

## Affirmative Asylum Packet Cover Sheet

You have indicated that you, or someone you know, intends to apply or has applied for asylum in the United States. The enclosed materials provide general information about the asylum process in the United States and may be helpful for your case. Please note that there are two principle ways of obtaining asylum in the U.S. The affirmative asylum process is for individuals who are not in removal proceedings and the defensive asylum process is for individuals who are in removal proceedings. This packet addresses the affirmative asylum process.

If you choose to file for asylum, we strongly encourage you to seek the assistance of a lawyer or an agency authorized to represent immigration applicants. As the laws are complicated, it is important to obtain legal assistance before you file for asylum, if possible. Please note our office does not provide direct representation to asylum-seekers, either in their immigration proceedings or in any civil matter.

### *Asylum, Withholding of Removal and Relief under the Convention Against Torture*

Asylum is a form of protection which allows an individual to remain in the U.S. instead of being removed to a country of feared persecution. To apply for asylum in the United States, individuals must obtain and complete the required application (form I-589) and submit it with the appropriate attachments. The form I-589 is included in this packet, but it can also be obtained by calling the Department of Homeland Security (DHS) Forms Line at 1-800-870-3676, from DHS on the internet at [www.uscis.gov](http://www.uscis.gov), or from an agency authorized to represent immigrants.

U.S. immigration law requires that asylum-seekers apply for asylum within **one year** of arrival in the United States, unless they can demonstrate extraordinary circumstances for the delay or changed circumstances that significantly affect their eligibility for asylum. Individuals who file late must explain the reason for the delay in filing and may be denied the opportunity to apply for asylum.

*Please review carefully the enclosed materials.* They are provided in order to help you understand the law and procedure related to the affirmative asylum filing. Please note that the organizations that have prepared these documents are located in different parts of the United States and may have written certain parts of the document for people in proceedings in a specific state, therefore, please verify that you have the correct addresses for any submission or visits made to government offices. The guidance provided regarding the affirmative asylum process in general, however, applies to people across the United States, and is not state specific.

*The following materials are enclosed:*

1. A list of non-profit organizations in your area that may be able to help you if you do not have legal representation.
2. EOIR Legal Orientation Program, *What Should You Expect from Your Legal Representative* and *How to Protect Yourself from Immigration Fraud*;
3. U.S. Department of Justice, Executive Office for Immigration Review, *Asylum and Withholding of Removal Relief Convention Against Torture Protections*;
4. United States Citizenship and Immigration Service (USCIS), *Information Guide for Prospective Asylum Applicants*;
5. Human Rights First, *Flow Charts*:

- a. *General Asylum Process*;
  - b. *Appeals Process*;
6. United Nations High Commissioner for Refugees (UNHCR), *Emerging Trends in U.S. Asylum Law*;
7. United States Citizenship and Immigration Service (USCIS):
  - a. *Obtaining Asylum in the United States*;
  - b. *The Affirmative Asylum Process*;
  - c. *Types of Asylum Decisions*; and
  - d. *Asylum Bars*;
8. United Nations High Commissioner for Refugees, *Convention Against Torture*;
9. Political Asylum/Immigration Representation Project (PAIR)\*, *Pro Se Asylum Manual*;
10. Florence Refugee and Immigrant Rights Project (FIRRP)\*\*:
  - a. *Thinking about My Claim*;
  - b. *Writing Your Declaration*;
  - c. *Documentation*;
  - d. *Testimony: Preparing to Talk to the Judge*;
11. Pennsylvania Immigration Resource Center (PIRC), *Information about Asylum, Withholding of Removal, and the Convention Against Torture*;
12. A copy of the application form I-589 and instructions; and
13. General country reports detailing human rights conditions in your country of origin.

If you have access to the internet, you may wish to utilize UNHCR's online database, REFworld, which is located on our website, [www.refworld.org](http://www.refworld.org). Through REFworld you may access reports on human rights conditions in countries worldwide.

\* The materials by PAIR were written specifically for individuals near Boston, Massachusetts and therefore include addresses for government offices in that geographic area. If you live elsewhere in the United States, verify the correct address for any submissions or visits made to government offices.

\*\* The materials by FIRRP were written for individuals in removal proceedings who are applying for asylum before an immigration judge. The guidance provided regarding preparing your case for court and testifying before a judge also applies to individuals applying for asylum at the Asylum Office during an asylum interview.

# What Should You Expect from Your Legal Representative?

**Only two groups of people may provide legal advice and services in your immigration case:**

- attorneys and
- accredited representatives who work for non-profit religious, charitable, or social service organizations established in the U.S. and recognized by the Board of Immigration Appeals (BIA).

## ATTORNEYS

- **In the U.S., an attorney is someone who:**
  - attended law school and received a Juris Doctor (J.D.) degree;
  - is a licensed member of a state bar association in “good standing,” and
  - passed an exam given by the state bar association.

An attorney also is called a “lawyer.”
- **Attorneys can give legal advice and provide legal services.** They can file papers and applications and represent you before:
  - The Department of Homeland Security (DHS)
  - The U.S. Citizenship and Immigration Service (USCIS)
  - Any immigration court
  - The Board of Immigration Appeals (BIA)
  - The state court where he/she is a member of the bar
- **You can ask to see your attorney’s licensing documents.** You should make a note of the admission number if any.
  - There are two places you can learn whether an attorney is licensed and in “good standing”:
    - State Bar Associations keep track of attorneys. A list of the State Bar Associations in the U.S. can be found at <http://www.abanet.org/barserv/stlobar.html>.
    - The American Immigration Lawyers Association (AILA) can help you find an immigration lawyer. Call 1-800-954-0254 to speak with a representative or send an e-mail to [ilrs@aila.org](mailto:ilrs@aila.org).

## ACCREDITED REPRESENTATIVES

- **An accredited representative** has been given permission by the BIA to provide immigration legal services.
  - Generally, a fully accredited representative may represent you before:
    - The Department of Homeland Security (DHS)
    - The U.S. Citizenship and Immigration Service (USCIS)
    - Any immigration court
    - The Board of Immigration Appeals (BIA)
  - A partially accredited representative can only represent you before USCIS.
  - An accredited representative *cannot* represent you in state court on non-immigration matters.
- **The best way to know that an individual is a legitimate accredited representative is** to ask to see a copy of the BIA decision accrediting representative status to the accredited representative and to the BIA recognized organization. Keep in mind that an accredited representative’s status expires every 3 years unless the BIA renews it.
  - You can also view a list of the non-profit organizations and accredited representatives recognized by the BIA on its website, [www.usdoj.eoir/statspub/raroster.htm](http://www.usdoj.eoir/statspub/raroster.htm).

## **What You Should Expect from Your Legal Representative**

- **Your attorney or accredited representative cannot share what you tell him with anyone else, unless you give him permission to do so.** Your legal representative works for you, he does not work for the government.
  
- **Your legal representative should:**
  - Help you find an interpreter
  - Be patient and listen carefully to you
  - Not harass you about payment
  - Explain your options and what is going to happen in court
  - Check on the progress of your case
  - Keep you informed about your case and answer your questions
  - Return your phone calls promptly
  - Keep appointments with you

## **What You Can Do if You Have a Problem with Your Attorney or Accredited Representative**

- **You have the right to hire or fire your attorney or accredited representative,** and you should not accept any legal representation that you do not understand or that makes you feel uncomfortable.
  
- **Get help if you think your legal representative has cheated you or works for traffickers.**
  - Contact a non-profit law office, immigrant rights group, or other trusted community organization for advice. They might be able to tell you how to fire or file a complaint against your legal representative.
  - Contact the State Bar Association for the state where your lawyer is licensed. A list of the State Bar Associations in the U.S. can be found at <http://www.abanet.org/barserv/stlobar.html>.
  - If your legal representative represented you before the immigration court or the BIA, you can file an Immigration Practitioner Complaint Form (Form EOIR-44) with the Executive Office for Immigration Review. The form can be found at <http://www.usdoj.gov/eoir/eoirforms/eoir44.pdf>.

# How to Protect Yourself from Immigration Fraud

## Who Can Help You with Your Immigration Case?

- **Only two groups of people may provide legal advice and services on your immigration case:** (1) attorneys and (2) accredited representatives of non-profit religious, charitable, or social service organizations established in the U.S. and recognized by the Board of Immigration Appeals (BIA).
- **A notary public, *notario*, or a *notario público* is NOT an attorney or an accredited representative and CANNOT provide legal advice or services** on your immigration case unless he has been accredited by the BIA and works for an organization recognized by the BIA.
  - In the U.S., a notary public is a public officer who is authorized by law to certify documents, take affidavits, and administer oaths.
- **Immigration consultants and immigration assistance providers are not attorneys and cannot give legal advice or provide legal services.** This means that they:
  - CANNOT tell you what forms to use or what answers to put on the forms
  - CANNOT keep your original documents
  - CANNOT do special favors for you
  - CANNOT claim to know of secret laws or have special connections to government agencies

## What Should You Do To Protect Yourself from Fraud?

- **Before you pay any money, educate yourself about who may help you with your immigration case**
  - Do not trust people who claim to have a special relationship with U.S. Citizenship and Immigration Services (USCIS) or who guarantee results.
  - Beware of anyone who advertises that he is a notary, *notario* or a *notario público* and can represent you in immigration proceedings.
  - Beware of consultants, travel agencies, and real estate offices that offer legal services in immigration matters.
  - Beware of anyone working in the United States who claims to be an attorney in a foreign country and who is not a licensed attorney in the United States.
  - Ask to see copies of attorney bar certificates issued by a state in the United States or BIA accreditation letters before accepting legal advice or services.
- **Follow Some Precautions**
  - If you decide to use professional services for help with your case, get and keep a written contract.
  - Do not pay cash for professional immigration services. If you can, use a check or credit card instead, and get and keep a receipt.
  - Never give your original documents (birth certificates, passports, or other documents) to anyone who is helping you with immigration matters.
  - Never sign a blank form, application, or petition.
  - Do not sign any forms, applications, or papers containing false statements or inaccurate information.
  - Beware of anyone who offers to file a legalization application for you as they may be putting you in danger of removal or deportation.

## What Should You Do if You Have Been the Victim of Fraud?

- Contact a non-profit law office, immigrant rights group, or other trusted community organization for advice.

*This information sheet was prepared by the EOIR Legal Orientation Program*



Courtesy of USCIS History Office and Library

**STEP SIX: Asylum Officer Makes Eligibility Determination and Supervisory Asylum Officer Reviews Decision**

The Asylum Officer determines whether the applicant meets the definition of a refugee in INA § 101(a)(42)(A) and if a bar from being granted asylum under INA § 208 (b)(2) applies. A Supervisory Asylum Officer reviews the Asylum Officer's decision to determine if it is consistent with the law.

**STEP SEVEN: Applicant Receives Decision**

In most cases, the applicant returns to the Asylum Office to pick up the decision two weeks after the interview was conducted. The applicant will generally receive the decision 60 days after the filing date.

Case decisions may be delayed, however, due to pending security or background checks. Longer processing times also may be required for an applicant who is currently in valid status, was interviewed at a District Office, or whose case is being reviewed by Asylum Division Headquarters staff. The decision is generally mailed to the applicant in these situations.



You have a right to provide your own legal representation at an asylum interview, at no cost to the U.S. Government. You may obtain a list of pro bono (free or reduced cost) attorneys or community-based, non-profit organizations that may be available to assist you by:

- Viewing our webpage that provides information on free legal advice.
- Calling the forms request line at **1-800-870-3676**.
- Visiting the United States Department of Justice Executive Office for Immigration Review website at <http://www.usdoj.gov/eoir>.
- Contacting the Asylum Office or District Office near your home.

Representatives of the United Nations High Commissioner for Refugees (UNHCR) may be able to assist you in identifying persons to help you complete your Form I-589. To contact the UNHCR call (202) 296-5191 or visit <http://www.unhcr.org>.

**For more information about the topics discussed in this pamphlet, please visit:**

**<http://www.uscis.gov/asylum>  
or call 1-800-375-5283**



# USCIS Asylum Program

*Information Guide for Prospective Asylum Applicants*



U.S. Citizenship and Immigration Services

*Every year people come to the United States seeking protection because they have been persecuted or fear they will be persecuted on account of their race, religion, nationality, membership in a particular social group, or political opinion. Those found eligible for asylum may be permitted to remain in the United States.*

**What is asylum?**

Asylum is a form of protection from removal to a country of feared persecution that allows an eligible refugee to remain in the United States and eventually to become a lawful permanent resident.

**Who can apply for asylum?**

Non-U.S. citizens who are physically present in or arrive in the United States, whether or not at a designated port of arrival, may apply.

**When must I apply for asylum?**

Generally you must apply for asylum within one year of your last arrival into the United States. Exceptions may apply such as (1) changed circumstances in your home country that affect your eligibility or (2) extraordinary circumstances related to your lateness in filing.

**Can I apply for asylum if I am here illegally?**

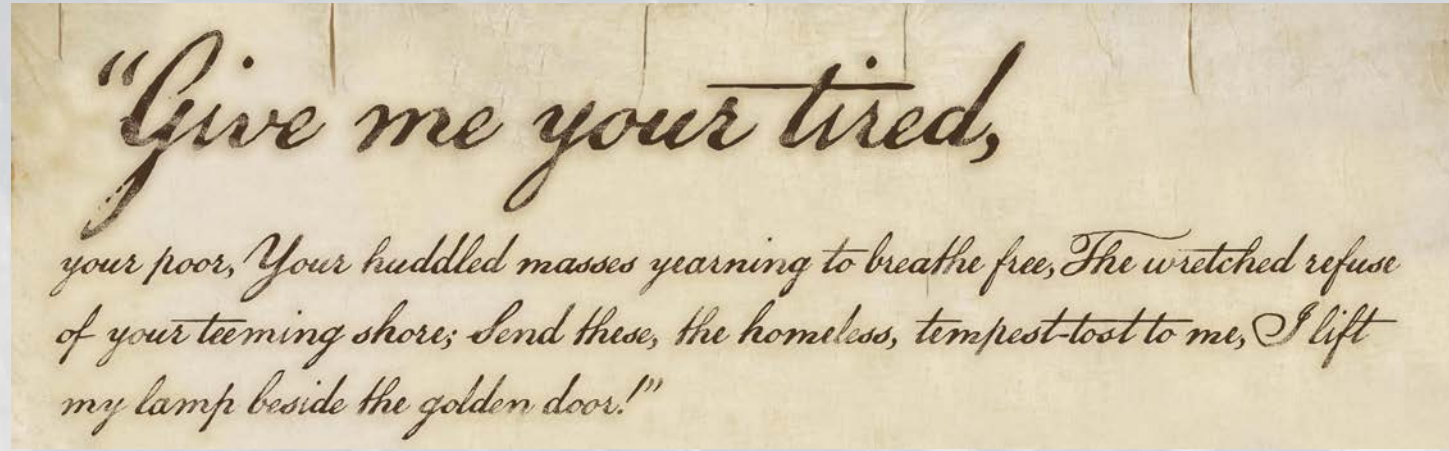
Yes. You may apply regardless of your immigration status as long as you file your application within one year of your last arrival or demonstrate that you are eligible for an exception to that rule.

**Can I apply if I was convicted of a crime?**

Yes. However, you may be barred from being granted asylum depending on the crime.

**Can I be barred from applying for or being granted asylum?**

You may be barred from applying for asylum if you previously applied for asylum and were denied by an immigration judge or the Board of Immigration Appeals, if you did not apply within one year of your last arrival, or if you could be removed to a safe third country pursuant to a bilateral or multilateral agreement. You may be barred from a grant of asylum due to certain criminal activities, security-related grounds, or if you have been involved in the persecution of others or were already firmly resettled in another country. Certain exceptions may apply. If you are barred from applying for asylum, however, you may still be entitled to withholding of removal, another more limited form of protection that can be granted in removal proceedings.



*Excerpts from the sonnet, "The New Colossus," written by Emma Lazarus in 1883. A bronze plaque of the inspiring poem was placed on the inner walls of the Statue of Liberty's pedestal in 1903.*



**How do I apply for asylum?**

To apply for asylum, you will need to complete Form I-589, *Application for Asylum and for Withholding of Removal*, and follow the instructions carefully. Forms are available online at <http://www.uscis.gov/forms> and also by calling the forms request line at 1-800-870-3676.

**What is the fee to apply for asylum?**

There is no fee to apply for asylum.

**Can I include my spouse and children on my case?**

Your spouse and children who are in the United States may be included on your application at the time you file or at any time until a final decision is made on your case. A child must be under 21 and unmarried to be included as a dependent on your application. You should bring these dependents with you to your asylum interview.

**Am I subject to security and background checks if I apply for asylum?**

Yes. Every individual who applies for asylum is subject to background and security checks. Depending on the results of these checks, you may be found ineligible for a grant of asylum.

**Will I be fingerprinted if I apply for asylum?**

Yes. After you have filed your asylum application, you will receive a notice in the mail with the time, date, and location to have your fingerprints taken at an Application Support Center.

**Can I work after I file for asylum?**

You cannot apply for work authorization at the same time you apply for asylum. However, you can apply for work authorization if 150 days have passed since you filed your complete asylum application, excluding any delays caused by you, and no decision has been made on the application.

Additionally, if granted asylum status, you are authorized to work as soon as your asylum case has been approved.

