Parolees

Since 2021, the Department of Homeland Security (DHS) has granted immigration parole through special initiatives to more than 350,000 persons from Afghanistan, Cuba, Haiti, Nicaragua, Ukraine, and Venezuela. Parole under these initiatives generally has been provided for two years. A person paroled into the United States (parolee) may stay in the country for the duration of the parole period and apply for work authorization. A parolee, however, does not have a dedicated pathway to U.S. lawful permanent resident (LPR) status or another immigration status.

The parole provision in the Immigration and Nationality Act (INA) gives the DHS Secretary discretionary authority to “parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States.” Parole can be requested by foreign nationals inside or outside the United States in a range of circumstances.

With the exception of Cubans, beneficiaries of the recent special parole processes, like immigration parolees generally, do not have a dedicated pathway to another form of immigration relief or an immigration status once their parole periods expire. However, they may be eligible individually for one or more immigration mechanisms that offer a way to remain lawfully in the United States on a temporary or permanent basis. Existing temporary options include re-parole and temporary protected status (TPS). Existing options that provide LPR status or a dedicated pathway to LPR status include asylum, family-based immigration, and, in the case of Afghans, special immigrant visa (SIV) programs.

Contents

Introduction	1
Immigration Parole	1
Special Parole Initiatives Since 2021	2
Afghans	2
Ukrainians	3
Venezuelans	4
Cubans, Haitians, Nicaraguans, and Venezuelans	5
Immigration Options for Parolees	5
Temporary Mechanisms	6
Re-parole	6
Temporary Protected Status	6
Permanent Mechanisms	7
Asylum	7
Family-Based Immigration	8
Afghan Special Immigrant Visa Programs	9
New LPR Mechanism	10
Conclusion	10

Contacts

Author Information	11
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Introduction

Since 2021, the Department of Homeland Security (DHS) has granted immigration parole through special initiatives to more than 350,000 persons from Afghanistan, Cuba, Haiti, Nicaragua, Ukraine, and Venezuela. As of the cover date of this report, it continues to make these parole grants. Parole under these initiatives generally has been provided for two years. A person paroled into the United States (parolee) may stay in the country for the duration of the parole period and apply for work authorization. A parolee, however, does not have a dedicated pathway to U.S. lawful permanent resident (LPR) status¹ or another immigration status.

As beneficiaries of these special parole processes near the end of their authorized periods of parole, policy questions arise about their ability to remain lawfully in the United States. This report addresses these questions. It begins with an overview of immigration parole and its use for special populations since 2021. It then considers temporary and permanent immigration options that may be available to parolees who want to remain in the United States after their parole periods end.

Immigration Parole

The parole provision in the Immigration and Nationality Act (INA)² gives the DHS Secretary discretionary authority to “parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States.”³ The DHS Secretary’s parole authority has been delegated to three agencies within the department: U.S. Citizenship and Immigration Services (USCIS), U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP). Parole can be requested by foreign nationals inside or outside the United States in a range of circumstances.⁴

Immigration parole is official permission to enter (if the beneficiary is outside the country) and remain temporarily in the United States. It does not constitute formal admission under the U.S. immigration system. A parolee may apply for an employment authorization document (EAD) for a fee.⁵ USCIS announced in February 2022 that under updated policy guidance, it “will generally grant new and renewed EADs up to the end of the parole [period].”⁶

¹ A person with LPR status (referred to as an *LPR*) can reside in the United States indefinitely.

² The INA is Act of June 27, 1952, ch. 477, as amended, codified at 8 U.S.C. §1101 et seq.

³ INA §212(d)(5), 8 U.S.C. §1182(d)(5). *Alien* is defined in the INA as a person who is not a U.S. citizen or a U.S. national; INA §101(a)(3), 8 U.S.C. §1101(a)(3).

⁴ For further discussion, see CRS Report R46570, *Immigration Parole*.

⁵ Applicants who are unable to pay may request a fee waiver. See Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), “I-765, Application for Employment Authorization,” <https://www.uscis.gov/i-765>.

⁶ DHS, USCIS, “USCIS Updates Guidelines on Maximum Validity Periods for New Employment Authorization Documents for Certain Applicants,” February 7, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidelines-on-maximum-validity-periods-for-new-employment-authorization-documents-for>. Under prior USCIS guidance, in some cases, EADs were issued for a validity period shorter than the underlying parole period, requiring some parolees to file multiple applications for employment authorization. DHS, USCIS, *Updating General Guidelines on Maximum Validity Periods for Employment Authorization Documents based on Certain Filing Categories*, February 7, 2022.