**Can I travel outside the United States after I file for asylum?**

If you must travel outside the United States before a final decision has been made in your asylum case, you must receive advance permission, also called Advance Parole, before leaving the United States in order to return. If you fail to obtain Advance Parole, USCIS will presume you have abandoned your application and you may be denied readmission into the United States. Additionally, if you obtain Advance Parole and return to the country of feared persecution, USCIS may determine you have abandoned your application for asylum unless you can provide compelling reasons for your return.

**Can anyone help me with my asylum interview?**

You may bring your own attorney or legal representative to the asylum interview at no cost to the U.S. Government.

**How will I be interviewed if I do not speak English?**

You will be interviewed through an interpreter. USCIS does not provide interpreters. You must bring your own interpreter to the interview. If your interpreter does not speak English sufficiently, your interview may need to be rescheduled so that you can find a more competent interpreter.

**What will happen at my asylum interview?**

You will arrive at the Asylum Office for a non-adversarial interview with an Asylum Officer who will verify your identity and ask you basic biographic questions and the reasons you are applying for asylum. Everything you say at the interview is confidential. It is very important that you tell the Asylum Officer your experiences in as much detail as possible so that the Asylum Officer can determine whether you qualify as a

refugee. A decision on your case will not be made on the same day as the asylum interview.

**How does the Asylum Officer determine if I am eligible for asylum?**

The Asylum Officer will determine if you are eligible by evaluating whether you meet the definition of a refugee and are not barred from a grant of asylum based on information you provide on your application and during your interview with an Asylum Officer, as well as other information that may be available to the officer.

**What happens if I am found ineligible for asylum?**

If you are found ineligible but hold a valid immigration status or are qualified to remain in the United States (based on Temporary Protected Status or, in some cases, parole), you will receive a notice of intent to deny your case that explains the reasons you were found ineligible. You will have the opportunity to rebut these reasons and provide additional evidence to support your case. If you do not hold a valid immigration status or are not qualified to remain in the United States, you will be placed in removal proceedings and your case will be referred to an immigration judge who will evaluate your asylum claim anew.

**How do I find out the status of my case?**

Please contact the USCIS Asylum Office that has or will be conducting your asylum interview.

**Where can I find the law?**

The legal foundation for asylum comes from Section 208 of the Immigration and Nationality Act (INA). Federal regulations that explain the eligibility requirements and procedures for asylum can be found in the Code of Federal Regulations (CFR) at 8 CFR § 208.

**STEP ONE: Asylum-Seeker Arrives in the United States**

An asylum-seeker is generally eligible to apply for asylum under INA § 208(a) if he or she 1) is arriving in or physically present in the United States, and 2) files within one year of arriving in the United States or establishes that an exception to the requirement to file within one year applies.

**STEP TWO: Asylum-Seeker Applies for Asylum**

Asylum-seeker files **Form I-589, Application for Asylum and for Withholding of Removal**, with the appropriate Service Center.

**STEP THREE: Applicant Is Fingerprinted and Background Security Checks Conducted**

Applicants 13 years of age and older receive a notice to go to an Application Support Center or authorized Designated Law Enforcement Agency to have their fingerprints taken.

**STEP FOUR: Applicant Receives Interview Notice**

In most cases, an applicant will receive a notice stating the date, location, and time of the asylum interview within 21 days after the applicant submitted a complete Form I-589.

**STEP FIVE: Applicant Is Interviewed**

The applicant is interviewed by an Asylum Officer at one of eight Asylum Offices located in Arlington, VA; Chicago, IL; Houston, TX; Los Angeles, CA; Miami, FL; Newark (Lyndhurst), NJ; New York (Rosedale), NY; and San Francisco, CA, or, if the applicant lives too far from an Asylum Office, at a District Office. In the majority of cases, the applicant is interviewed within 43 days after filing, though time frames for individuals interviewed at a District Office may be longer because Asylum Officers must arrange to travel to these offices.



**U.S. Department of Justice**  
Executive Office for Immigration Review  
*Office of the Director*  
5107 Leesburg Pike, Suite 2600  
Falls Church, Virginia 22041

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# FACT SHEET

**Contact:** Office of Legislative and Public Affairs  
(703) 305-0289 Fax: (703) 605-0365  
**Internet:** [www.usdoj.gov/eoir](http://www.usdoj.gov/eoir)

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January 15, 2009

## **Asylum and Withholding of Removal Relief Convention Against Torture Protections**

### ***Relief and Protections Based on Fear of Persecution or Torture***

*This fact sheet provides basic information on forms of relief and protection for aliens in the United States who fear persecution or torture in returning to their homeland. It is intended for general informational purposes only and is not a substitute for legal advice, nor does it constitute any legal opinion by the Department of Justice (DOJ). This fact sheet is not fully inclusive, does not address all applicable laws or case interpretation, and may be subject to change as new laws and regulations are enacted.*

### **Asylum Relief**

Asylum relief is granted to qualified applicants, regardless of their countries of origin, who are unable or unwilling to return to their country of nationality because of past persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

When asylum applicants are granted asylum relief:

- They are permitted to remain in the United States,
- Asylum relief is also granted to their family members who are in the United States and were included in their asylum application,
- They may also petition to bring their eligible family members to the United States, and
- In time, they may apply for lawful permanent residence and, ultimately, citizenship.

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**Legal Bars to Asylum**

Under immigration law, the Immigration and Nationality Act (INA), certain aliens are barred from obtaining asylum. They include those who:

- Have firmly resettled in another country prior to coming to the United States;
- Have already applied for and been denied asylum, unless there are changed circumstances that materially affect the alien's eligibility for asylum;
- Have ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;
- Were convicted by final judgment of a particularly serious crime (including aggravated felony convictions), and therefore constitute a danger to the community of the United States;
- Are believed to have committed a serious nonpolitical crime outside the United States before arriving in the United States;
- Pose a danger to the security of the United States;
- Are members or representatives of a foreign terrorist organization, unless the Secretary of the Department of Homeland Security (DHS) determines that they are not a danger to the security of the United States; or
- Have engaged in or incited terrorist activity.

**Difference Between Asylum and Refugee Applicants**

Both asylum and refugee determinations are made under the same legal standard that requires persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. However, those seeking refugee status must apply while outside both their country of nationality and the United States. Asylum-seekers must be in the United States or applying for admission at a U.S. port of entry.

Also, there is a ceiling for refugee admissions that is determined annually by the President. However, there is no limit on the number of asylum grants.

**Agencies Responsible for Asylum and Refugee Programs**

The responsibility for the asylum program is shared between DHS and the Executive Office for Immigration Review (EOIR), an agency within DOJ.

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The responsibility for the refugee program is shared between the Department of State and DHS.

The Department of Health and Human Services, Office of Refugee Resettlement (ORR), provides resettlement assistance for both refugees and asylees. This includes grants to states to administer cash and medical assistance, employment preparation, job placement, and English language training. Information is available online on ORR's website ("[Benefits and Services](#)" and "[Asylee Benefits and Responsibilities](#)").

**Applying for Asylum**

Asylum-seekers must apply for asylum within 1 year from the date of last arrival in the United States. If an applicant seeks asylum more than 1 year after arrival, an applicant must show either changed circumstances that materially affect the applicant's eligibility or extraordinary circumstances that delayed filing an application. An applicant must also show that the application was filed within a reasonable amount of time given those circumstances.

Aliens in the United States can apply for asylum by filing a [Form I-589](#), "Application for Asylum and for Withholding of Removal."

- Aliens who are not in removal proceedings can apply for asylum with DHS. This is called an "affirmative" asylum claim.
- Aliens who are in removal proceedings can apply for asylum with EOIR. This is called a "defensive" asylum claim.

**DHS — The Affirmative Asylum Process**

The affirmative asylum process applies to aliens who initially file an asylum application with DHS, U.S. Citizenship and Immigration Services (USCIS). USCIS asylum officers conduct non-adversarial interviews of asylum applicants and determine whether to grant asylum.

In making a determination, an asylum officer will evaluate the applicant's testimony, the information they provide on their application, any supplementary materials they submit, and the credibility of their claims. Moreover, an asylum officer will consider country condition information from reliable sources and adjudicate cases in accordance with immigration law.

- If an applicant in lawful status is in the United States and an asylum officer finds the applicant ineligible for asylum, the asylum officer denies the asylum claim.
- If an applicant is in the United States without lawful status and an asylum officer finds the applicant ineligible for asylum, USCIS places that applicant in removal proceedings and refers the case to an EOIR immigration court for a hearing. An immigration judge evaluates the asylum claim anew (*de novo* review).

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Information about the [affirmative asylum process](#) and [affirmative asylum statistics](#) are available online on the [DHS/USCIS](#) website.

**EOIR — The Defensive Asylum Process**

The defensive asylum process applies to aliens who are in removal proceedings and request asylum from an immigration judge. The process is called “defensive” because it can provide relief from being removed from the United States.

An immigration judge hears an applicant’s claim and also hears any concerns about the validity of the claim that are raised by the DHS, Immigration and Customs Enforcement attorney, who represents the U.S. government in immigration court. The immigration judge adjudicates each case individually, on the evidence provided and in accordance with immigration law, to determine whether the applicant is eligible for asylum and merits a grant of asylum.

If an applicant is ineligible for asylum, an immigration judge determines whether the applicant is eligible for any other form of relief or protection from removal.

If an applicant is ineligible for any relief or protection from removal, an immigration judge will deny the application and order the applicant removed from the United States.

If the alien or DHS disagrees with the immigration judge’s decision, either party or both parties may appeal the decision to EOIR’s appellate component, the Board of Immigration Appeals (BIA). If the alien disagrees with the BIA’s ruling, the alien may file a petition for review (an appeal) with the federal circuit courts of appeal.

Statistics on immigration judge asylum decisions are available on [EOIR’s website](#) under [Statistical Yearbook](#) and [Asylum Statistics](#).

**Claiming Asylum at a U.S. Port of Entry  
Expedited Removal Process — Credible Fear or Reasonable Fear Reviews**

Immigration law mandates that aliens who arrive at a U.S. port of entry without travel documents or present fraudulent documents must be detained and placed in expedited removal proceedings. The expedited removal process allows DHS immigration inspectors to remove certain aliens from the United States without placing them in removal proceedings.

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During the expedited removal process:

- Aliens who express a fear of persecution or torture receive a “credible fear” interview with a USCIS asylum officer.
- Aliens previously removed from the United States who express a fear of persecution or torture receive a “reasonable fear” interview with a USCIS asylum officer.

When the USCIS asylum officer finds that an alien does not have a credible fear or reasonable fear of persecution or torture, the alien may request that an EOIR immigration judge review that finding.

- **Credible Fear Reviews**

The immigration judge’s credible fear review:

- Must be done within 24 hours whenever possible, but no later than 7 days after the initial determination by an asylum officer, and
- Is limited strictly to whether an alien has a credible fear of persecution or torture.

USCIS asylum officers refer aliens who are found to have a credible fear to EOIR for removal proceedings. During their removal proceedings, they may apply for asylum [under 208](#) of the INA, withholding of removal relief under [241\(b\)\(3\)](#) of the INA, or Convention Against Torture (CAT) protections.

- **Reasonable Fear Reviews**

The immigration judge’s reasonable fear review:

- Must be done within 10 days after the USCIS asylum officer refers the case to the immigration court, unless there are exceptional circumstances, and
- Is limited strictly to whether an alien has a reasonable fear of persecution or torture.

USCIS refers aliens who are found to have a reasonable fear to EOIR for “withholding only” proceedings. During their “withholding only” proceedings, they may apply for withholding of removal relief under [241\(b\)\(3\)](#) of the INA or CAT protections.

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**Employment Authorization for Asylum Applicants**

Asylum applicants are eligible for employment authorization 180 days after they file their asylum application. The 180-day timeframe does not include time spent due to any delays caused by the applicant.

Applicants may apply for employment authorization 150 days after they file their asylum application by submitting a [Form I-765](#), “Application for Employment Authorization” to USCIS. USCIS has 30 days to either grant or deny employment authorization.

Asylum applicants who are granted asylum will be authorized to work in the United States as long as they remain in asylee status.

**Withholding of Removal Relief Under the INA**

To qualify for withholding of removal relief under the INA, [INA 241\(b\)\(3\)](#), aliens must establish that it is more likely than not that their life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion in the proposed country of removal.

An order granting withholding of removal prohibits an alien’s removal to the country where an alien’s life or freedom would be threatened — but allows removal to a third country where an alien’s life or freedom would not be threatened.

Withholding of removal under the INA:

- Does not provide relief for eligible family members in the United States,
- Does not provide the ability to petition to bring eligible family members to the United States,
- Does not lead to lawful permanent residence and, ultimately, citizenship, and
- Does provide relief recipients (not their family members) the ability to apply (with USCIS) for work authorization.

Claims for withholding of removal under the INA are adjudicated by EOIR immigration judges during regular removal proceedings. Immigration judge decisions may be appealed to the BIA. If the alien disagrees with the BIA’s ruling, the alien may file a petition for review (an appeal) with the federal circuit courts of appeal.

(more)

**Asylum and Withholding of Removal Relief  
Convention Against Torture Protections  
Page 7**

Additional information on withholding of removal under the INA is available in the [instructions](#) to the [Form I-589](#), “Application for Asylum and for Withholding of Removal.”

## **Convention Against Torture Protections**

CAT protections relate to the obligations of the United States under Article 3 of the United Nations Convention Against Torture. This is an international treaty provision designed to protect aliens from being returned to countries where they would more likely than not face torture. Torture is defined, in part, as severe pain or suffering (physical or mental) that is intentionally inflicted by or at the instigation of or with the consent or acquiescence of a public official, or other person acting in an official capacity.

Under this treaty provision, the United States agrees not to “expel, return, or extradite” aliens to another country where they would be tortured.

Regarding eligibility, CAT protections:

- Require applicants to establish that it is more likely than not that they would be tortured if removed to a specific country,
- Do not apply to all types of harm that qualify as persecution. Not all types of harm that qualify as persecution necessarily qualify as torture,
- Do not require applicants to establish that the torture is based on one of the five protected grounds (race, religion, nationality, membership in a particular social group, or political opinion), as is required for asylum or withholding of removal under the INA, and
- May be granted to criminals, terrorists, and persecutors, as they cannot be returned to a country where they would face torture.

CAT protections:

- Allow the detention of CAT recipients, where appropriate,
- Allow the removal of CAT recipients to a third country where they would not be tortured,
- Allow eligible CAT recipients, but not their family members, to apply (with USCIS) for work authorization,
- Do not provide for CAT recipients to become lawful permanent residents, and
- Do not provide for CAT recipients to bring family members to the United States.

(more)

**CAT Protections — Withholding of Removal (Under CAT) and Deferral of Removal**

CAT provides two types of protections, “withholding of removal (under CAT)” and “deferral of removal.” Both protections ensure that aliens are not returned to a country where they would face torture.

- **Withholding of Removal (Under CAT)**

Withholding of removal (under CAT) prohibits returning aliens to a specific country where they would face torture. It is a more secure form of protection than deferral of removal. It can be terminated only if DHS establishes that an alien is not likely to be tortured in that country.

- **Deferral of Removal**

Deferral of removal also prohibits returning aliens to a specific country where they would face torture. However, deferral of removal is granted to aliens who likely would face torture but who are ineligible for withholding of removal (under CAT), for example, certain criminals and persecutors.

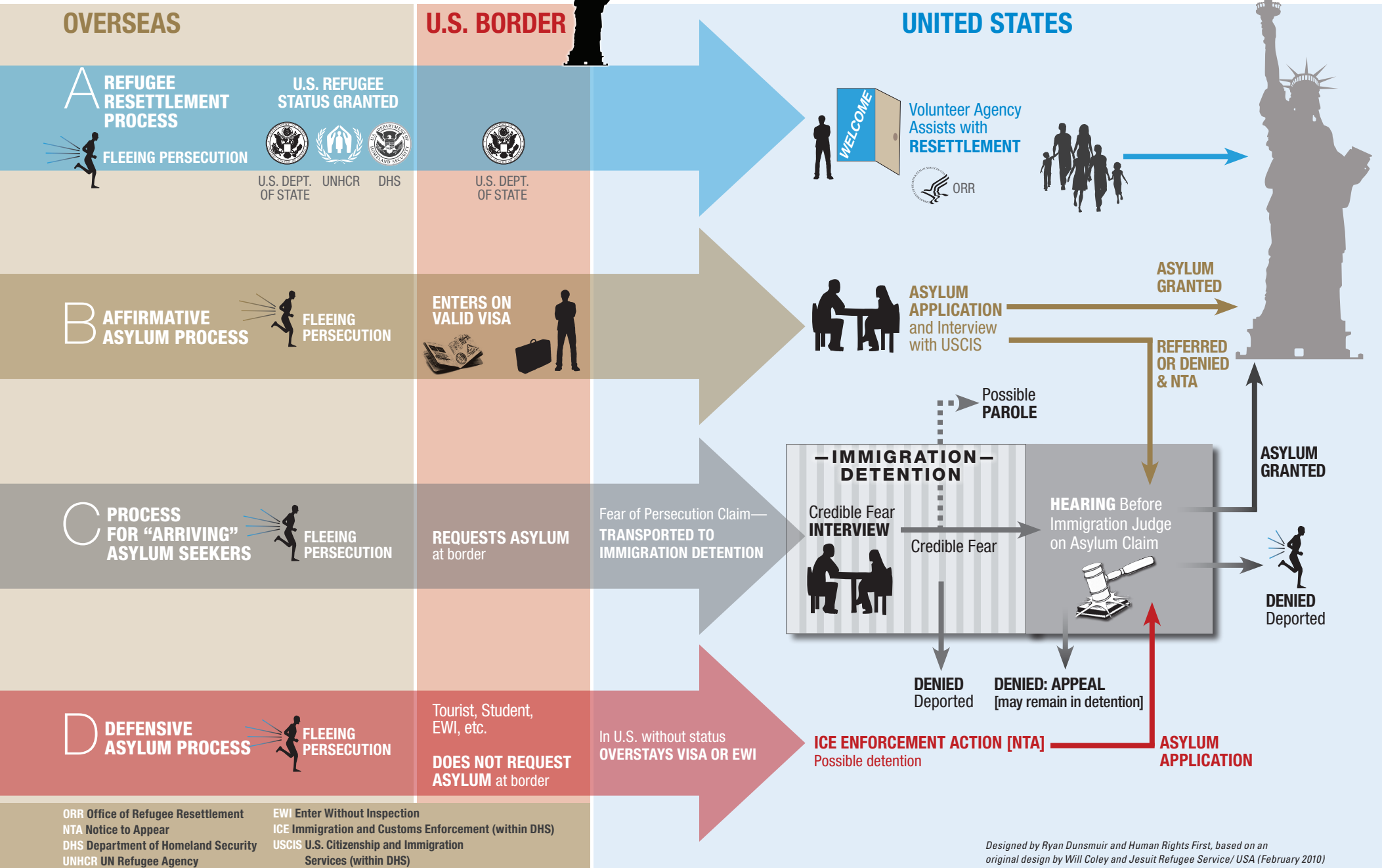
Deferral of removal is a more temporary form of protection. It can be terminated more quickly and easily if an alien no longer is likely to be tortured in the country of removal, or if the U.S. government receives assurances that the alien will not be tortured if returned.

CAT claims are adjudicated by EOIR immigration judges during regular removal proceedings. Immigration judge decisions may be appealed to the BIA. If the alien disagrees with the BIA’s ruling, the alien may file a petition for review (an appeal) with the federal courts of appeal. Information about EOIR removal proceedings is available on [EOIR’s website](#).

— EOIR —

*The Executive Office for Immigration Review (EOIR) is an agency within the Department of Justice. Under delegated authority from the Attorney General, immigration judges and the Board of Immigration Appeals interpret and adjudicate immigration cases according to United States immigration laws. EOIR’s immigration judges conduct administrative court proceedings in immigration courts located throughout the nation. They determine whether foreign-born individuals — who are charged by the Department of Homeland Security (DHS) with violating immigration law — should be ordered removed from the United States or should be granted relief from removal and be permitted to remain in this country. The Board of Immigration Appeals primarily reviews appeals of decisions by immigration judges. EOIR’s Office of the Chief Administrative Hearing Officer adjudicates immigration-related employment cases. EOIR is committed to ensuring fairness in all of the cases it adjudicates.*

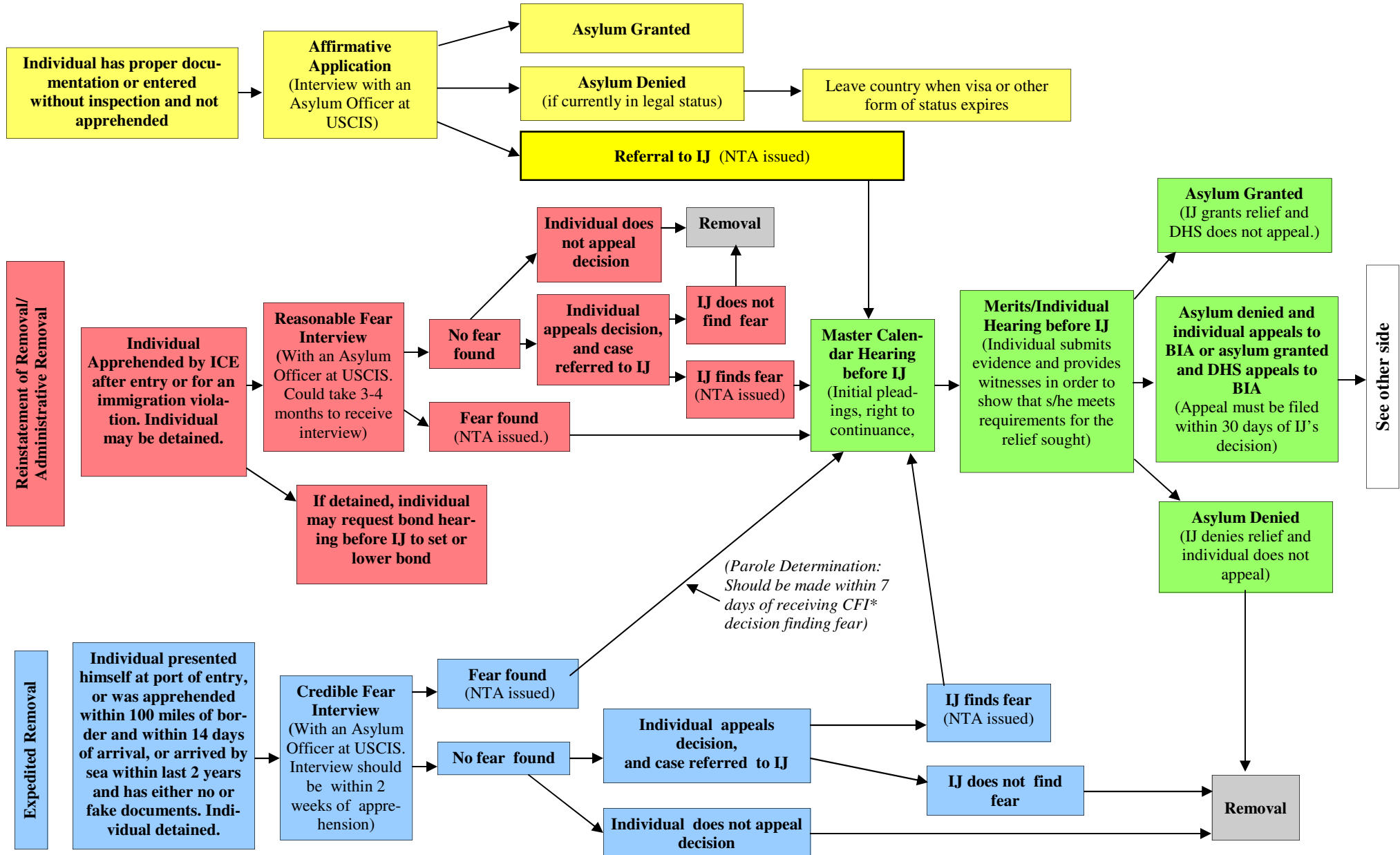
# How Refugees Get to the U.S.





- \* USCIS: U.S. Citizenship and Immigration Services
- \* IJ: Immigration Judge
- \* CFI: Credible Fear Interview
- \* ICE: Immigration and Customs Enforcement
- \* NTA: Notice to Appear Document
- \* BIA: Board of Immigration Appeals
- \* DHS: Department of Homeland Security

## Overview of Asylum Processes



## **EMERGING TRENDS IN ASYLUM LAW** *(Last Updated February 2013)*

Asylum law continually evolves based on social and political trends and as new forms of harm are recognized as persecution. Some of the types of harm that may now be recognized as a basis for an asylum claim include gender-based violence; gang-related violence; and violence based on a person's sexual orientation or gender identity. The United Nations High Commissioner for Refugees (UNHCR) Regional Office in Washington, D.C. (ROW) understands that some issues are sensitive and thus may be difficult to talk about. UNHCR ROW also is aware that for some individuals, issues like the ones just mentioned may be very important to an asylum claim. UNHCR ROW has prepared this memo to provide a short description of some of the kinds of harm that may serve as the basis of a request for asylum so that individuals who may be in need of protection for any of these kinds of reasons will have a better understanding of them.

If you believe any of the issues discussed in this memo apply to you, or you are unsure whether your experience falls under any of these categories, or you would like more information about any of them—even if it is not the only reason that you have fled your country, please contact UNHCR ROW and we will send you additional information. UNHCR does not discriminate against individuals based on any of these circumstances.

**If you think any of these issues may apply to you, it is critical that you communicate this to your attorney or legal advocate, or if you do not have legal representation, directly to the judge hearing your case.**

### *Gender-Based Violence*

Gender-based violence claims involve individuals who were harmed, threatened with harm, or fear harm in the future because of their gender or sex. These types of claims may include:

- Abuse by a partner, spouse, boyfriend or girlfriend (domestic violence);
- Female ritual genital cutting /mutilation;
- Forced marriage /underage marriage without consent;
- Being kidnapped by or sold to someone for purposes of forced labor or forced prostitution (trafficking).

### *Lesbian, Gay, Bisexual, Transgender, or Intersex (LGBTI)*

LGBTI claims involve individuals who were harmed, threatened with harm, or fear harm in the future based on their sexual orientation, usually due to a real or perceived romantic or sexual interaction with someone of the same sex; or their gender identity, usually when an individual is or appears to be a person of the sex opposite to the sex they were born as; or because someone has accused them of being a lesbian, gay, bisexual, transgender individual in a society where such an accusation may lead to harm either by the government or by the community or society.

### ***HIV or AIDS***

HIV or AIDS claims involve individuals who are HIV positive or have AIDS and were harmed, threatened with harm, or fear harm in the future because of they have been or may be identified as having HIV or AIDS or because they have been or may be denied necessary medical assistance because of being HIV positive or having AIDS. An asylum claim cannot be based solely on having HIV or AIDS, but rather must be based on harm or denial of necessary medical assistance or fear of such harm by the government or by the community or society because an individual has or is perceived to have, HIV or AIDS.

### ***Gang-Related Violence***

Gang-related claims involve individuals who were harmed, threatened with harm, or fear harm in the future harm because of previous association with gangs, family associations with gangs, or because they refuse to be associated with gangs. Fear of criminal prosecution alone is not a basis for seeking asylum; but rather must be based on situations where the government is unwilling or unable to protect the individual from harm because it is related to gang violence.

### ***Mental Illness***

Mental illness claims involve individuals who were harmed, threatened with harm, or fear harm in the future harm because they have or are perceived as having, a mental illness. Mental illness may include but is not limited to schizophrenia and bi-polar disorder. Asylum claims cannot be based solely on having a mental illness, but rather must be based on harm or fear of such harm by the government or by the community or society because an individual has or is perceived to have, a mental illness.

### ***Statelessness***

Stateless claims involve individuals who do not have citizenship or nationality in any country. An asylum claim cannot be based solely on being stateless but statelessness may be an important factor to be considered. If you believe you may be stateless and are being denied the rights of a citizen of your home country such as support from a consular office, travel documents, a birth certificate, or identity documents, please contact UNCHR ROW for more information.



## U.S. Citizenship and Immigration Services

# Obtaining Asylum in the United States

The two ways of obtaining asylum in the United States are through the affirmative process and defensive process.

## Affirmative Asylum Processing With USCIS

To obtain asylum through the affirmative asylum process you must be physically present in the United States. You may apply for asylum status regardless of how you arrived in the United States or your current immigration status.

You must apply for asylum within one year of the date of their last arrival in the United States, unless you can show:

- Changed circumstances that materially affect your eligibility for asylum or extraordinary circumstances relating to the delay in filing
- You filed within a reasonable amount of time given those circumstances.

You may apply for affirmative asylum by submitting Form I-589, Application for Asylum and for Withholding of Removal, to USCIS. See [Form I 589, Application for Asylum and for Withholding of Removal](#) for instructions on how to file for asylum,.

If your case is not approved and you do not have a legal immigration status, we will issue a Form I-862, Notice to Appear, and forward (or refer) your case to an Immigration Judge at the Executive Office for Immigration Review (EOIR). The Immigration Judge conducts a 'de novo' hearing of the case. This means that the judge conducts a new hearing and issues a decision that is independent of the decision made by USCIS. If we do not have jurisdiction over your case, the Asylum Office will issue an I-863, Notice of Referral to Immigration Judge, for an asylum-only hearing. See 'Defensive Asylum Processing With EOIR' below if this situation applies to you.

Affirmative asylum applicants are rarely detained by U.S. Immigration and Customs Enforcement (ICE). You may live in the United States while your application is pending before USCIS. If you are found ineligible, you can remain in the United States while your application is pending with the Immigration Judge. Most asylum applicants are not authorized to work.

Please see the [The Affirmative Asylum Process](#) for step-by-step information.

## Defensive Asylum Processing with EOIR

A defensive application for asylum occurs when you request asylum as a defense against removal from the U.S. For asylum processing to be defensive, you must be in removal proceedings in immigration court with the Executive Office for Immigration Review (EOIR).

Individuals are generally placed into defensive asylum processing in one of two ways:

- They are referred to an Immigration Judge by USCIS after they have been determined to be ineligible for asylum at the end of the affirmative asylum process, or

- They are placed in removal proceedings because they:
  - Were apprehended (or caught) in the United States or at a U.S. port of entry without proper legal documents or in violation of their immigration status,  
OR
  - Were caught by U.S. Customs and Border Protection (CBP) trying to enter the United States without proper documentation, were placed in the expedited removal process, and were found to have a credible fear of persecution or torture by an Asylum Officer. See [Questions & Answers: Credible Fear Screenings](#) for more information on the Credible Fear Process.

Immigration Judges hear defensive asylum cases in adversarial (courtroom-like) proceedings. The judge will hear arguments from both of the following parties:

- The individual (and his or her attorney, if represented)
- The U.S. Government, which is represented by an attorney from Immigration and Customs Enforcement (ICE)

The Immigration Judge then decides whether the individual is eligible for asylum. If found eligible, the Immigration Judge will order asylum to be granted. If found ineligible for asylum, the Immigration Judge will determine whether the individual is eligible for any other forms of relief from removal. If found ineligible for other forms of relief, the Immigration Judge will order the individual to be removed from the United States. The Immigration Judge's decision can be appealed by either party.

See [Granted a Green Card by an Immigration Judge](#) for information about the grant of asylum by an Immigration Judge, .

For information about the Executive Office for Immigration Review, including the Immigration Courts and the Board of Immigration Appeals, see [Executive Office for Immigration Review](#).

<b>Key Differences Between “Affirmative” and “Defensive” Asylum Process</b>	
<b>Affirmative</b>	<b>Defensive</b>
Individual has not been placed in removal proceedings before an Immigration Judge	Individual has been placed in removal proceedings before an Immigration Judge
Individual affirmatively submits Form I-589 to USCIS	Individual: <ul style="list-style-type: none"> <li>• Is placed in removal proceedings by an Asylum Officer;</li> <li>• Is placed in removal proceedings for immigration violations; or</li> </ul>

	<ul style="list-style-type: none"> <li>• Tried to enter the United States without proper documents and was found to have a credible fear of persecution or torture</li> </ul> <p>If the individual was referred by USCIS, the asylum application already filed will carry over to the immigration judge. If the individual did not yet submit an asylum application he or she will submit it to the Immigration Judge.</p>
Individual appears before a USCIS Asylum Officer for a non-adversarial interview	Individual appears before an Immigration Judge with the Executive Office for Immigration Review for an adversarial, court-like hearing
Individual must provide a qualified interpreter for the asylum interview	The Immigration Court provides a qualified interpreter for the asylum hearing and all other court proceedings.

Last Reviewed/Updated: 10/19/2015



## U.S. Citizenship and Immigration Services

### The Affirmative Asylum Process

The following steps explain how you apply for asylum in the United States through the affirmative asylum process. The information in this section will not apply to you if you are seeking asylum through the defensive asylum process, meaning you are in removal proceedings before an immigration judge.

For information about the defensive asylum process, see the [Obtaining Asylum in the United States](#) Web page on USCIS.gov.

#### **STEP ONE: Arrive in the U.S.**

To apply for asylum in the U.S., you must be physically present in the U.S. or seeking entry into the U.S. at a port of entry.

#### **STEP TWO: Apply for Asylum**

To apply for asylum, you should file [Form I-589, Application for Asylum and for Withholding of Removal](#), with USCIS within one year of your last arrival in the United States (unless you qualify for an exception to the one-year filing deadline).

Do not submit a completed fingerprint card (FD-258) or fingerprint fee with your application. Your application will be accepted without the fingerprint card attached.

More information about how to file your application can be found in the [instructions for Form I-589 \(PDF, 265 KB\)](#).

For information on asylum eligibility, see the [Asylum Eligibility and Applications](#) Web page on USCIS.gov.

#### ***Bars to Applying for Asylum***

You may not be eligible to apply for asylum if you:

- Did not follow the one-year filing deadline for [Form I-589, Application for Asylum and for Withholding of Removal](#). The one-year deadline is calculated from the date of your last arrival in the U.S. or April 1, 1997, whichever is later;
- Had a previous asylum application denied by an immigration judge or the Board of Immigration Appeals; or
- Can be removed to a safe third country under a two-party or multi-party agreement between the United States and other countries.

There are exceptions to these bars for “changed circumstances” or “extraordinary circumstances.”

Both are defined in 8 CFR 208.4. For more information on the bars and the exceptions, see our [Asylum Bars](#) Web page.

#### **Once USCIS has received the completed application, you will receive two notices:**

1. Acknowledgment of receipt of your application, and
2. Notice to visit your nearest application support center (ASC) for fingerprinting.