Special Parole Initiatives Since 2021

Since 2021, the Biden Administration has used discretionary parole authority to enable persons with particular nationalities to lawfully enter and reside in the United States.⁷ These initiatives are distinct from the standard process through which persons outside the United States can apply to DHS's USCIS for immigration parole.⁸

Afghans

In late July 2021, during the U.S. military withdrawal from Afghanistan, the U.S. government began facilitating the evacuation of Afghans from the country.⁹ Tens of thousands of Afghan evacuees were relocated to the United States during summer 2021, including more than 70,000 who were granted immigration parole at a U.S. port of entry by CBP.¹⁰ These evacuees did not submit parole applications in advance of their arrival. Their parole grants were typically for two years. According to DHS, by the end of FY2022, when relocation and resettlement efforts under Operation Allies Welcome (OAW) came to a close, a total of 77,111 Afghans had been paroled into the United States.¹¹

In accordance with legislation making Afghans paroled into the United States during specified time periods eligible for refugee-like benefits, DHS considers such Afghan parolees to be employment authorized incident to status. As such, they do not need to wait for their EAD applications to be approved before they can legally work. These parolees are also exempt from application fees for initial EADs.¹²

In June 2023, DHS announced that through July 31, 2024, it would consider certain Afghan parolees for two-year extensions of their original parole periods.¹³ These extensions are limited to Afghan parolees “who apply for asylum or for adjustment to lawful permanent resident ... prior to the expiration of their initial parole period”¹⁴ (see the “Permanent Mechanisms” section). Eligible individuals, who include the spouses and children of the principals filing these

⁷ For information about the use of parole for members of designated populations in earlier years, see CRS Report R46570, *Immigration Parole*.

⁸ For information on the standard process, see DHS, USCIS, “Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States,” <https://www.uscis.gov/humanitarian/humanitarianpublicbenefitparoleindividualsoutsideUS>.

⁹ For additional information about these evacuations, see CRS Report R46879, *U.S. Military Withdrawal and Taliban Takeover in Afghanistan: Frequently Asked Questions*, pp. 56-58.

¹⁰ DHS, *Operation Allies Welcome Afghan Evacuee Report*, December 2021, p. 2, <https://www.dhs.gov/sites/default/files/2022-03/DMO-OSEM%20-%20Department%20of%20Homeland%20Security%20Operation%20Allies%20Welcome%20Afghan%20Evacuee%20Report.pdf>.

¹¹ Email from USCIS to CRS, January 27, 2023.

¹² DHS, USCIS, *Certain Afghan and Ukrainian Parolees Are Employment Authorized Incident to Parole*, November 21, 2022, <https://www.uscis.gov/newsroom/alerts/certain-afghan-and-ukrainian-parolees-are-employment-authorized-incident-to-parole>. The legislation is P.L. 117-43, Division C, §2502(a), (b); and P.L. 117-328, Division M, §1501. For additional information about Afghan parolee eligibility for public benefits, see CRS Report R46950, *Afghan Eligibility for Selected Benefits Based on Immigration Status: In Brief*.

¹³ DHS, USCIS, *Applications for Re-Parole and Work Authorization Renewal Are Fee-Exempt for Certain Afghan Nationals*, June 9, 2023, <https://www.uscis.gov/newsroom/alerts/applications-for-re-parole-and-work-authorization-renewal-are-fee-exempt-for-certain-afghan>.

¹⁴ DHS, USCIS, “Re-Parole Process for Certain Afghans,” updated June 8, 2023, <https://www.uscis.gov/humanitarian/information-for-afghan-nationals/re-parole-process-for-certain-afghans>. *Adjustment of status* is the process of becoming an LPR from within the United States.

applications, do not have to submit parole extension applications. According to DHS, certain other Afghan parolees could apply for re-parole (see the “Re-parole” section).