For more information on locating an ASC, see our [USCIS Service and Office Locator](#) Web page.

### **STEP THREE: Fingerprinting and Background/Security Checks**

You should read the ASC Appointment Notice and take it with you to your fingerprinting appointment at the ASC. You do not need to pay a fingerprinting fee as an asylum applicant.

If you are also requesting asylum status for your spouse and children and they are with you in the U.S., they will need to go with you to your ASC appointment.

More information is available on our [Fingerprints](#) Web page.

### **STEP FOUR: Receive and Interview Notice**

Depending on where you live, we will schedule you for an interview with an asylum officer either at one of the eight asylum offices or at a USCIS field office. For more information about USCIS field and asylum offices visit our [Find A USCIS Office](#) Web page. Your interview notice will tell you the date, location, and time of your asylum interview.

### **Please Note: Delay in Scheduling Your Asylum Interview**

We are committed to processing and adjudicating every application we receive in a timely manner; however, because of the diversion of an increasing number of asylum officers to conduct protection screening interviews for persons arriving at the border, there could be a delay in scheduling your interview.

On December 26<sup>th</sup>, 2014, the USCIS Asylum Division began prioritizing asylum applications for interview scheduling as follows:

- First, applications that were scheduled for an interview, but the applicant requested a new interview date;
- Second, applications filed by children; and
- Third, all other pending affirmative asylum applications will be scheduled for interviews in the order they were received, with oldest cases scheduled first.

If your asylum application is currently pending interview scheduling, we are unable to predict how long the process will take at this time. Please see [USCIS Processing of Asylum Cases](#) for more information.

Asylum Office Directors have the discretion to consider applicants' requests for urgent interview scheduling outside of the above prioritization categories on a case-by-case basis. Please submit any urgent interview scheduling requests in writing to the asylum office with jurisdiction over your case. Go to the [USCIS Service and Office Locator](#) page for contact information.

### **STEP FIVE: Interview**

You may bring an attorney or accredited representative to the interview. You must also bring your spouse and any children seeking derivative asylum benefits to the interview.

If you cannot proceed with the interview in English you must bring an interpreter.

The interview will generally last about an hour, although the time may vary depending on the case. You may also bring witnesses to testify on your behalf.

For more information about your asylum interview, see our Web page on [Preparing for Your Asylum Interview](#).

### **STEP SIX: Asylum Officer Makes Determination on Eligibility and Supervisory Asylum Officer Reviews the Decision**

You must meet the definition of a refugee in order to be eligible for asylum.

The asylum officer will determine whether you:

- Are eligible to apply for asylum,



- Meet the definition of a refugee in section 101(a)(42)(A) of the INA, and
- Are barred from being granted asylum under section 208(b)(2) of the INA.

A supervisory asylum officer reviews the asylum officer's decision to ensure it is consistent with the law. Depending on the case, the supervisory asylum officer may refer the decision to asylum division staff at USCIS headquarters for additional review.

### **STEP SEVEN: Receive Decision**

In most cases, you will return to the asylum office to pick up the decision two weeks after the asylum officer interviewed you.

Longer processing times may be required if you:

- Are currently in valid immigration status,
- Were interviewed at a USCIS field office,
- Have pending security checks, or
- Have a case that is being reviewed by asylum division staff at USCIS headquarters.

We will normally mail your decision to you in these situations.

For more information on the types of asylum decisions issued by USCIS, see our Web page on [Types of Asylum Decisions](#).

Additional information on the affirmative asylum process is available on our [Resources for Asylum Applicants](#) Web page.

Last Reviewed/Updated: 02/23/2016



## U.S. Citizenship and Immigration Services

### Types of Asylum Decisions

When you apply for asylum you will receive one of the following decisions:

- Grant of Asylum
- Referral to an Immigration Court
- Recommended Approval
- Notice of Intent to Deny
- Final Denial

#### Grant of Asylum

If we determine that you are eligible for asylum, you will receive a letter and completed Form I-94, Arrival Departure Record, indicating that you have been granted asylum in the United States.

The grant of asylum includes your spouse and minor children, provided that:

- They were present in the United States
- They were included in your asylum application
- You established a qualifying relationship to them

See [Family of Refugees & Asylees](#) for more information on immigration benefits for your spouse and children.

A grant of asylum allows you to apply for:

- An Employment Authorization Document (EAD)
- A Social Security card
- A Green Card (permanent residence)
- Immigration benefits for your spouse and unmarried children under the age of 21

See [Benefits and Responsibilities of Asylees](#) for more information on how to obtain these benefits.

A grant of asylum in the U.S. does not expire. However, USCIS may terminate your asylum status if you:

- No longer have a well-founded fear of persecution because of a fundamental change in circumstances
- Obtained protection from another country
- Obtained the original asylum grant through fraud
- Committed certain crimes or engaged in other activities that make you ineligible to retain asylum in the United States

See [Section 208\(c\)\(2\) of the "Immigration and Nationality Act](#) for more information on the termination of asylum status.

#### Referral to an Immigration Court

If we are unable to approve your asylum application and you are in the United States illegally, we will forward (or refer) your asylum case to the Immigration Court. A referral to the immigration judge

includes your spouse and unmarried children under 21 if they:

- Were included on your asylum application
- Are in the United States illegally.

A referral is not a denial of your asylum application. Instead, we refer your case for further review by the Immigration Court. If we cannot approve an asylum claim, we will send you a letter of explanation and a Form I-862, Notice to Appear, indicating the date and time you are scheduled to appear in court. You do not have to re-file your asylum application.

The Immigration Judge will evaluate your asylum claim independently and is not required to rely on or follow the decision made by USCIS.

### **Recommended Approval**

We will issue a recommended approval when you are eligible for asylum but we have not received the results of required security checks. A recommended approval includes your spouse and children, provided that:

- They are present in the United States
- They were included on your application
- You established a qualifying relationship to them

When a recommended approval has been issued due to pending security checks, you and your family members may apply for permission to work in the United States by filing [Form I-765, Application for Employment Authorization](#). When we receive the results of the required security checks and you are cleared, the recommended approval will be changed to a grant of asylum (see 'Grant of Asylum' section above).

### **Notice of Intent to Deny**

You may receive a notice of intent to deny (NOID) if you have valid legal status in the United States but are found ineligible for asylum. The NOID will state the reason(s) that you are ineligible for asylum. You will have 16 days to explain in writing either why the claim should be granted or submit new evidence to support the claim, or both. If you do not respond within 16 days, your asylum claim may be denied. If we receive a timely response, the asylum officer will carefully consider the response or new evidence, or both and then make a final decision to approve or deny the claim. If the claim is approved, the officer will issue a grant of asylum (see above); if the claim is denied, the officer will issue a final denial (see below).

### **Final Denial**

You will receive a notice of intent to deny (NOID) and a final denial letter if:

- You do not respond to the NOID within 16 days, or
- You submitted a response but the new information failed to overcome the reasons for denial stated in the NOID

You cannot appeal the asylum officer's decision. The denial includes any dependents included on your asylum application. If your claim is denied, you may reapply for asylum however, you must show changed circumstances that affect your eligibility for asylum.



## U.S. Citizenship and Immigration Services

### Asylum Bars

You can be barred from both applying for and receiving asylum for certain actions.

#### Bars to Applying for Asylum

You may not be eligible to apply for asylum if you:

- Did not follow the one-year filing deadline and did not file your Form I-589, Application for Asylum and for Withholding of Removal, within one year of your last arrival in the U.S. or April 1, 1997, whichever is later.
- Had a previous asylum application denied by an Immigration Judge or the Board of Immigration Appeals.
- Can be removed to a safe third country under a two-party or multi-party agreement between the United States and other countries.

There are exceptions to these bars for “changed circumstances” or “extraordinary circumstances.” Both are defined in 8 CFR 208.4. For more information on the bars and the exceptions, see our “Title 8, Code of Federal Regulations” page.

#### Bars from a Grant of Asylum

You could be barred from a grant of asylum if we find that you:

- Ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion
- Were convicted of a “particularly serious crime” such that you are a danger to the United States
- Committed a “serious nonpolitical crime” outside the United States
- Pose a danger to the security of the United States
- Have been firmly resettled in another country before arriving in the United States

You will also be barred from receiving asylum if you are inadmissible because you:

- Have engaged in terrorist activity
- Are engaged in or are likely to engage after entry in any terrorist activity
- Have incited terrorist activity
- Are a representative of a foreign terrorist organization
- Are a member of a terrorist organization
- Have persuaded others to support terrorist activity or a terrorist organization
- Have received military-type training from or on behalf of any organization that, at the time the training was received, was a terrorist organization
- Are the spouse or child of an individual who is inadmissible for any of the above within the last 5 years

For more information terrorist and national security bars, see our “Bars to Asylum and Inadmissibility Grounds Related to Terrorist Activity” page.



U.S. Citizenship and Immigration Services

## Affirmative Asylum Scheduling Bulletin

This bulletin explains how the Asylum Division prioritizes the adjudication of affirmative applications for asylum. On December 26, 2014, we began prioritizing asylum applications for interview scheduling as follows:

- 1.) Applications that were scheduled for an interview, but the interview had to be rescheduled at the applicant’s request or the needs of USCIS;
- 2.) Applications filed by children; and
- 3.) All other pending affirmative asylum applications in the order they were received, with oldest cases scheduled first.

Generally, applicants in the first and second categories are scheduled promptly.

The table below lists how the asylum offices are currently scheduling asylum interviews for applications pending in the third category. It provides the filing dates (month and year) of most asylum applications scheduled for local interviews during that particular month. We have created this system to provide applicants in the third category an estimate for when they might expect their interview to be scheduled. The approximations provided in the table are based on interviews scheduled during the listed month and future movement will be determined by each office’s caseload and resources. For example, in June 2015, the Arlington Asylum Office conducted interviews for applications filed in August 2013. It currently does not include asylum interviews occurring outside of the eight asylum offices or the Boston sub-office (e.g. interviews occurring on circuit rides). Asylum offices schedule circuit ride interviews as resources permit. Please contact the asylum office with jurisdiction over your case for more detailed information.

Asylum office directors may consider applicants’ requests for urgent interview scheduling outside of the prioritization categories on a case-by-case basis. Please submit any urgent interview scheduling requests in writing to the asylum office with jurisdiction over your case. Go to the [USCIS Service and Office](#) locator page for contact information.

**Please Note:** The table does not include interviews for [Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal \(Pursuant to Section 203 of Public Law 105-100 \(NACARA\)\)](#).

### Interview Schedule for Affirmative Asylum Applicants in Category 3

This chart will be updated monthly. Please check back each month for updated information.

If you live under the jurisdiction of...	We scheduled interviews in...	For people who filed in...
<b>Arlington, VA</b>	November 2016	January 2014
	October 2016	January 2014

If you live under the jurisdiction of...	We scheduled interviews in...	For people who filed in...
	September 2016	January 2014
<b>Chicago, IL</b>	November 2016	November - December 2013
	October 2016	November - December 2013
	September 2016	November 2013
<b>Houston, TX</b>	November 2016	April – May 2014
	October 2016	April – May 2014
	September 2016	April – May 2014
<b>Los Angeles, CA</b>	November 2016	August 2011
	October 2016	August 2011
	September 2016	August 2011
<b>Miami, FL</b>	November 2016	May 2013
	October 2016	May 2013
	September 2016	May 2013
<b>Newark, NJ</b>	November 2016	November 2013
	October 2016	November 2013
	September 2016	November 2013

If you live under the jurisdiction of...	We scheduled interviews in...	For people who filed in...
<b>New York, NY</b>	November 2016	September 2014
	October 2016	September 2014
	September 2016	September 2014
<b>San Francisco, CA</b>	November 2016	September – November 2014
	October 2016	September 2014
	September 2016	September 2014

Note: The filing dates of scheduled interviews may not change every month for every office. This can occur when an office is conducting more credible and reasonable fear interviews, has a large number of category 1 and 2 affirmative asylum cases, or has a large number of pending category 3 cases with filing dates from that particular month. Some affirmative asylum interviews were scheduled outside of the above date ranges.

Last Reviewed/Updated: 12/16/2016



# U.S. Citizenship and Immigration Services

## Preparing for Your Asylum Interview

On the day of your interview you should bring:

1. A form of identification, including:
  1. Any passports you may have,
  2. Other travel or identification documents, and
  3. Form I-94, Arrival-Departure Record, if you received one when you arrived in the U.S.
2. The originals of any birth certificates, marriage certificates, or other documents you previously submitted with your Form I-589, [Application for Asylum and for Withholding of Removal](#),
3. A copy of your Form I-589 and any additional material that you previously submitted in case the asylum office is missing any of this information;
4. Any additional items you have available that document your claim and that you have not already submitted with your application;
5. An interpreter if you are not able to continue with the interview in English,
6. Your spouse and/or children under 21, if they were included in your asylum application as [derivatives](#) at the time you filed your application;
  1. They must bring any identity, travel or other supporting documents they have in their possession.
  2. Although you are required to list all of your family members on your application, the only family members you need to bring to the interview are those who will be included as derivatives in the asylum decision.
7. A certified translation of any document that is not in English;
  1. Any document in a language other than English must be accompanied by an English translation that the translator has certified as complete and correct,
  2. The translator must certify that he or she is competent to translate the language used in the document into English.

You have the right to bring an attorney or representative to your interview at no cost to the U.S. government. You and your attorney/representative must submit Form G-28, [Notice of Entry of Appearance as Attorney or Accredited Representative](#) to USCIS, in order for your attorney/representative to accompany you to your asylum interview.

### Interpreters

If you do not speak English you will be interviewed through an interpreter who you bring with you to the interview.

We do not provide any interpreters during the asylum interview, except if you are hearing-impaired. If you are hearing impaired and need assistance in obtaining an appropriate interpreter, contact the asylum office with jurisdiction over your case in advance of your scheduled asylum interview.

You *must* bring an interpreter if you do not speak English well enough to be interviewed in English. The interpreter must be fluent in English and a language you speak fluently and must be at least 18 years old.

The following individuals cannot serve as your interpreter:

- Your attorney or representative;
- A witness testifying on your behalf at the interview; or
- A representative or employee of the government of your country.

The regulation relating to interpreters can be found at [8 CFR 208.9\(g\)](#).

If you do not bring a competent interpreter to your interview and you cannot speak English, your interview will be canceled and rescheduled. This is considered a delay caused by you and your 180-day Asylum Employment Authorization Document (EAD) Clock will stop until you appear at your rescheduled interview with a competent interpreter.

Although we do not provide interpreters for the interview, we use contract interpreters to monitor asylum interviews at local asylum offices and other locations by telephone. In general, the role of the contract interpreter is limited to monitoring your interpreter's interpretation. Contract interpreters may be expected to occasionally interject if your interpreter fails to provide adequate, accurate, and neutral



interpretation.

## Bringing an Attorney or Representative to Your Interview

You have the right to bring an attorney or representative to your asylum interview and to immigration proceedings before the immigration court, at no cost to the U.S. government. You may obtain a list of pro bono (free or reduced cost) attorneys and community-based, non-profit organizations that may be available to assist you by:

- Visiting the USCIS Avoid Scams Web page at [www.uscis.gov/avoidscams](http://www.uscis.gov/avoidscams);
- Visiting the U.S. Department of Justice, Executive Office for Immigration Review's (EOIR) website at [www.justice.gov/eoir/ra.htm](http://www.justice.gov/eoir/ra.htm). This site provides information on the Recognition and Accreditation Program.
- Visiting EOIR's website which provides a list of free legal service providers by state: [www.usdoj.gov/eoir/probono/states.htm](http://www.usdoj.gov/eoir/probono/states.htm); or
- Contacting the USCIS Field Office or asylum office near your home.

You and your attorney or representative must submit Form G-28, [Notice of Entry of Appearance as Attorney or Accredited Representative](#), to USCIS in order for your attorney or representative to accompany you to your asylum interview.

## Attorney or Representative Is Unavailable for the Interview

The filing of a G-28 does not prevent asylum offices from processing an application even if your attorney is not present. If an asylum office denies your request to reschedule an interview and your attorney is not available for the interview, you can either sign a waiver and continue with the interview without your attorney or accept referral to the immigration court. If you accept referral to the immigration court, your case will be treated as though you failed to appear at your asylum interview. Although you have the right to have an attorney or representative present at the interview, you are responsible for ensuring that your attorney/representative is present for the interview.

## Assistance Completing Form I-589

Representatives of the United Nations High Commissioner for Refugees (UNHCR) may be able to assist you in identifying individuals who can help you complete your Form I-589. Please contact the UNHCR for more information:

United Nations High Commissioner for Refugees  
1775 K Street, NW, Suite 300  
Washington, DC 20006  
Telephone: (202) 296-5191  
Website: <http://www.unhcr.org/>

## What to Expect on the Day of Your Interview

Your interview will generally last at least an hour, although the time may vary depending on your case. You will be asked to take an oath promising to tell the truth during the interview. Your interpreter will also take an oath promising to interpret accurately and truthfully. The asylum officer will verify your identity, ask you basic biographical questions and the reasons you are applying for asylum, and questions to determine if any bars will prevent you from applying for or being granted asylum.

For more information on the bars to asylum, please visit our [Asylum Bars Web page](#).

The asylum officer will know that it may be difficult for you to talk about traumatic and painful experiences that caused you to leave your country. However, it is very important that you talk about your experiences so that the asylum officer can determine whether you qualify for a grant of asylum.