Ukrainians

On April 21, 2022, about two months after the February 2022 Russian invasion of Ukraine, the U.S. government announced the Uniting for Ukraine parole program. The program began on April 25, 2022. The Administration described it as “a new streamlined process to provide Ukrainian citizens who have fled Russia’s unprovoked war of aggression opportunities to come to the United States.”¹⁵

Unlike the process for Afghan evacuees relocated to the United States, Uniting for Ukraine is an application-based process in which successful applicants receive authorization to travel to the United States to request parole at a port of entry from CBP. Ukrainians do not apply for the Uniting for Ukraine program on their own behalf. Instead, a U.S.-based supporter must initiate the application process by submitting required paperwork, in which the supporter agrees to financially support the Ukrainian beneficiary.¹⁶ Uniting for Ukraine is available to Ukrainian citizens and their immediate family.¹⁷

Between the start of the February 2022 Russian invasion and the establishment of Uniting for Ukraine, some Ukrainians travelled to the U.S. southwest border and were granted immigration parole, typically for one year. Multiple news outlets have reported that about 25,000 Ukrainians were given such one-year parole grants, citing DHS estimates.¹⁸ In March 2023, DHS announced that Ukrainians granted parole for one year at a port of entry between February 24, 2022, and April 25, 2022, would be considered for a one-year extension “to align with the two-year parole period provided under Uniting for Ukraine.”¹⁹

In March 2022, prior to the creation of Uniting for Ukraine, the United States announced “plans to welcome up to 100,000 Ukrainians and others fleeing Russia’s aggression through the full range of legal pathways.”²⁰ USCIS subsequently indicated that the 100,000 number was not a cap (for all pathways or for Uniting for Ukraine alone). According to a January 2023 USCIS FAQ, “there are no numerical limits on requests for travel authorization or parole under Uniting for Ukraine.”²¹ As of July 12, 2023, according to DHS, 178,458 Ukrainians had been authorized to

¹⁵ DHS, “Uniting for Ukraine,” <https://www.dhs.gov/ukraine>.

¹⁶ For further information about Uniting for Ukraine and the application process, see DHS, USCIS, “Uniting for Ukraine,” <https://www.uscis.gov/ukraine>; and DHS, “Implementation of the Uniting for Ukraine Parole Process,” 87 *Federal Register* 25040, April 27, 2022.

¹⁷ The term *immediate family*, as used in connection with Uniting for Ukraine and the other parole initiatives described in this report, includes spouses, common law partners, and unmarried minor children.

¹⁸ See, for example, Ted Hesson, “U.S. to extend humanitarian stay for Ukrainians who entered via Mexico border,” Reuters, March 13, 2023, <https://www.reuters.com/world/us/us-extend-humanitarian-stay-ukrainians-who-entered-via-mexico-border-2023-03-13/>.

¹⁹ See *ibid.*; and DHS, “Uniting for Ukraine” (“Information for Ukrainians Paroled before Uniting for Ukraine” tab), <https://www.dhs.gov/ukraine>.

²⁰ The White House, Fact Sheet: The Biden Administration Announces New Humanitarian, Development, and Democracy Assistance to Ukraine and the Surrounding Region, March 24, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/24/fact-sheet-the-biden-administration-announces-new-humanitarian-development-and-democracy-assistance-to-ukraine-and-the-surrounding-region/>.

²¹ DHS, USCIS, *Frequently Asked Questions About Uniting for Ukraine*, updated January 6, 2023, <https://www.uscis.gov/humanitarian/uniting-for-ukraine/frequently-asked-questions-about-uniting-for-ukraine>.

travel to the United States through Uniting for Ukraine, and 141,232 of them had arrived at a U.S. port of entry and been paroled in.²²

In accordance with legislation making Ukrainians paroled into the United States during specified time periods eligible for refugee-like benefits, DHS considers such Ukrainian parolees to be employment authorized incident to status. As such, they do not need to wait for their EAD applications to be approved before they can legally work. These parolees are also exempt from application fees for initial EADs.²³

Venezuelans

On October 12, 2022, DHS announced a new parole process for Venezuelans as part of “joint actions with Mexico to reduce the number of people arriving at our Southwest border and create a more orderly and safe process for people fleeing the humanitarian and economic crisis in Venezuela.” The announcement also stated that Venezuelans who entered the United States unlawfully between ports of entry would be returned to Mexico.²⁴

This parole process, which was available to Venezuelan citizens and their immediate family, was implemented on October 18, 2022. The *Federal Register* notice describing the program made clear that it was “conditioned on Mexico continuing to accept the expulsion or removal of Venezuelan nationals seeking to irregularly enter the United States between POEs.”²⁵

As described in the *Federal Register* notice, the process was modeled on Uniting for Ukraine, and like that program, it required a U.S. supporter to initiate the application process on behalf of a Venezuelan beneficiary and agree to provide financial support. The Venezuelan process, however, was subject to additional restrictions. For example, individuals were ineligible to be beneficiaries if they had entered Mexico or Panama without authorization after October 19, 2022. In addition, persons who received travel authorization through the program had to fly to a port of entry in the U.S. interior to request parole from CBP. The Venezuelan program was initially capped at 24,000 beneficiary travel authorizations.²⁶

In January 2023, DHS announced changes to the Venezuelan parole process, including the removal of the 24,000 cap.²⁷ It made these changes in conjunction with the creation of similar parole processes for nationals of Cuba, Haiti, and Nicaragua, as discussed in the next section.

²² Email from USCIS to CRS, July 19, 2023.

²³ DHS, USCIS, *Certain Afghan and Ukrainian Parolees Are Employment Authorized Incident to Parole*, November 21, 2022, <https://www.uscis.gov/newsroom/alerts/certain-afghan-and-ukrainian-parolees-are-employment-authorized-incident-to-parole>. The legislation is P.L. 117-128, §401. For additional information about Ukrainian parolee eligibility for public benefits, see CRS Report R47290, *Ukrainian Eligibility for Selected Benefits Based on Immigration Status: In Brief*.

²⁴ DHS, *DHS Announces New Migration Enforcement Process for Venezuelans*, October 12, 2022, <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans>. The Title 42 public health order was in effect at that time and permitted CBP to quickly expel migrants arriving at the U.S. border. For additional information, see CRS Insight IN12040, *New Immigration Policies Related to Venezuelan Migrants*.

²⁵ DHS, “Implementation of a Parole Process for Venezuelans,” 87 *Federal Register* 63507, 63508, October 19, 2022.

²⁶ *Ibid.*

²⁷ DHS, “Implementation of Changes to the Parole Process for Venezuelans,” 88 *Federal Register* 1279, January 9, 2023.

Cubans, Haitians, Nicaraguans, and Venezuelans

In January 2023, DHS implemented new parole processes for Cubans, Haitians, and Nicaraguans, along with an updated process for Venezuelans.²⁸ The notices on the new processes for Cubans, Haitians, and Nicaraguans stated that the United States would only make each process available while it could remove or return to Mexico persons from the relevant country who had crossed the southwest border without authorization. The DHS notices described the parole processes for nationals of Venezuela and each of the other three countries as being separate and independent. However, the four processes are largely the same and are commonly referenced together as the *Cuban, Haitian, Nicaraguan, and Venezuelan (CHNV) processes*. The processes are available to citizens of these countries and their immediate family.

The CHNV processes require a U.S.-based supporter to initiate the application process on behalf of a beneficiary and agree to provide financial support. Potential beneficiaries are subject to a number of ineligibilities, as under the original Venezuelan parole process. New restrictions have also been added since establishment of the CHNV processes. For example, a Cuban or Haitian interdicted at sea after April 27, 2023, is ineligible to be a beneficiary. As under the original Venezuelan program, persons who receive travel authorizations through these processes must fly to a port of entry in the U.S. interior to request parole from CBP.

The CHNV processes are subject to a combined monthly cap of 30,000 beneficiary travel authorizations. According to DHS, more than 188,000 persons received travel authorizations through the processes from January 2023 to June 2023. Of this total, more than 155,000 persons were paroled into the United States during this period.²⁹

USCIS announced in May 2023 that the number of applications (Forms I-134A) it was receiving from potential supporters “is significantly higher than the 30,000 monthly travel authorizations available.”³⁰ As a result, the agency changed its method of selecting applications to review in an effort to “maintain a meaningful and equitable opportunity” for all beneficiaries:

Under the new review process that went into effect on May 17, USCIS will randomly select about half of the monthly total [of 30,000], regardless of filing date, from the entire pending workload of Form I-134A to determine whether the case can be confirmed. We will review the other half of the monthly total of Forms I-134A based on when the case was submitted under the first-in, first-out method, which prioritizes the oldest Forms I-134A for review.³¹

Immigration Options for Parolees

With the exception of Cubans (as discussed below), beneficiaries of the aforementioned special parole processes, like immigration parolees generally, do not have a dedicated pathway to another

²⁸ Ibid; DHS, “Implementation of a Parole Process for Cubans,” 88 *Federal Register* 1266, January 9, 2023; DHS, “Implementation of a Parole Process for Haitians,” 88 *Federal Register* 1243, January 9, 2023; and DHS, “Implementation of a Parole Process for Nicaraguans,” 88 *Federal Register* 1255, January 9, 2023.