The information you share with the asylum officer is confidential. In general, information related to your asylum claim cannot be shared with third parties without your written consent or specific authorization by the Secretary of Homeland Security. There are certain exceptions to this rule, however, which can be found in the confidentiality regulation (See 8 CFR 208.6). For more information on confidentiality and the asylum process, please visit our [Fact Sheet on Asylum Confidentiality](#).

You and your attorney or representative, if you have one present, will have time at the end of the interview to make a statement or add any additional information. A decision on your case will not be made at the asylum interview. For the legal regulations governing asylum interviews, see 8 CFR 208.9.

## Missing Your Interview (Failure to Appear)

Shortly after you miss your interview, you will receive a "Failure to Appear Warning Letter" from the asylum office where your interview was scheduled to take place. This letter explains how to reschedule your missed interview and the consequences of missing your interview on your 180-day Asylum EAD Clock.

You must request to reschedule your interview within 45 days from your interview date. If 45 days have passed and the asylum office has

If you make a request to reschedule your interview within 10 days from your interview date, and 10 days have passed and the asylum office has not received a request to reschedule your interview, your case will either be:

- 1) Referred to an immigration judge for adjudication in removal proceedings before the EOIR if you are not in lawful immigration status; or
- 2) Administratively closed and dismissed, if you are in lawful immigration status.

Because you no longer have an asylum application pending with USCIS, you are not eligible to apply for or renew employment authorization based on a pending asylum application. Your 180-day Asylum EAD Clock stopped on the date you failed to appear for your interview.

**If you are in unlawful immigration status**, the asylum office will mail you a “Referral Notice for Failure to Appear.” **If you are in lawful immigration status**, you will receive a “Dismissal of Asylum Application – Failure to Appear.”

## Rescheduling Your Interview

If you need to reschedule your interview, you must either:

- Mail, fax or email a letter to the asylum office where your interview is scheduled to be held, or
- Go to that asylum office and complete an In-Person Reschedule Request.

The asylum office will not honor a request to reschedule received by telephone. A request to reschedule an asylum interview must include the reason for the request and any relevant evidence.

The asylum office will reschedule an interview if it is your first rescheduling request and your request is received before your interview date. You will be notified in writing whether or not your interview will be rescheduled. You will also receive a new interview appointment notice with the new interview date, time and location.

You must prove that your request for rescheduling is due to good cause, if you need to reschedule:

- On the date of your interview,
- On or within 45 days after the interview date, or
- Your interview has already been rescheduled on one or more occasion.

You must prove that your request for rescheduling is due to exceptional circumstances if:

- More than **45 days have passed since your interview**.

Exceptional circumstances are a higher standard than good cause. If you do not establish exceptional circumstances for your failure to appear at your asylum interview, you may be ineligible for employment authorization. (See 8 CFR 208.7(a)(4)). More information about establishing good cause and exceptional circumstances is available in the [Establishing Good Cause or Exceptional Circumstances](#) Web page.

Rescheduling your interview will stop your 180-day Asylum EAD Clock either on the date that the asylum office cancels your interview or on the date of your interview, whichever occurs earlier. The 180-day Asylum EAD Clock will remain stopped until you appear for your rescheduled interview.

**NOTE:** If the interview notice was not mailed to the most recent address you provided to USCIS, then the asylum office will reschedule the interview without requiring that you show good cause or exceptional circumstances.

## Contact an Asylum Office

The addresses and locations for the eight asylum offices are available on the [Asylum home page](#) under the [Asylum Office locations](#) link.

# **PRO SE ASYLUM MANUAL**

Prepared by the Political Asylum/Immigration Representation Project, with help from the Massachusetts Law Reform Institute and Greater Boston Legal Services.

March 2012

## INTRODUCTION

This booklet explains how to prepare an application for asylum and withholding of removal. This is a complicated process, but this booklet is for people who do not have a lawyer to help them. In general, you may be eligible for asylum if you fear harm or have suffered harm in the past because:

- ✓ You belong to a particular race; or
- ✓ You practice a particular religion or refuse to practice a particular religion;
- ✓ You are of a particular nationality;
- ✓ You have a particular political opinion or belong to a group (e.g., opposition party) and are being harmed for your activities, or the person or group who wants to harm you believes that you have a particular political opinion;
- ✓ You have a characteristic which you cannot change, or should not be required to change. For example, your ethnicity, your gender, sexual orientation, your tribal or clan group, or your family.

The harm you have suffered or fear you will suffer in the future can be threats, physical harm or other problems that put you at risk in your country. The person or group seeking to harm you may be the government or someone the government is unable or unwilling to control.

**Tip:** If you want to apply for asylum, there is a one-year filing deadline. You must file for asylum **within one year** of arrival in the United States. There are very limited exceptions to this rule.

If you fear harm in your country, but the harm is not for one of the five reasons listed above, you should not file an application for asylum. If you do file for asylum, you must answer the questions on the asylum application form completely and honestly. Anyone who makes false statements on his or her asylum application may be permanently barred from all benefits under the immigration law of the United States.

To apply for asylum, you must fill out Form I-589, which is called *Application for Asylum and for Withholding of Removal*. See the attached sample form I-589. You can obtain an I-589 from your local Citizenship and Immigration Services (CIS) office or from the website: <http://www.uscis.gov>.

Immigration must receive your asylum application **WITHIN ONE YEAR** of your arrival in the

United States. For example, if you arrived in the United States on March 27, 2012, Immigration must receive your asylum application by March 26, 2013. If you fail to file within one year, you will not be allowed to do so later, unless you meet one of the very limited exceptions.

**Tip:** To determine the deadline when you must file, begin with your date of arrival, add one year, and subtract one day. That is the day when Immigration **must receive** the application. If you are before the Immigration Court, be sure to give your application to the judge before your one year deadline expires.

## STEP-BY-STEP GUIDE FOR FILING AN ASYLUM APPLICATION

### PREPARING THE DECLARATION

**STEP 1. How to tell your story.** A declaration is your written statement which explains in detail why you left your country and why you are afraid to return. In filing for asylum, you are not required to write a declaration. It is a good idea to do so, however, since it will help you explain your case to the Asylum Officer or Immigration Judge deciding your case. To write a declaration, consider the suggestions below. Also, see Sample Declaration in Support of the Application for Asylum.

#### Declaration of [Your Name] in Support of Application for Asylum and Withholding of Removal

I, [your name], declare as follows:

1. My name is [your name]. I was born in [your country of birth ], and am a citizen there. I make this declaration in support of my application for asylum and withholding of removal in the United States.
2. I was born on [date of birth] in [city of birth]. My parents' names are [parents' names]. They live in [parents' address]. I have [number] brothers and sisters. They live in [brothers' and sisters' location].
3. I am married to [name of spouse]. We married in [date of marriage]. I have [number] children. They live in [children's addresses].
4. [Provide information on your background and schooling. Also, if you are politically active, discuss your beliefs and activities.]
5. [After that, explain everything about your life in your country that now makes you afraid to return there. Include any times you, your family members, co-workers or friends were harmed or threatened, as well as why, and what you think will happen if you go

back.]

- Be sure to explain what happened to you. You should thoroughly explain any events which make you afraid. Include any times when the government or other person or group harmed or threatened you and why. Also explain any time when someone in a situation similar to you was harmed. For example, if you are afraid that the government will harm you because you belong to a particular family, you should explain every time that the government harmed anyone in your family. Provide as much detail about the harm against you. How were you harmed? By whom? What did the person(s) say? When did the harm occur? Why did it happen?
- If you cannot remember the exact date that something happened, do not guess. Instead, give the month or the year, or time of year, and state that you do not know the exact date. If you guess about a date and it later turns out to be wrong, the government may not believe that you are telling the truth.
- If the situation in your country has changed or there's a new ruler in power, explain why it is still not safe for you to go back.
- If you are afraid of a group or a person who is not part of the government, you should explain why your country cannot protect you. If you tried to get your government to protect you but could not, you should explain what efforts you made and what happened.

**Tip:** If you have been in the United States for more than one year, you should consult an immigration attorney before filing an application for asylum.

- You should also explain why you cannot move to another area of your country to live.

At the end of the declaration, write, "I declare under penalty of perjury under the laws of The United States that the foregoing is true and correct." Then sign the declaration and write the date.

## **HOW TO FILL OUT THE ASYLUM APPLICATION, FORM I-589**

**STEP 2. Filling out the Asylum Application Form.** Before you fill out the Application for Asylum and for Withholding of Removal (Form I-589), you should carefully read the instructions attached to the form. The following will help you understand many of the questions on the form and how to answer them.

The asylum application is supposed to remain confidential.

It is important to fill out the I-589 completely; fill in all of the boxes on the form and answer all of the questions. If you live in New England, and are **not** in Immigration Court proceedings, file your application with the Vermont Service Center in St. Albans, Vermont, as explained below. (Those in removal proceedings must file directly with the Immigration Court, as explained below).

**Tip:** Fill in **all** the blanks. If you fail to answer even one question on the asylum application, Immigration will send the entire application back to you. To avoid this situation, make certain that you answer each question; if there is no answer or the question does not apply to you, then type “N/A” in the answer space. **DO NOT** leave any space blank.

## **Part A: Provide Background Information**

### **I-589, Part A.I. Information About You:**

**Questions 1-12:** Provide the requested background information.

**Questions 13 & 14:** If you were born in one country and have citizenship in another country, you will need to explain in your declaration why you are afraid or unable to return to both countries.

**Questions 15-16:** Provide information relating to your ethnicity and religion. If your asylum claim is based on race, nationality, ethnicity, or tribal membership, you can explain that in your declaration.

**Question 17:** Check the box that describes your situation. If the government started an immigration case against you in Immigration Court, you file your application for asylum with the Immigration Court. If the government has not started an immigration case against you, you file your application with the USCIS and send it to the **Vermont Service Center** at the address listed on page 11.

**Question 18-21:** List the exact dates of your arrivals in the United States. Remember, you have only one year from the date you arrived in the United States to apply for asylum. If you are filing for asylum more than one year after you arrived, you can still file for asylum if: (a) circumstances have changed in a way which affects your asylum case; or (b) extraordinary circumstances prevented you from filing within one year.

**Questions 22-24:** Provide details about the languages you speak, including whether you speak English.

**Part A. II. Information About Your Spouse and Children.** List your spouse and all your children in your application, whether they are in the United States or not.

If your spouse and unmarried children are in the United States, they will also receive asylum if you are granted asylum. If they are not in the United States and you are granted asylum, you can file a Refugee/Asylee Relative Petition (Form I-730) for them, and they will be allowed to enter the United States as asylees.

**Tip:** Be careful to list all of your children, even if they are married or 21 years of age or older. Married children or children 21 or older do not receive asylum automatically when their parent’s application is approved, but a parent who later becomes a permanent resident or citizen may file for legal status. At that point, it could create problems if all the children were not listed on the asylum application.

**Part A. III. Information about Your Background.** This section requests information about previous addresses, education, employment, and information about your parents and siblings. Try to be as complete and accurate as possible. You do not need to write the exact day, if you only remember a month or year. If you estimate a date, write “estimate.”

**Part B. Information About Your Application.** This is where you explain why you are seeking asylum. Include information about what happened to you and your family in the past which makes you afraid to return, why you or your family were harmed, and what you think will happen to you if you return.

Read each question carefully and answer it completely. Try to explain the facts of what happened to you, and try not to write general statements about the situation in your country. If you cannot remember the exact date something happened, write what you do remember, like the month or year. If you do not remember the year, give an estimate.

If you write a declaration, you can explain all the details in your declaration. For the asylum application form, you can write a brief answer and then write: “See declaration for additional information.”

**Question 1: Why are you applying for asylum or withholding of removal or withholding under the Convention Against Torture?**

Check all the boxes that apply to you, your family, friends or coworkers.

**Question 1A: If your family, close friends, or colleagues have experienced harm, explain in detailed and include the reasons for the harm.** Include information about the person or group responsible for causing the harm. Explain what you think will happen to you if you return to your country. Write specific facts and not general statements, but don’t



write things that you are not sure about. It is difficult to change facts once you turn in your asylum application to Immigration. You can attach additional pages in your answer to each question, or you can attach a detailed declaration that has your complete story of why you left your country and why you are afraid to return.

**Question 1B: Do you fear harm or mistreatment if you return to your home country?**

If you fear that you will be arrested, tortured, or killed, state that. Explain the person or group you fear and why you think they will harm you. You don't have to state the exact names of the people if you don't know their names. However, you do need to name the group or groups you fear.

In explaining what will happen to you, try to explain how the harm is tied to your race, nationality, ethnicity, religion, political opinion, gender, or membership in a social group.

**Question 2: Have you or your family members ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in any country other than the United States?** Check "yes" or "no" and then explain. Answer what is asked, with as much detail as possible. If you cannot remember when something happened, estimate the date, and state that it is an estimate. You can attach additional pages or a declaration. This question has two purposes:

(1) To see if any arrests or charges in your home country (by the police, military, security forces, or other people tied to the government) amount to past persecution or are evidence that the government is likely to harm you if you return to your country; and

(2) To see if you have committed a crime in your country or any other country that might bar you from asylum. The following terms may help you answer this question:

- ✓ What does "arrested" mean? Generally, you are considered to be arrested if you are taken into custody and detained for a period of time. While you would usually be taken to a police station, military barracks, jail or detention center, this is not necessary.
- ✓ In some cases you may be arrested and detained at your home or some other place. What does "detained" mean? Generally, you are considered to be detained if your movement is restricted. For example, if you are stopped for a brief period and questioned, such as at a road block, this could mean you were detained.
- ✓ What does "interrogated" mean? Generally, "interrogated" means "questioned." The interrogation does not need to include force or mistreatment.
- ✓ What does "convicted and sentenced" mean? This usually means you were found guilty and sentenced to prison for a crime. In some cases, being convicted and sentenced is persecution. For example, if a criminal conviction is used to punish someone for her political opinion or because she has violated an unfair rule, such as requiring her to act

against her religious beliefs, this could be persecution. In other cases, a criminal conviction may prevent you from receiving asylum.

- ✓ What does “imprisoned” mean? This is generally means long-term detention. A person may be imprisoned whether or not she is charged or convicted of a crime, or sentenced.

**Question 3A: Have you or your family members ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerilla organization, ethnic group, human rights group, or the press or media?** Check “yes” or “no.” If you claim that you will be harmed because of your activities with a particular organization or movement, it is important to explain those activities.

For example, if you are afraid that you will be harmed because of your political opinion and activities in opposition to your government, you must list any political organizations to which you belonged and what your role was in those organizations. Include news articles or reports that show other people who belonged to that organization were arrested or killed by the government. If you are not certain about the exact dates of your membership in an organization, give an estimated date and state that you are estimating.

**Tip:** If you belonged to a para-military or guerilla organization, or any armed group, you should consult an attorney before completing this application. Cases that involve giving material support to a terrorist organization are complicated and may result in denial of asylum. Also, anyone who has persecuted others is barred from receiving asylum.

**Question 3B: Do you or your family members continue to participate in any way in these organizations or groups?** Check “yes” or “no.” If you checked “yes,” give a detailed description of you or your family members’ participation. List leadership positions held, types of activities and other participation with each group.

**Question 4: Are you afraid of being subjected to torture in your own country or any other country to which you may be returned?** This question relates to protection under the United Nations Convention Against Torture. This is a special law which prohibits the United States government from returning anyone to a country where he or she would be in danger of being tortured by the government or with the government’s acquiescence.

If you fear torture, explain in detail what you believe will happen to you, by whom, and why. If you were tortured in the past, explain what happened. The torture must be by the government or with the government’s acquiescence. The torture does not have to be on account of race, nationality, political opinion, membership in a particular social group, or religion. There is no one-year filing deadline for Convention Against Torture claims.

**Part C. Additional Information About Your Application.** The questions in this section relate to situations where you may not be eligible for asylum. For example, even though you may have a well-founded fear of harm if you return to your country, you may not be eligible if you:

- (a) previously applied for asylum;
- (b) were firmly resettled in another country;
- (c) applied for or received lawful status in another country;
- (d) participated in causing harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or political opinion;
- (e) returned to your home country;
- (f) waited more than a year after you arrived in the United States to apply for asylum; or
- (g) committed certain types of crimes either in the United States or elsewhere.

**Tip:** If you answered “yes” to any of the questions in this section, consult an immigration attorney before filing your asylum application.

**Part D. Your Signature.** Before signing your application, you should review it carefully to make sure that all the information is as accurate as possible and that the entire form is complete. Do not leave any sections blank. In signing the form, you are swearing that what you have said is true. You can be punished for perjury if you knowingly include false information.

**Part E. Declaration of Person Preparing Form If Other Than Applicant, Spouse, Parent or Child.** Anyone who helps you complete the form should sign this section.

**Part F & G. To Be Completed At Asylum Interview or Removal Hearing.** Do not sign this section until you appear before an Asylum Officer or before an Immigration Judge.

**STEP 3. Provide Country Condition Research.** Background information about the human rights situation in your country as well as information about events in your case is extremely important to assist the Asylum Officer or Immigration Judge in deciding your case.