²⁹ DHS, Fact Sheet: Data From First Six Months of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans Shows That Lawful Pathways Work, July 25, 2023, <https://www.dhs.gov/news/2023/07/25/fact-sheet-data-first-six-months-parole-processes-cubans-haitians-nicaraguans-and-venezuelans>. The breakdowns by nationality for travel authorizations are Cubans (more than 38,000), Haitians (more than 63,000), Nicaraguans (nearly 29,500), and Venezuelans (more than 58,000). The breakdowns for parole grants are Cubans (more than 35,000), Haitians (more than 50,000), Nicaraguans (nearly 21,500), and Venezuelans (more than 48,500).

³⁰ DHS, USCIS, *USCIS Updates Review Process for the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, May 18, 2023, <https://www.uscis.gov/newsroom/alerts/uscis-updates-review-process-for-the-processes-for-cubans-haitians-nicaraguans-and-venezuelans>.

³¹ Ibid.

form of immigration relief or an immigration status once their parole periods expire. However, they may be eligible individually for one or more immigration mechanisms that offer a way to remain lawfully in the United States on a temporary or permanent basis. The following discussion focuses on the immigration mechanisms most relevant to beneficiaries of the special parole processes. It is limited to options that parolees can pursue from within the United States that do not require them first to obtain another immigration status.³²

Temporary Mechanisms

Among the temporary forms of relief that beneficiaries of the special parole processes may be eligible for are re-parole and temporary protected status (TPS). Congress could also choose to establish a new mechanism to provide temporary immigration relief or status to parolees.

Re-parole

Parolees in the United States who want to remain beyond their authorized parole period may request re-parole. This can be done by submitting a new parole application.

In May 2023, DHS announced that it was establishing a streamlined re-parole process for Afghan nationals who had been paroled into the United States through OAW or other means.³³ It provided additional details in June, announcing that “certain Afghan parolees in the United States who have not yet filed for any immigration benefit, or who have applied for a temporary benefit such as Temporary Protected Status, may now apply for re-parole and employment authorization through a new streamlined and fee-exempted application process”³⁴ (a separate process for Afghan parolees who had applied for asylum or LPR status is discussed in the “Afghans” section). DHS noted its view of “the need for re-parole to provide continuity in lawful presence and the ability to work and support one’s family while pursuing a more permanent immigration status.”³⁵

Temporary Protected Status

TPS is a form of humanitarian protection.³⁶ It is intended to provide safe haven for foreign nationals in the United States—regardless of their immigration status—whose home countries are experiencing armed conflict, natural disaster, or other extraordinary circumstances that prevent their safe return. The DHS Secretary can designate a country for TPS for an initial period of 6 to 18 months and can extend the designation in increments of up to 18 months if the country continues to meet the required conditions. Each TPS designation specifies the date from which an individual must have continuously resided in the United States to qualify. If a designation is

³² For this reason, for example, permanent employment-based immigration is not discussed. INA Section 245(c)(7) (8 U.S.C. §1255(c)(7)) bars a person from adjusting status under the employment-based system who is not in a lawful nonimmigrant status.

³³ DHS, *DHS Announces Upcoming Re-parole Process for Afghan Nationals*, May 5, 2023, <https://www.dhs.gov/news/2023/05/05/dhs-announces-upcoming-re-parole-process-afghan-nationals>.

³⁴ DHS, USCIS, *Applications for Re-Parole and Work Authorization Renewal Are Fee-Exempt for Certain Afghan Nationals*, June 9, 2023, <https://www.uscis.gov/newsroom/alerts/applications-for-re-parole-and-work-authorization-renewal-are-fee-exempt-for-certain-afghan>. For further information about this re-parole process, including eligibility, see DHS, USCIS, “Re-Parole Process for Certain Afghans,” updated June 8, 2023.

³⁵ DHS, USCIS, *Applications for Re-Parole and Work Authorization Renewal Are Fee-Exempt for Certain Afghan Nationals*, June 9, 2023.

³⁶ INA §244(b)(1), 8 U.S.C. §1254a(b)(1).

extended, the DHS Secretary may move the required arrival date forward to enable later arrivals to qualify. There are no numerical limits on TPS.³⁷

Individuals granted TPS are eligible for employment authorization and are not subject to removal from the United States. TPS may be held concurrently with another immigration status or form of relief, such as parole. Like parole, TPS does not provide a set pathway to LPR status.

The countries designated for TPS as of the cover date of this report include five whose nationals are also beneficiaries of special parole initiatives: Afghanistan, Haiti, Nicaragua, Ukraine, and Venezuela. Only in the Afghan case, however, does the start date of the parole initiative precede the required arrival date for Afghans to be eligible for TPS (March 15, 2022). This means that at present, only Afghans who were paroled in under a recent parole initiative (and arrived by March 15, 2022) can qualify for TPS. In order for nationals of the other four countries who have been granted parole under a special parole initiative to be eligible for TPS, the DHS Secretary would need to move the required arrival date for each country forward.³⁸

Permanent Mechanisms

Permanent immigration mechanisms that may enable parolees to become LPRs include mechanisms that directly grant LPR status, such as family-based immigration, as well as those that provide beneficiaries with a dedicated pathway to LPR status, such as asylum. The process of obtaining LPR status from within the United States is known as *adjustment of status*.

Special Pathway to LPR Status for Cuban Parolees

Unlike the nationals of any other country, Cubans who are inspected and admitted or paroled into the United States have a set pathway to LPR status. A 1966 law commonly known as the Cuban Adjustment Act (CAA; P.L. 89-732, 8 U.S.C. §1255 note), as amended, enables such Cubans to adjust status after being present in the United States for at least one year provided they are eligible to receive immigrant visas and are admissible to the United States for permanent residence. The CAA, which predated the Refugee Act of 1980, arguably reflected a belief that Cuban migrants to the United States were refugees under international law.³⁹ The ability to adjust status under the CAA is ongoing; the act does not include a sunset date or require potential beneficiaries to have arrived in the United States by a specified date.⁴⁰

Asylum

Asylum is a form of humanitarian relief that can be granted to a foreign national present in the United States who is determined to be a refugee and satisfies other requirements.⁴¹ The INA defines a *refugee*, in general, as a person who is outside his or her country of nationality and is unable or unwilling to return to, or to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution based on one of five protected

³⁷ For additional information about TPS, see CRS Report RS20844, *Temporary Protected Status and Deferred Enforced Departure*.

³⁸ For information about current TPS designations, including required arrival dates, see *ibid*. Cuba has never been designated for TPS.

³⁹ The official title of the CAA was “To adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes.”

⁴⁰ There have been legislative efforts over the years to sunset or repeal the CAA. In 1996, a provision was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA; Division C of P.L. 104-208) that provides for the repeal of the CAA “effective only upon a determination by the President ... that a democratically elected government in Cuba is in power.” The IIRIRA provision is Section 606, codified at 8 U.S.C. §1255 note.

⁴¹ The main asylum provisions are in INA Section 208, 8 U.S.C. §1158. For additional discussion of asylum, see CRS Report R45539, *Immigration: U.S. Asylum Policy*.

grounds: race, religion, nationality, membership in a particular social group, or political opinion.⁴² There are no numerical limits on asylum.

The INA places certain restrictions on asylum applications and asylum grants. Among the former, an asylum application must be filed within one year of the individual's arrival in the United States, unless the applicant qualifies for an exception. Statutory prohibitions on granting asylum include bars related to criminal activity and security concerns.⁴³

Asylum can be granted by USCIS or the Department of Justice's (DOJ's) Executive Office for Immigration Review (EOIR), depending on the type of application filed. A parolee in the United States who is the beneficiary of one of the special parole initiatives discussed above typically would file an affirmative asylum application with USCIS.⁴⁴ Persons whose asylum applications are approved are granted asylee status, along with their spouses and children.⁴⁵ After one year, asylees can apply to adjust to LPR status.⁴⁶

In the case of Afghans, Congress has directed DHS to expedite the processing of asylum applications filed by persons paroled into the United States between July 31, 2021, and September 30, 2023, and certain of their family members. DHS is required to conduct an initial interview within 45 days of the filing date and "in the absence of exceptional circumstances" to "issue a final administrative adjudication" within 150 days of the filing date.⁴⁷ At a June 2023 event, USCIS indicated that it had received about 14,000 asylum applications from Afghan parolees.⁴⁸

Family-Based Immigration

The INA authorizes U.S. citizens and LPRs to sponsor certain family members for LPR status. The family members may be inside the United States or abroad. U.S. citizens can sponsor *immediate relatives* in unlimited numbers. This term is defined in the INA to encompass U.S. citizens' spouses, children, and, if the citizens are adults (age 21 or older), parents. Other relatives of citizens and all relatives of LPRs eligible for sponsorship are subject to a numerically limited system of tiered preferences. Under the preference system, U.S. citizens may sponsor their unmarried and married adult sons and daughters and, if the citizens are adults, their siblings. LPRs may sponsor their spouses, children, and unmarried adult sons and daughters.⁴⁹

Because of statutory numerical limitations on family preference visas, individuals being sponsored by a relative under the family-based immigration system must wait for a visa number to become available before they can take the final steps to become an LPR. Once a visa number becomes available, prospective immigrants in the United States can apply to USCIS to adjust to

⁴² INA §101(a)(42)(A), 8 U.S.C. §1101(a)(42)(A).