You may send in articles from magazines, newspapers, books, human rights reports, or any other documents which help explain the situation in your country and why a person in your situation would fear returning. The internet is extremely helpful for gathering this documentation. Here is a short list of helpful websites where you can find information about your country, but there are many other places to search on the web:

- Department of State: <http://www.state.gov>
- U.S. Citizenship and Immigration Service: <http://uscis.gov>
- EOIR (Immigration Court and BIA): <http://www.usdoj.gov/eoir>
- United Nations High Commission for Refugees: <http://www.unhcr.org/cgi-bin/texis/vtx/rsd>
- Human Rights Watch: <http://www.hrw.org>
- Amnesty International: <http://www.amnesty.org>
- Asylum Law: <http://www.asylumlaw.org>

**STEP 4. Provide passport style photograph.** You need to send one passport-size photograph with your asylum application. It must be a passport-style photograph. The photos must be free of shadows and contain no marks, splotches, or discolorations. Photos must have a white or off-white background. Photos should not be retouched. With a pencil, lightly write your complete name and A # (Alien number), if known, on the back of the photograph. The photograph needs to be taken within the past 30 days.

**STEP 5. Make copies of your documents.** You should copy and submit any documents which help explain your case. What you file should include:

- ✓ The **original copy** of the I-589 *Application for Asylum and for Withholding of Removal* and **two copies**.
- ✓ The **original and two copies** of any documents which support the facts that you have described in your application or which help to explain conditions within your country. These documents can include:
  - a. Your declaration;
  - b. Declarations from other people who know your situation. For example, statements from family members or co-workers who were present when you were threatened or harmed will help to prove your case.
  - c. Expert Declarations from a doctor or medical worker or person who knows about the situation in your country and why you would be harmed if you return. It is not necessary for the expert to have personal knowledge about what happened to you.
  - d. Background information about human rights conditions in your country and other country condition information, as explained above.
  - e. Translations of any documents you included which are not in English.
- ✓ Three **copies** of your passport and three copies of any United States Immigration documents, such as an I-94 Departure Record.

- ✓ If filing for family members, include an extra **copy** of the application for each family member present in the U.S. Include a passport style photograph for each family member.
- ✓ Three **copies** of the passport and a **copy** of any United States Immigration documents, such as I-94 Departure Records **for each family member** included in your application.
- ✓ Three **copies** of your birth certificate.

**Tip:** Do not mail original identity cards, passports, birth certificates, I-94, etc., to USCIS or the Immigration Court. When you file your application, please include photocopies. Originals sent to Immigration will likely not be returned

**Foreign Documents:** If documents are in a foreign language, you must submit an English translation with a certificate of translation. The certificate of translation should look like this:

**Certificate of Translation**

I, \_\_\_\_\_, hereby state that I am fluent in the English and \_\_\_\_\_ languages, and am competent to translate from English to \_\_\_\_\_ and from \_\_\_\_\_ to English, and that I have translated the foregoing document fully and accurately to the best of my abilities.

Signed \_\_\_\_\_

Dated: \_\_\_\_\_

## MAILING YOUR ASYLUM APPLICATION

**STEP 6. Mail your application and documents.** Once you have put your application together, you should mail it to the Immigration Service Center that handles cases from your area. If you live in **New England**, and you do not have a case against you in Immigration Court, send the package to the following address:

Department of Homeland Security  
 Vermont Service Center  
 ATTN: ASYLUM  
 75 Lower Welden Street  
 St. Albans, VT 05479-0001

If the government has started a case against you in Immigration Court, **file your asylum application in Immigration Court** at a hearing set by the Court. The address and phone

number for the Boston Immigration Court is:

Boston Immigration Court  
Executive Office for Immigration Review  
John F. Kennedy Federal Building, Room 320  
Government Center  
15 New Sudbury Street  
Boston, MA 02203  
Phone: 617-565-3080

### **THE ASYLUM HEARING**

If you are in removal proceedings in Immigration Court, an Immigration Judge will decide your case. The Immigration Judges are part of the Executive Office for Immigration Review ("EOIR"), an agency of the Department of Justice.

The first hearing in Immigration Court is the **Master Calendar** hearing. At this hearing, you will answer the government's charges against you that you are removable from the United States. Applying for asylum is a defense to removal. You will tell the judge about applications for relief from removal that you might be applying for, such as asylum, withholding of removal, relief under the Torture Convention, cancellation of removal, adjustment of status, and voluntary departure. The government's trial attorney will be arguing that you should be deported based on the grounds of removal that are listed in the Notice to Appear (Form I-862).

The judge will have several cases set at the same time for Master Calendar hearings since each hearing is short. The hearing itself will likely last several minutes but you might have to wait a long time before your case is called. When the clerk calls your case, you will take a seat at the table in front of the judge (unless you are in detention and appearing by tele-video). The court will provide an interpreter if you do not speak English.

- ✓ At the Master Calendar hearing, the Immigration Judge will make sure that you were served with the Notice to Appear (I-862) and the list of free legal services.
- ✓ The Immigration Judge will ask you to respond to the charges of removability in the Notice to Appear.
- ✓ The Immigration Judge will ask if you would like to time to find an attorney.

If the Immigration Judge finds that you do not have the right to remain in the U.S., he or she will allow you to apply for relief from removal, such as asylum, withholding of removal, Torture Convention relief, and voluntary departure. If you are requesting asylum for the first time in Immigration Court, the judge will schedule another Master Calendar hearing where you will fill an asylum application in court. Ask for time to complete the asylum application, usually at least 2 or 3 weeks.

After you submit your asylum application in court, the judge will set a date for an **Individual Calendar** hearing, which is your full hearing about your asylum claim. The judge will also schedule a date for filing any additional materials. At your Individual Calendar hearing you will testify, present witnesses and be cross-examined about your claim.

### **Individual Hearing**

**Direct Examination by Judge:** You are the most important witness in your asylum case and your credible testimony is the key to winning. It is extremely important to prepare for your case. Be prepared to tell your story clearly and truthfully. The Immigration Judge will usually interrupt and ask questions. At times, the Immigration Judge may sound angry or limit your testimony. Try to have someone with you in court who can take notes about unprofessional behavior from the judge so you can challenge it later.

**Cross Examination by the Government's Trial Attorney:** The trial attorney will cross examine you and any other witness you call. Trial attorneys often look for problems with the case, such as inconsistencies in the your story, documents that you submitted that contradict parts of your case, any trips in the your passport, why the persecutor cares about harming you, proof of your identity or at times proof of your nationality, firm resettlement in another country where you lived after first fleeing your home country, your criminal history, and other matters.

**Court Interpreters:** The Immigration Court will provide an interpreter for the Individual Calendar hearing. If you think that the court interpreter is not competent or is failing to interpret parts of your testimony, you can object to the interpreter. State your objection to the judge, not to the interpreter.

**Witnesses:** You may call witnesses to support your case. You should be sure that you know what your witnesses will say. Do not call witnesses who are not familiar with your case or the country from which you fear return, or who may say hostile or confusing things about you.

## **THE ASYLUM INTERVIEW**

If you have not been arrested by Immigration and do not have a case in Immigration Court, mail your asylum application to the Vermont Service Center. It will be review for completeness. If it is not complete, the Vermont Service Center will return it to you. You **must correct it and mail it back** to Vermont as soon as possible (at most, within one month). If it is complete, you will receive a receipt notice. The Vermont Service Center will send it to the Newark Asylum Office.

Once you have filed a complete asylum application and the Vermont Service Center has accepted it, you will receive three notices:

1. Receipt notice - this notice states that the asylum application has been received and accepted.

2. Appointment notice - this notice sets the date, time and place for the asylum interview with an asylum officer in Boston.
3. Fingerprint notice - this notice sets an appointment to have your fingerprints taken.

**Interview Date.** When the Newark Asylum Office receives your application, the office will schedule an asylum interview in Boston. Usually, the Asylum Office will schedule the interview within 60 days after you file the asylum application. However, it might be sooner or later than that. You will receive a notice with the date, time and place of your interview.

**Reschedule Hearing Date:** If you need more time to prepare your case, call the Newark Asylum Office at (201) 531-0555 and ask to speak to the officer in charge of rescheduling Boston asylum interviews. Ask that person to reschedule the appointment for a later date. The officer may ask you to fax a request in writing. If so, fax a letter requesting a continuance to the Newark Asylum Office at (201) 531-1877.

In Boston, an Asylum Officer will conduct your interview at the John F. Kennedy Federal Building, 6<sup>th</sup> Floor, near the Government Center T-stop. The interview can last from 1-3 hours. The Asylum Officer will question you about the information and documents you have submitted. The Asylum Officer will give you the chance to add any information or any additional documents you have.

**Tip:** If you made any mistakes when filling out the asylum application, it is important to let the Asylum Officer know at the beginning of the interview and to correct the information.

**Asylum Office Interview.** The asylum officers conduct interviews at:

Boston Asylum Office  
Citizenship and Immigration Services  
John F. Kennedy Federal Building, Room 600  
Government Center  
15 New Sudbury Street  
Boston, MA  
617-565-9030

Asylum officers travel to Boston from the Newark Asylum Office to conduct the interviews. The Boston asylum office has only a receptionist, a waiting room and several interview rooms.

**Originals of Documents.** When you appear for your asylum interview, make sure that you bring the originals of any documents with you so that the Asylum Officer can review the originals and compare them to the photocopies you submitted with your application



**Interpreter.** If you do not speak English fluently, you must bring an interpreter with you to the Asylum Officer interview. Make sure the interpreter speaks your language and English fluently. He or she must understand that his or her role is to interpret exactly what is said, without adding anything to what you say or trying to speak for you. If the interpreter makes mistakes or does not interpret what you say correctly, the Asylum Officer may think you are not telling the truth.

**Asylum Office Decision.** After the interview, the Asylum Officer will notify you of the decision. This will usually happen by letter. Sometimes, the Asylum Officer may tell you to come to the office at a certain date and time for the decision. If the Asylum Officer decides to grant asylum, you may receive a “recommended approval” or an “approval”.

- If you receive an **approval letter**, you have been granted asylum. One year from the date of your approval, you can file for lawful permanent resident status for a “green card.”
- If you receive a **recommended approval**, it means that the Asylum Officer is waiting for your fingerprints to clear, showing that you do not have a criminal record. Once that clearance comes through, you will receive an approval letter.
- If the Asylum Officer decides not to grant your case, you will receive a **referral** letter, and a Notice to Appear before an Immigration Judge in Immigration Court. The Immigration Judge will hear your case and conduct a formal hearing where you can present your testimony and other witnesses and evidence on your case. If your case is referred to an immigration judge, you should immediately consult with an attorney.

### CHANGE OF ADDRESS

If you move, it is extremely important to notify the government of your change of address. Send one copy of the Change of Address Form AR-11 to each of these offices:

USCIS  
Change of Address  
P.O. Box 7134  
London, KY 40742

Newark Asylum Office  
1200 Wall Street West  
4<sup>th</sup> Floor  
Lyndhurst, NJ 07071

If you have already filed for asylum, you may report the change of address to the National Service Center toll-free at 1 (800) 375-5283. You may also do this online at: <https://egov.uscis.gov/crisgwi/go?action=coa.cr.Residence>.

### EMPLOYMENT AUTHORIZATION

You can apply for employment authorization if you receive a recommended approval or an approval of your asylum case. If you have not received a decision on your asylum case, you can also apply for employment authorization after waiting 150 days after you filed for asylum with

the USCIS or the Immigration Judge, provided that the Immigration Judge has not denied your asylum case. The “work clock” counts the number of days your case has been pending with immigration. Unfortunately, the clock stops counting the days if you ask for a continuance to have more time to prepare. Sometimes it is necessary to ask for a continuance if you need more time even though that stops the time you have to wait before you can get work authorization.

To file for employment authorization, fill out Form I-765, available on the USCIS web page at [www.uscis.gov](http://www.uscis.gov). Requests for work authorization must include the following:

- ✓ Form I-765
- ✓ G-28, Notice of Entry of Appearance of Attorney
- ✓ Copy of I-94 Departure Record (front and back), if available
- ✓ A copy of the last work authorization card if renewing your request for work authorization(front and back)
- ✓ Copy of Hearing Notice or Receipt Notice of asylum application
- ✓ Two photographs taken within 30 days of submission to DHS with name and A# written lightly (in pencil) on the back of each

If an Immigration Judge denies your asylum application within 180 days from the date you filed your asylum application, you cannot obtain employment authorization based on your asylum application.

### **AFTER WINNING ASYLUM**

Once you receive a final grant of asylum either from an Immigration Judge or an Asylum Officer, you may receive some services to help you adjust to life in the United States. You are eligible for a new I-94 and employment authorization card, travel document, and assistance in helping to become financially stable. Upon your grant of asylum, contact the Refugee Resettlement Agency in your area to obtain these services. For further information, contact the:

#### **Office for Refugees and Immigrants**

18 Tremont Street, Suite 1020

Boston, MA 02108

Tel: (617) 727-7888

<http://www.mass.gov/ori>

Once you win asylum, you may be able to bring certain family members to the United States. Asylees may file a **derivative asylum** application for a spouse and unmarried children under 21.

Once you are granted asylum and have been in the U.S. for more than one year, you can file for **adjustment of status (to a legal permanent resident)** to get your green card. Before applying for your green card, you should consult with an attorney or with one of the non-profit agencies to make sure that you are eligible.

# **Asylum, Withholding of Removal, Convention against Torture**

## **\*Thinking About My Claim**

*You can use this worksheet to help you prepare your application for protection in the United States and present your story to the Judge.*

### **The reasons why I am seeking Asylum, Withholding, or Convention Against Torture**

*Ask yourself these general questions about why you are afraid to return to your home country. Try to answer them with as much detail as possible so that you will be prepared to explain your story to the Judge.*

**Why** did I leave my home country?

**Who** am I afraid of?

**Why** am I afraid of them? **Why** do they want to harm me or others like me?

**What** do I think they will do to me if I return?

**How** do I think they will know that I am back?

**Who** else are they threatening & mistreating now? Are they people like me (in race, religion, nationality, etc?)  
How do I know this?

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# Asylum, Withholding of Removal, Convention against Torture

## My experiences in the past

*It is important to give the Judge specific and detailed information about the threats or harm that you have experienced to show why you are still afraid to return to your country now. Ask yourself the following questions about your previous experiences to help you answer the Judge's questions with detailed information.*

**Experience 1: date:** \_\_\_\_\_

**What** happened to you? What happened to other people like you? \_\_\_\_\_

**Who** did it to you? (for example, the government, police, rebels, religious groups, etc...) How can you identify them? \_\_\_\_\_

**Why** were they threatening or mistreating you? \_\_\_\_\_

**How** do you know they were specifically targeting you? \_\_\_\_\_

**What** did they say when they were threatening or mistreating you? \_\_\_\_\_

For which of the five reasons? Circle any that apply: race/religion/nationality/social group/political opinion

How do you know? \_\_\_\_\_

**Who** else did they threaten or mistreat, if anyone? \_\_\_\_\_

Did they threaten or mistreat your family or friends? \_\_\_\_\_

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**Experience 2: date:** \_\_\_\_\_

**What** happened to you? What happened to other people like you? \_\_\_\_\_

**Who** did it to you? (for example, the government, police, rebels, religious groups, etc...) How can you identify them? \_\_\_\_\_

**Why** were they threatening or mistreating you? \_\_\_\_\_

**How** do you know they were specifically targeting you? \_\_\_\_\_

**What** did they say when they were threatening or mistreating you? \_\_\_\_\_

For which of the five reasons? Circle any that apply: race / religion / nationality / social group / political opinion

How do you know? \_\_\_\_\_

**Who** else did they threaten or mistreat, if anyone? \_\_\_\_\_

Did they threaten or mistreat your family or friends? \_\_\_\_\_

## **Asylum, Withholding of Removal, Convention against Torture**

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**Experience 3: date:** \_\_\_\_\_

**What** happened to you? What happened to other people like you? \_\_\_\_\_

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**Who** did it to you? (for example, the government, police, rebels, religious groups, etc...) How can you identify them? \_\_\_\_\_

**Why** were they threatening or mistreating you? \_\_\_\_\_

**How** do you know they were specifically targeting you? \_\_\_\_\_

**What** did they say when they were threatening or mistreating you? \_\_\_\_\_

For which of the five grounds? Circle any that apply: race / religion / nationality / social group / political opinion

How do you know? \_\_\_\_\_

**Who** else did they threaten or mistreat, if anyone? \_\_\_\_\_

Did they threaten or mistreat your family or friends? \_\_\_\_\_

**Experience 4: date:** \_\_\_\_\_

**What** happened to you? Hat happened to other people like you? \_\_\_\_\_

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**Who** did it to you? (for example, the government, police, rebels, religious groups, etc...) How can you identify them? \_\_\_\_\_

**Why** were they threatening or mistreating you? \_\_\_\_\_

**How** do you know they were specifically targeting you? \_\_\_\_\_

**What** did they say when they were threatening or mistreating you? \_\_\_\_\_

For which of the five grounds? Circle any that apply: race / religion / nationality / social group / political opinion

How do you know? \_\_\_\_\_

**Who** else did they threaten or mistreat, if anyone? \_\_\_\_\_

Did they threaten or mistreat your family or friends? \_\_\_\_\_

## **Asylum, Withholding of Removal, Convention against Torture**

### **What the lawyer for Immigration is likely to ask me at my Individual hearing**

*At your individual hearing, the lawyer for Immigration may ask questions to try to convince the Judge that you should not get protection in the United States. She may want to show that it is safe for you to return to your country, or that you are not eligible to win protection for some other reason. Ask yourself the following questions to help you answer the lawyer's questions in court.*

**Can I identify those who harmed me? What were their names? Rank? Profession? Would you recognize them again? Would they recognize you?**

**Do I have proof that it is still unsafe for me to return home?**

*(for example, newspaper articles, death certificates, etc.)*

**Could I go somewhere in the country where I would be safe? Why or why not?**

*(This could be asked for any country, but especially for large countries with many different regions.)*

**Have the conditions in my country changed since I left it? Would this make it safe for me to return?**

**More dangerous?** *(Is there is a new political regime in power? Has a war ended? Has a rebel movement been defeated? Have there been democratic elections? Has there been a coup?)*

**If I was mistreated previously, was it for a reason unrelated to one of the five grounds?**

*(for example, was it because of a civil war, was it due to poverty?)*

**Have I ever returned to my home country since I left it?**

**If so, how was I able to stay safe when I went back? Could I do this again?**

**Have I ever received permanent residency or protective status in another country? Could I return there now?**

**Have I ever threatened or mistreated others for reasons related to one of the five grounds?**

# **Asylum, Withholding of Removal, and Convention Against Torture**

## **WRITING YOUR DECLARATION**

### **What is a Declaration?**

A Declaration is a written statement that you can and should include with your application for Asylum, Withholding of Removal and Convention Against Torture. While the application asks you to answer specific questions about why you fear returning to your home country, a written declaration will allow you to tell your entire story of what happened in your home country and why you fear returning, without being interrupted. You want to give the Judge detailed information about your claim, so that he can make a good decision about whether or not to give you protection in the United States.