⁴³ INA §208, 8 U.S.C. §1158.

⁴⁴ By contrast, a person in the United States who is in removal proceedings would file a defensive asylum application with EOIR. For additional information on defensive asylum applications, see CRS Report R47504, *Asylum Process in Immigration Courts and Selected Trends*.

⁴⁵ *Children*, as defined in INA Section 101(b)(1) (8 U.S.C. §1101(b)(1)) and as used in this report, refers to unmarried minor children.

⁴⁶ INA §209(b), 8 U.S.C. §1159(b).

⁴⁷ P.L. 117-43, Division C, §2502(c); P.L. 117-328, Division M, §1501.

⁴⁸ DHS, USCIS, *National Engagement on Re-Parole for Certain Afghan Nationals*, June 8, 2023, <https://www.uscis.gov/sites/default/files/document/outreach-engagements/NationalEngagementonReParoleforCertainAfghanNationals.pdf>. In a July 6, 2023, email to CRS, USCIS clarified that the 14,000 figure includes only principal applicants; it does not include their derivative spouses and children.

⁴⁹ For additional information about this system, see CRS Report R43145, *U.S. Family-Based Immigration Policy*.

LPR status. It is not known how many beneficiaries of the special parolee processes may be eligible to adjust status through the family-based immigration system.

Afghan Special Immigrant Visa Programs

The INA enumerates classifications of foreign nationals who can obtain LPR status as *special immigrants*.⁵⁰ There are classifications for certain religious workers, juveniles, and long-term employees of the U.S. government, among others. Two special immigrant programs explicitly cover Afghan nationals. (There are no special immigrant programs specifically for nationals of Cuba, Haiti, Nicaragua, Ukraine, or Venezuela.) Afghans can apply for special immigrant status under these programs from within the United States or abroad.

The two Afghan special immigrant visa (SIV) programs are aimed at persons who assisted the U.S. government in the fight against the Taliban and other forces. Each is subject to a separate set of requirements and application process. One is a permanent program, authorized in 2006, for persons who worked as translators or interpreters directly with U.S. Armed Forces or under Chief of Mission authority and their spouses and children. This program, which also applies to Iraqi nationals, has an annual numerical cap of 50 visas for principal applicants.⁵¹

The other Afghan SIV program is temporary. It was authorized in 2009 and has been amended and extended multiple times.⁵² It covers Afghans who were employed by or on behalf of the U.S. government or by the International Security Assistance Force (ISAF) and their spouses and children. Given its broader definition of eligible employment, it is seen as the potentially more relevant program for Afghan parolees. This program currently applies to Afghans who were employed in Afghanistan on or after October 7, 2001, for not less than one year, and satisfy other requirements. Like the permanent program, it is numerically limited. As of March 31, 2023, there were 15,377 SIVs available for issuance to principal applicants. The current application deadline is December 31, 2024.⁵³

According to DHS's April 2022 report on Afghan evacuees, many Afghans who were granted parole are potentially eligible for special immigrant status. The report characterized 33,671 Afghan evacuees as *SIV applicants*.⁵⁴ It defined *SIV applicants* as “those who had applied for but not received an SIV at the time of evacuation; and those who were eligible to do so, but have not begun the SIV application process yet.”⁵⁵ This prospective special immigrant total also included the accompanying spouses and children of the actual and potential principal applicants.

Persons applying under the Afghan SIV programs first must apply for classification as special immigrants. If their applications are approved and they are in the United States, they can then

⁵⁰ The term *special immigrant* is defined in INA Section 101(a)(27), 8 U.S.C. §1101(a)(27).

⁵¹ P.L. 109-163, Division A, Title X, §1059, as amended; 8 U.S.C. §1101 note. For additional information about this SIV program, see CRS Report R43725, *Iraqi and Afghan Special Immigrant Visa Programs*.