### **A Good Declaration Will:**

- Be specific and detailed to help "paint a picture" of your story for the Judge
- Be well organized and easy to understand
- Explain how you meet the legal definition of asylum, withholding of removal, or Convention Against Torture
- Contain facts that you are certain of, so that you will not contradict facts in the Declaration at your court hearing

It should end with a statement that if you returned to your home country, you will be harmed, mistreated, tortured and killed (or whatever your circumstances would be.) After the conclusion, you must make a statement under penalty of perjury saying that everything is true. The Declaration does not need to be notarized

### **What should be in the declaration?**

A Declaration is really just a detailed story, explaining certain events which occurred during your life. Your job is to make the Judge understand why you are afraid to return to your home country. Your words must paint a picture for the Judge. He must be able to imagine through your words the torture, violence and fear that you suffered. When writing a Declaration you should be as detailed and specific as possible. Try to use descriptive words.

Your declaration should be like a book or movie that tells the story of our life. Like a book or movie, it starts at the beginning with when and where you were born. After that, the story continues in a logical order, passing from one important event in your life to the next, showing experiences that you had. It should continue to the present.

You need to talk about your whole life, but you also have to choose the most important events and describe them in great detail. The judge, who is going to read your story, doesn't know anything about you, and probably has never been to your country and knows little or nothing about it. When you describe an important event in your life - for example, a time when you were threatened, detained, tortured or hurt or that someone made you feel afraid - you want to make the judge feel, see, smell, and hear what you saw, smelled and heard.





## **Asylum, Withholding of Removal, and Convention Against Torture**

### **If you are applying for Asylum and Withholding of Removal:**

The purpose of Asylum and Withholding of Removal is to protect those who have been or are in danger of being threatened or harmed **because of their political opinion, race, nationality, religion, or social group**. You have to show that the harm was inflicted by the government, or groups that the government **cannot or will not control**. When you are writing your Declaration, remember that you need to explain who will harm you and why.

For example, if armed men dressed as soldiers beat you it is more likely that it has to do with something political. If you don't mention that the men wore uniforms or don't explain how you knew they were soldiers, the judge may think that it was a beating committed by ordinary criminals, and had nothing to do with politics or persecution. You should also mention everything that you said or did that drew or may draw the attention of the people you are afraid of. For example, if you participated in some group that is considered to be against the government, it is important to explain in detail the activities in which you participated. It is also important to explain that the government considers this group to be against the government and how you know this. In addition, you should include facts that show that someone in the government is aware that you participated in this group, or that it is likely that they will find out. Without these facts, the judge may decide that the persecution you are afraid of is not for one of the reasons discussed above and you may lose your case.

### **Try to answer the following questions in writing your declaration:**

**\*What** is the past harm that you or other people like you suffered. Be specific and detailed.

**\*Why** were you harmed in the past or why do you fear harm in the future? What was this persecution based on? Was it because of your race, religion, nationality, membership in a particular social group, or political opinion?

**\*When and How** were you threatened, harmed or tortured (what specifically happened to you)?

**\*Who** specifically was doing this to you? Were they part of the government or other group? How did you know it was them (were they in uniform, did they identify themselves, what, if anything, did they say to you)?

**\*Why** do you fear return to your country now? Is there a threat of future harm to you? How do you know this? Remember be specific!

## Asylum, Withholding of Removal, and Convention Against Torture

### If you are applying for the Convention Against Torture:

The purpose of protection under the Convention Against Torture is to protect those who fear that they will be tortured by a government official, or with the permission of the government. Torture is when someone, on purpose, acts to cause you severe pain or suffering. It can include physical or mental pain or suffering. Torture can include such things as rape, electric shocks, physical beatings, and threats of harm such as an imminent threat of death. When you are writing your Declaration, remember that you need to explain who you fear will torture you, how they will do it and why.

#### How do I describe the harm or torture I suffered?

If you were a victim of threats, harm or torture, it is important to describe it with as much detail as possible. This can be very hard to do, but it will help the judge to understand exactly what you fear will happen if you have to go back to your home country. For example, if you were tortured, instead of writing "*I was held and beaten for three days,*" think about including the following details: How long were you beaten or tortured? How many times? Where? When? For how long? What did the person who tortured you say? What were your feelings?

Describe all events with this type of detail - even those that are not as dramatic as torture. Even details about events that you may think of as "normal" life, for example, living in constant fear, sleeping in other places to avoid arrest, conversations about whether or not to leave the country, and feelings upon learning of the death or disappearance of friends or family, will help the Judge understand why you cannot go back to your home country.

#### Try to answer the following questions in writing your declaration:

**\*When and How** were you tortured? Was it physical or mental? Did it cause or did it intend to cause you pain and suffering?

**\*Who** tortured you? Was it a government official or someone acting with the government's permission?

**\*How** did you know who was torturing you?

**\*Why** do you fear returning to your country now? Is there a threat in the future that you will be tortured and how do you know this? Remember be specific!

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# Asylum, Withholding of Removal, and Convention Against Torture

## DOCUMENTATION

Documentation is very important because it helps you support your request for protection in the United States. In addition to writing out your story and preparing to talk to the Judge about what has happened to you and what you fear would happen to you if you were returned to your country, you will also want to show the Judge documentation which supports your claim. If you do not submit any documentation, you will have to explain why you did not.

### General tips on documentation:

There are many different types of documents that you can use to support your claim. These include: \*human rights reports published by well known groups like Amnesty International and UNHCR, \*newspaper and magazine articles about events and conditions in your country, \*official documents from your home country, and \*information collected from family members and friends.

What kinds of documents should I try to get?

#### *Official documents*

- Human rights reports (from groups such as Amnesty International, Human Rights Watch, and the US State Department)
- Articles and reports about things that have happened to you, your family, or people who are like you
- Official documents (such as death certificates of family members, friends, and others like you who were killed, medical records, and police reports).
- Newspaper and magazine articles about conditions in your country and specific human rights issues

#### *Personal documents*

- Affidavits (sworn statements) written by people who witnessed or have information about what you experienced, what conditions are like in your country, or what would happen to you if you returned. These are especially valuable if they are written by people in your country.
- Photographs that help prove your story. This might include pictures of you with people who have been killed, or pictures of you with groups you claim to be a part of. (You'll need to be able to prove who the people are in the pictures.)
- Any other information that will help prove why you fear returning to your country.

#### **Get started early:**

You should start collecting your documents early. This includes statements and affidavits from your family and friends who are in other countries, as the mail may take a long time to get to you. There are also several human rights groups that assist in gathering documentation, but you need to give them enough time to do a good job. Do not submit

## **Asylum, Withholding of Removal, and Convention Against Torture**

false documents. Immigration has a very good laboratory in which to test whether documents are valid and a false document will hurt your case.

### **A little can go a long way:**

Many times people think that having a huge pile of country documentation will help them. In fact, just the opposite is often true: a small to medium amount of carefully selected documents that support your claim well, and a few general country reports, are usually the most helpful. Judges are very busy, and if you give them a mountain of documentation to read, they may not be able to pay close enough attention to the important parts that strongly support your claim. It will help the Judge and lawyer for Immigration if you underline or highlight the key parts of any reports you submit. But do not highlight original documents because you will ruin their authenticity.

### **How to get documentation:**

There are several different human rights groups that collect documentation on human rights problems in different countries, and help people with documenting their stories. Some of them specialize in specific types of claims (such as sexual orientation claims) while others work with all types of asylum claims. Some of these groups charge a fee for their services. Others may accept a fee waiver if you don't have the money to pay them.

### **How to ask for documentation**

There is a **documentation request form** that you can use to contact a number of human rights groups for documentation. You can find a copy in the large packet called "*How to Apply for Asylum and Withholding of Removal*" which you can find in the library, or you can get a copy from the Florence Project. You should fill in general information like your name and A number, and attach a copy of your Application and Declaration. You may also want to attach a copy of the **Thinking about your claim** worksheet. For the "due date" you should list a date about two weeks before your Individual Hearing, so you will have time to review and photocopy the documents. You will then send it to **one** of the organizations listed. Depending on the type of claim you have, we may advise you to send it to more than one organization.

**It is important to explain your story in as much detail as you can.**

We know it can be painful and difficult to think about your experiences, and even more difficult to tell others about them. However, the more details you provide, the better other people can help you prepare your story. This includes:

- The Florence Project, which can give you good legal advice and help you prepare to speak with the Judge
- Human rights groups that can help you document your claim
- The Judge, who wants to make a fair and appropriate decision in court

## **Asylum, Withholding of Removal, and Convention Against Torture**

To get help in preparing your case, you should give as much information as possible. You can use the worksheet called **Thinking about your claim** to help you tell your story.

**This information will be kept strictly confidential.**

The information you provide to the Florence Project and documentation groups will be kept **strictly confidential**, and never shared with anyone else without your permission. In court, you can ask for a private hearing if you are uncomfortable discussing your claim in front of others.

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## Asylum, Withholding of Removal, and Convention Against Torture

### Testimony: preparing to talk to the Judge

Being prepared to talk to the Judge and present your story well can make the difference in whether you win or lose your case. By the time of your final hearing, you will have submitted your application, prepared supporting documentation, and thought about your claim in great detail. Now you have the opportunity to present your story directly to the Judge. You must convince the Judge that you are truly in danger and have good reasons to fear going back, and that anyone else in your situation would also be afraid. The Judge will decide if he believes your story and if it meets the legal standard for protection.

#### How to Convince the Judge That You Are Telling the Truth:

##### **\*Specifics and details: who, what, when, where, why, how**

It is more likely that the Judge will believe your story if it is detailed and coherent. This means you must give specific details about your fears, and your overall story must make sense. It is very important that you are clear with the Judge about **who** it is you fear, **why** you fear them, **what** they have done or will do to you, etc. Look at the sheet "*Writing Your Declaration*" for more information on being specific.

##### **\*Credibility & consistency**

To help convince the Judge that you are telling the truth, you need to answer all of the Judge's questions completely and openly. Don't hide anything, and don't refuse to answer questions. If you do not remember an answer, say you don't remember. If you don't understand a question, ask for a clarification. Especially, don't answer a question incorrectly because you think the answer will help you. Being honest will always help you more. Remember also that you can be criminally charged for lying under oath.

You want to be consistent between what you wrote in your application and declaration and what you say to the Judge in the courtroom. This means that you say the same things out loud as you wrote down. Know exactly what you put in your written documents so that you can be sure you explain it the same way to the Judge. If you aren't sure of an exact date or number, always say "approximately" or "I think it was about..." You can also explain events in relation to each other: "*The soldiers came to our village just after harvest.*"

If after reviewing your application and declaration you realize some of the information was incorrect, you should be sure to tell the Judge and explain why you are now making changes. Usually, the Judge will ask at the beginning of your final hearing if you want to make any changes or additions to your application. In case the Judge does not ask, be prepared to bring up the corrections right away.

## **Asylum, Withholding of Removal, and Convention Against Torture**

### **How to Show the Judge that Your Case Meets the Legal Standard:**

Telling your story in your own words is very important. However, to win protection you must show how your story meets the legal definitions of asylum, withholding, or the Convention Against Torture. To better understand how your story fits in to these legal definitions, you can read the packet called "HOW TO APPLY FOR ASYLUM AND WITHHOLDING OF REMOVAL" which you can find in the library. You can also use the Worksheet called **Thinking About Your Claim**, or talk to the Florence Project staff.

#### **\*Techniques for preparing testimony**

There are many different ways you can prepare yourself to talk to the Judge. You can talk about your case with others, and practice going over what you want to say. Friends can act as though they are the Judge or the attorney for Immigration, and ask you questions. You can also practice on your own by thinking about questions the Judge may ask you and making notes of your answers. Use the Worksheet on **Thinking about your claim** to help you.

#### **\*Witnesses**

If it is possible to have witnesses come talk to the Judge on your behalf, this can be very helpful. You should think about family members and friends who know of the conditions in your country and who have witnessed or have information about what happened to you. If they cannot come in person, they can also write letters to the Judge about what they know.

#### **\*Negative facts**

It is very important that you be complete and honest about your story, even with facts that might reflect badly on your case. You can ask for the opportunity to explain these potentially negative factors, and it will show the Judge you are trying to be open and complete about your story. If the BICE discovers the facts and brings them up before you say anything about them, it could appear to the Judge that you are trying to hide information.

#### **\*Be courteous and respectful**

The hearing can sometimes become tense, and it can be easy to get upset. However, always remember to be respectful towards the Judge, the lawyer for Immigration, and the other people in the court. This respect will go a long way towards helping your case. Also consider the differences that may exist between your country's culture and the United States. For example, in many cultures it is considered a sign of disrespect to look an authority figure directly in the eye. However, in the United States looking someone in the eye when you are talking to them is a sign that you are being honest and open, and can also be a sign of respect.



## **Asylum, Withholding of Removal, and Convention Against Torture**

### **\*Stay calm!**

The hearing often makes people nervous. Being nervous and apprehensive is normal, and many people feel this way in any kind of a court setting. It will help your case if you can remain calm, and pay careful attention to what is happening. If you appear confident in presenting your case, it will help the Judge to also be confident about your case.

### **\*This will be difficult, but you can do it!**

It can be painful and disturbing to remember events that happened to you in the past and to think about why you are afraid of returning to your home country. Forcing yourself to relive memories may also bring back the same emotions and fears. It is important to remember that you are explaining your memories and fears in order to help protect yourself and your family for the future. This takes a lot of courage. Give yourself plenty of time to prepare, take time out to relax and think of other things, and look for support from your family and friends. With advance preparation, it will be easier for you to discuss your story on the day of your hearing.

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HIGH COMMISSIONER  
FOR REFUGEES**



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**CONVENTION AGAINST TORTURE**

If you fear that you will be tortured if returned to your home country, you may be eligible for protection under a law implementing a United Nations treaty called the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "Convention Against Torture").

Under Article 3 of the Convention Against Torture, the United States may not deport a person to another country where there are substantial grounds for believing that the person would be in danger of torture. The Convention Against Torture differs from protection under the asylum and withholding of removal laws in three significant ways: (1) there are no exceptions to protection under Article 3 if the person meets the standard; for example, protection is still available to persons convicted of "aggravated felonies"; (2) the torture does not have to be "on account of" race, religion, nationality, membership in a particular social group or political opinion; and, (3) a public official, or person acting in an official capacity, must either inflict the harm, or consent or acquiesce to the harm's occurrence.

In October 1998, a law was enacted implementing Article 3 of the Convention Against Torture. The INS issued implementing regulations on 19 February 1999, which went into effect on 22 March 1999.

**WHO IS ELIGIBLE FOR PROTECTION  
UNDER THE CONVENTION AGAINST TORTURE?**

INS regulations define torture and describe the standards you must meet to be eligible for protection under the Convention Against Torture. See 8 CFR sections 208.16-208.18. Torture is defined as any act which intentionally causes severe pain or suffering, and may include physical or mental harm. To constitute torture, a public official or a person acting in an official capacity must either inflict the harm, or consent or acquiesce to the harm's occurrence. Further, to meet the definition of torture, you must be in the offender's custody or physical control when the torture occurs. Torture may be committed for a variety of wrongful purposes, including: (1) to obtain information or a confession; (2) to punish you for an act you or a third person has committed or is suspected of having committed; (3) to intimidate or coerce you or a third person; or, (4) for discriminatory reasons. See 8 CFR 208.18(a) for additional information on these and other aspects of the "torture" definition.

If you fear you may be subjected to torture if you return to your home country, you may be eligible for Convention Against Torture protection. To be successful, you must establish that it is "more likely than not" that you will be tortured if you are returned. Your testimony may be sufficient to establish your fear of torture, but the immigration judge will also look at other evidence, including: (1) evidence of past torture you may have experienced; (2) evidence that you could relocate to a part of the country where you are not likely to be tortured; (3) evidence of gross, flagrant, or mass violations of human rights in your country; and, (4) other relevant information about conditions in your home country. See 8 CFR 208.16(c).