⁵² P.L. 111-8, Division F, Title VI, as amended; 8 U.S.C. §1101 note.

⁵³ Department of State, *Report to Congress on Posting of the Afghan Special Immigrant Visa Quarterly Report on the Department of State's Website*, April 2023, <https://travel.state.gov/content/dam/visas/SIVs/Afghan-Public-Quarterly-Report-Q2-April-2023.pdf>. For additional information about this SIV program, including its numerical limitations, see CRS Report R43725, *Iraqi and Afghan Special Immigrant Visa Programs*.

⁵⁴ These evacuees included persons who entered the United States as of January 31, 2022, as well as persons who were at certain locations abroad as of either January 31, 2022, or February 10, 2022. DHS, *Operation Allies Welcome Afghan Evacuee*, Quarterly Status Update 1, April 22, 2022, p. 4, <https://www.dhs.gov/sites/default/files/2022-06/DMO-OSEM%20-%20DHS%20Operation%20Allies%20Welcome%20Afghan%20Evacuee%20Report%20-%20Update%201.pdf>.

⁵⁵ *Ibid.*, p. 3.

apply to USCIS to adjust to LPR status.⁵⁶ As part of a November 2021 announcement about actions to facilitate the resettlement of Afghan nationals who were paroled into the United States on or after July 30, 2021, DHS indicated that applications filed by parolees to adjust status as Afghan special immigrants would be exempt from fees and eligible for streamlined processing.⁵⁷ The fee waiver is currently in effect through September 30, 2023.⁵⁸

At a June 2023 event, USCIS indicated that it had about 14,277 pending applications from Afghan parolees for adjustment to LPR status.⁵⁹ This figure includes applications under the Afghan SIV programs as well as applications under other LPR pathways, such as the family-based immigration system (discussed in the preceding section).

New LPR Mechanism

The preceding sections discuss existing permanent immigration options to provide parole beneficiaries with immigration relief or immigration status. Another possible option is for Congress to enact a new mechanism. Over the years, Congress has established special pathways to LPR status for particular groups of foreign nationals initially allowed to enter the country on immigration parole.⁶⁰ Legislation to establish such a mechanism for Afghans was introduced in the 117th Congress but received no action. The Afghan Adjustment Act (H.R. 8685/S. 4787) would have enabled certain Afghan nationals who met specified requirements to adjust to LPR status. The potential beneficiaries would have included Afghans who were paroled into the United States between July 30, 2021, and the bill's date of enactment.

Conclusion

More than 350,000 persons have been granted immigration parole, in most cases for two years, through the Biden Administration's special parole initiatives. Although this report considers these persons collectively as parolees, the particular parole initiatives they benefited from were responses to different sets of circumstances and U.S. policy considerations. These conditions may also impact beneficiaries' future immigration prospects. As parolees, they can all apply for applicable forms of temporary or permanent immigration relief or status. However, they may not all benefit equally from additional administrative or legislative measures to facilitate their continued lawful stay in the United States, such as the streamlined re-parole process and expedited asylum consideration available to Afghan parolees.

⁵⁶ For details about this application process, see DHS, USCIS, "Green Card for an Afghan Who Was Employed by or on Behalf of the U.S. Government" ("Application Process" tab), updated March 30, 2023, <https://www.uscis.gov/green-card-for-an-afghan-employed-behalf-us-government>.

⁵⁷ DHS, *DHS Announces Fee Exemptions, Streamlined Processing for Afghan Nationals as They Resettle in the U.S.*, November 8, 2021, <https://www.uscis.gov/newsroom/news-releases/dhs-announces-fee-exemptions-streamlined-processing-for-afghan-nationals-as-they-resettle-in-the-us>.

⁵⁸ DHS, USCIS, "Green Card for an Afghan Who Was Employed by or on Behalf of the U.S. Government" ("Application Process" tab), updated March 30, 2023.

⁵⁹ DHS, USCIS, *National Engagement on Re-Parole for Certain Afghan Nationals*, June 8, 2023, <https://www.uscis.gov/sites/default/files/document/outreach-engagements/NationalEngagementonReParoleforCertainAfghanNationals.pdf>. In a July 6, 2023, email to CRS, USCIS clarified that the 14,277 figure includes both principal applicants and their derivative spouses and children.

⁶⁰ For a discussion of historical parolee adjustment of status acts, see CRS Report R47165, *Permanent Immigration Options for Afghans with Immigration Parole*.

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