## WHAT KIND OF PROTECTION DOES THE CONVENTION AGAINST TORTURE PROVIDE?

The INS regulations implementing the Convention Against Torture create two types of protection. The first provision establishes a form of relief called "withholding of removal under the Convention Against Torture." Traditional "withholding of removal" (not under the Convention Against Torture) is a form of relief already found in United States law under the Immigration and Nationality Act (INA) Section 241(b)(3). Traditional withholding of removal is similar to asylum, but has a higher standard of proof and has certain bars to relief, for example some criminal convictions. Withholding of removal under the Convention Against Torture is available to those who are not barred from traditional withholding of removal and who can demonstrate a substantial likelihood that they would be tortured if returned to their home countries. If you are granted withholding of removal under the Convention Against Torture, you will be eligible for the same benefits as if you had been granted traditional withholding of removal.

The second form of protection is called "deferral of removal" and is intended for those people who are barred from the traditional withholding of removal under INA 241(b)(3) (for example, due to criminal convictions), but who can still demonstrate a substantial likelihood that they would be tortured if returned to their home countries. Deferral of removal is a less permanent form of relief and can be terminated if the United States government determines that it is safe for you to return to your country. It is important to note that a grant of relief under the Convention Against Torture, either withholding of removal or deferral of removal, does not mean that the INS cannot attempt to deport you to another, safe country, or that you will necessarily be released from detention. The attached "INS Fact Sheet on the Convention Against Torture" and the enclosed regulations provide more information on these two forms of relief.

## HOW DOES ONE APPLY FOR WITHHOLDING OR DEFERRAL OF REMOVAL UNDER THE CONVENTION AGAINST TORTURE?<sup>1</sup>

1. **If your case is before an Immigration Judge** and you have not received a final order of removal, exclusion or deportation, you may apply for withholding of removal under the Convention Against Torture at this time. You apply by completing the INS Form I-589, which is an application for asylum, traditional withholding of removal, and withholding of removal and deferral of removal under the Convention Against Torture. If you have not already submitted a Form I-589 to the Immigration Judge, and would like to seek protection under the Convention Against Torture, tell the judge and ask that you be provided with the necessary form.
2. **If your case is on appeal to the Board of Immigration Appeals (BIA) and your Convention Against Torture claim was never considered by an Immigration Judge**, you may wish to submit to the BIA a motion to remand your case to an Immigration Judge for a hearing on your claim. If you do this, you may also wish to state in your motion that you are reserving all of your issues on appeal. Note that if your case was heard by an Immigration Judge after 22 March 1999, your Convention Against Torture claim should have been considered at that time.

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<sup>1</sup> **NOTE:** This information sheet does not include all groups of people potentially eligible for Convention Against Torture relief. For example, if you are in "expedited removal proceedings" under INA Section 235(b), proceedings for stowaways under INA Section 235(a), expedited administrative removal proceedings for persons convicted of aggravated felonies under INA Section 238, reinstatement of removal proceedings under INA Section 241, or alien terrorist removal proceedings under INA Section 235(c) or Section 501, special rules apply to your case. You should inform an immigration officer and contact an attorney if you are in such proceedings and wish to seek relief under the new law. The enclosed INS policy memorandum dated 18 March 1999 provides some additional information on the procedures which apply in these cases.

3. **If you have a final order of removal:** To raise a claim under the Convention Against Torture you will likely need to file a motion to reopen your case. The procedures and requirements for reopening a case are set forth in the INS regulations at 8 CFR Sections 3.2 and 3.23. If your final order of removal was issued by the BIA (for example, if the BIA affirmed an order of removal issued by the Immigration Judge that heard your case), then you would likely file your motion with the BIA. If the final order of removal was issued by the Immigration Judge (for example, if you were ordered deported *in absentia* or if you did not appeal a negative decision by the Immigration Judge), then you would likely file your motion with the Immigration Judge that heard your case.

In preparing a motion to reopen, you will need to show that evidence about the torture you may face in your country was not available and could not have been presented at your previous hearing. Generally, motions to reopen must be filed within 90 days after the Immigration Judge or BIA issues a decision in your case. There are, however, exceptions to the filing deadline. Most notably, if your motion to reopen is based on changed country conditions in your country of origin, you may be able to reopen your case at any time beyond the filing deadline.

**NOTE: The filing of a motion to reopen will not automatically stay your deportation. To do this, you must also request a stay of removal at the same time you file a motion to reopen.**

**NOTE: This flyer is intended to provide general guidance only and should not be considered a substitute for direct legal assistance.**

# Information about Asylum, Withholding of Removal, and the Convention Against Torture

## What is asylum, withholding of removal, and protection under the Convention Against Torture?

Asylum, Withholding of Removal, and protection under the Convention Against Torture are three forms of relief from removal or deportation for people who are afraid to return to their home countries. The forms of relief have different requirements and different benefits.

### ASYLUM

Asylum is one form of relief available to people who are afraid to return to their home countries.

If the judge grants you asylum, you will be eligible for permanent residency one year from the date asylum is granted, and you will receive travel documents and permission to work immediately. You can eventually become a U.S. citizen.

You must be able to check all of the following boxes in order to apply for asylum:

- You are applying within the one-year deadline.**
  - You must apply within one year of your most recent arrival in the United States, or
  - You must apply within a reasonable time after establishing that there are:
    - Changed circumstances that make you eligible for asylum when you weren't eligible before (e.g., a new government is now in control in your home country and is hostile toward your religion), or
    - Extraordinary circumstances that prevented you from applying within your first year of residence in the United States (e.g., you arrived in the US as an unaccompanied minor child).
- You have been harmed in the past, and/OR you fear harm in the future.** You must show that you have been persecuted in the past, or that there is at least a 10% chance you will be persecuted if returned to your home country. The following are examples of persecution:
  - Serious physical harm,
  - Serious threats or attempts to harm
  - Coercive medical or psychological treatment
  - Overly harsh punishment by police or government
  - Severe discrimination and economic persecution
  - Severe criminal extortion or robbery.
- The persecution you fear is on account of one of the five protected grounds.**

You must show that the abuse has been, or would be, because of your:

  - Race or ethnicity
  - Religion
  - Nationality
  - Political opinion
  - Membership in a particular social group
- The government of your home country is responsible for the abuse, or cannot or will not help you.** You must show that the abuse has been, or would be, inflicted by the government or by a group the government is unable or unwilling to control.
- You do not have an aggravated felony or "particularly serious crime".** If you have been convicted of an **aggravated felony**, you are not eligible to apply for asylum. (See instead the section on Withholding of Removal and the "Guide for Detained Immigrants" for information on aggravated felonies.)
- You can show you deserve to receive asylum because of your good moral character.**

## WITHHOLDING OF REMOVAL

Withholding of Removal (WOR) is harder to win than asylum, and it also does not give you as many rights in the United States.

WOR will not make you eligible for permanent residency or citizenship. Instead, you will be technically ordered deported, but the United States will not deport you to the country where you fear being persecuted. However, it is possible that you may be deported to a third country you may have ties with. After this relief is granted, you cannot return to the U.S. if you leave.

With WOR you can receive permission to work in the United States, and will not be deported unless the government re-opens your case and shows that you are no longer likely to be persecuted in your home country.

You might be able to apply for WOR even if you have an aggravated felony. You can also apply at any time, not just within your first year of living in the United States. Finally, you don't have to show the judge you deserve WOR – if the judge finds that you meet the requirements below, she must grant WOR.

You must be able to check all of the following boxes in order to apply for WOR:

- You are more likely than not to be harmed in the future.** You must show that there is at least a 50% chance you will be persecuted if returned to your home country. The following are examples of persecution:

- Serious physical harm,
- Serious threats or attempts to harm
- Coercive medical or psychological treatment
- Overly harsh punishment by police or government
- Severe discrimination and economic persecution
- Severe criminal extortion or robbery

- The persecution you fear is on account of one of the five protected grounds.**

You must show that the abuse has been, or would be, because of your:

- Race or ethnicity
- Religion
- Nationality
- Political opinion
- Membership in a particular social group

- The government of your home country is responsible for the abuse, or cannot or will not help you.** You must show that the abuse has been, or would be, inflicted by the government or by a group the government is unable or unwilling to control.

- You do not have a “particularly serious crime” and have not persecuted others.** If you have been convicted of an aggravated felony and sentenced to 5 years or more, or a drug trafficking offense, you are probably not eligible for WOR.

## CONVENTION AGAINST TORTURE

Protection under the Convention Against Torture (CAT) requires proof that it is **more likely than not** you will be tortured upon return to your home country. Torture is defined as “an extreme form of cruel and inhuman punishment” that “must cause severe pain or suffering.” The torture that you fear must come from the government or people that the government allows to torture others. Unlike asylum or WOR, there are no criminal bars to applying for protection under CAT.

## **How do I apply for asylum, WOR and/or CAT?**

You need to submit the following:

- Form I-589 (the application for asylum, WOR, and CAT)
- A declaration, telling the judge about any past persecution you have suffered and/or why you fear future persecution. If you are applying more than one year after entering the United States, you should also include an explanation of the changed circumstances that now make you eligible for asylum or the extraordinary circumstances that prevented you from filing within the first year.
- In addition to the application and your declaration, you should submit any **supporting documentation** such as:
  - Letters or news articles from reputable sources documenting and describing the persecution that you, or people similar to you, have suffered in your home country
  - Police reports or hospital records or photos documenting physical abuse
  - Letters of support from friends and family
  - Documentation of when you entered the United States
  - Identifying documents (birth certificates, passports, etc.)
  - Employment records
  - School records
  - Copies of past tax returns
  - Documentation of membership in a community or religious organization
  - Proof of rehabilitation efforts, if you have been convicted of any crimes

The more documentation you have, the stronger your case will be.

Once you have filled out the application, written your declaration, and received any supporting documents, make two copies of the entire package. Give the **original** to the court, give one **copy** to the government and keep a copy for yourself.

### **ADDITIONAL GUIDES:**

- My Declaration
- Documentation
- Testimony



# I-589, Application for Asylum and for Withholding of Removal

## Instructions

### What Is the Purpose of This Form?

This form is used to apply for asylum in the United States and for withholding of removal (formerly called "withholding of deportation"). This application may also be used to apply for protection under the Convention Against Torture. You may file this application if you are physically present in the United States, and you are not a U.S. citizen.

**NOTE:** You **must** submit an application for asylum within 1 year of arriving in the United States, unless there are changed circumstances that materially affect your eligibility for asylum or extraordinary circumstances directly related to your failure to file within 1 year. (See **Part C, Additional Information about Your Application, in Section V on Part 1** of the instructions for further explanation.)

You may include in your application your spouse and unmarried children who are under 21 years of age and physically present in the United States. You **must** submit certain documents for your spouse and each child included as required by these instructions. Children 21 years of age or older and married children must file separate applications. If you are granted asylum and your spouse and/or any unmarried children under 21 years of age are outside the United States, you may file Form I-730, Refugee and Asylee Relative Petition, for them to gain similar benefits.

### Instruction Sections: Filing Information and How Your Application Will Be Processed

The instructions are divided into two sections:

The first section has filing information. This section discusses basic eligibility criteria and guides you through filling out and filing the application.

The second section explains how your application will be processed. This section also describes potential interim benefits available while your application is pending.

Read these instructions carefully. The instructions will help you complete your application and understand how it will be processed. If you have questions about your eligibility, how to complete the form, or the asylum process, you may wish to consult an attorney or other qualified person to assist you. (See **Section IV, Right to Counsel, in Part I** of these instructions.)

**WARNING:** Applicants in the United States unlawfully are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings, even if the application is later withdrawn.

Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act (INA). You may not avoid a frivolous finding simply because someone advised you to provide false information in your asylum application.

If filing with U.S. Citizenship and Immigration Services (USCIS), unexcused failure to appear for an appointment or to provide biometrics (such as fingerprints) and other biographical information within the time allowed may delay eligibility for employment authorization and result in an asylum officer dismissing your asylum application or referring it to an immigration judge. Applicants and eligible dependents in removal proceedings who fail without good cause to provide USCIS with their biometrics or their biographical information as required within the time allowed may have their applications found abandoned by the immigration judge. See sections 208(d)(5)(A) and 208(d)(6) of the INA and 8 Code of Federal Regulations (CFR) sections 208.10, 1208.10, 208.20, 1003.47(d), and 1208.20.

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## Part 1. Filing Instructions

### I. Who May Apply and Filing Deadlines

You may apply for asylum irrespective of your immigration status and even if you are in the United States unlawfully unless otherwise provided by statute or regulations.

**You MUST file this application within 1 year after you arrived in the United States, unless you can show that there are changed circumstances that affect your eligibility for asylum or extraordinary circumstances that prevented you from filing within 1 year.** (See Section IV, Right to Counsel, in Part I of these instructions.)

An Unaccompanied Alien Child (UAC) is a legal term referring to a non-U.S. citizen child who has no lawful immigration status in the United States; has not attained 18 years of age; and has no parent or legal guardian in the United States, or for whom no parent or legal guardian in the United States is available to provide care and physical custody. See 6 U.S.C. 279(g)(2). The Asylum Division has initial jurisdiction over an asylum application filed by a UAC, including a UAC in removal proceedings before an immigration judge. For more information about the asylum process for UAC, visit the USCIS asylum website at [www.uscis.gov/humanitarian/refugees-asylum/asylum/minor-children-applying-asylum-themselves](http://www.uscis.gov/humanitarian/refugees-asylum/asylum/minor-children-applying-asylum-themselves).

Detailed UAC filing instructions are found in **Part 1, Section XII** of these instructions.

If you have previously been denied asylum by an immigration judge or the Board of Immigration Appeals, you must show that there are changed circumstances that affect your eligibility for asylum.

The determination of whether you are permitted to apply for asylum will be made once you have had an asylum interview with an asylum officer or a hearing before an immigration judge. Even if you are not eligible to apply for asylum for the reasons stated above, you may still be eligible to apply for withholding of removal under section 241(b)(3) of the INA or under the Convention Against Torture before the Immigration Court.

Pursuant to 48 U.S.C. 1806(A)(7), if you are physically present in, or arriving in the Commonwealth of the Northern Mariana Islands, you may not apply for asylum until January 1, 2020; however, you may use Form I-589, Application for Asylum and for Withholding of Removal, to apply for withholding of removal and for protection from removal under the Convention Against Torture in Immigration Court proceedings.

## II. Basis of Eligibility

### A. Asylum

To qualify for asylum, you must establish that you are a refugee who is unable or unwilling to return to his or her country of nationality, or last habitual residence if you have no nationality, because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. This means that you must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be at least one central reason for your persecution or why you fear persecution. (See section 208 of the INA; 8 CFR sections 208 and 1208, et seq.)

If you are granted asylum, you and any eligible spouse or child included in your application can remain and work in the United States and may eventually adjust to lawful permanent resident status. **If you are not granted asylum, the Department of Homeland Security (DHS) may use the information you provide in this application to establish that you are removable from the United States.**

## **B. Withholding of Removal**

Your asylum application is also considered to be an application for withholding of removal under section 241(b)(3) of the INA, as amended. It may also be considered an application for withholding of removal under the Convention Against Torture if you checked the box at the top of **Page 1** of the form, or if the evidence you present indicates that you may be tortured in the country of removal. (See 8 CFR sections 208.13(c)(1) and 1208.13(c)(1)). If asylum is not granted, you may still be eligible for withholding of removal.

Regardless of the basis for the withholding application, you will not be eligible for withholding if you:

1. Assisted in Nazi persecution or engaged in genocide;
2. Have persecuted another person;
3. Have been convicted by a final judgment of a particularly serious crime and therefore represent a danger to the community of the United States;
4. Are considered for serious reasons to have committed a serious non-political crime outside the United States; or
5. Represent a danger to the security of the United States. (See section 241(b)(3) of the INA; 8 CFR sections 208.16 and 1208.16.)

## **Withholding of Removal Under Section 241(b)(3) of the INA**

To qualify for withholding of removal under section 241(b)(3) of the INA, you must establish that it is more likely than not that your life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion in the proposed country of removal.

If you obtain an order withholding your removal, you cannot be removed to the country where your life or freedom would be threatened. This means that you may be removed to a third country where your life or freedom would not be threatened. Withholding of removal does not adhere derivatively to any spouse or child included in the application; they would have to apply for such protection on their own.

If you are granted withholding of removal, this would not give you the right to bring your relatives to the United States. It also would not give you the right to apply for lawful permanent resident status in the United States.

## **Withholding of Removal Under the Convention Against Torture**

The Convention Against Torture refers to the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

To be granted withholding of removal to a country under Article 3 of the Convention against Torture, as implemented in U.S. law, you must show that it is more likely than not that you would be tortured in that country.

"Torture" is defined at 8 CFR sections 208.18(a) and 1208.18(a), which incorporate the definitions in Article 1 of the Convention against Torture as implemented in U.S. law. For an act to be considered torture, it must be an extreme form of cruel and inhuman treatment, it must cause severe physical or mental pain and suffering, and it must be specifically intended to cause severe pain and suffering.

Torture is an act inflicted for such purposes as obtaining from the victim or a third person information or a confession, punishing the victim for an act he or she or a third person has committed or is suspected of having committed, intimidating or coercing the victim or a third person, or for any reason based on discrimination of any kind.

Torture must be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. The victim must be in the custody or physical control of the torturer. Torture does not include pain or suffering that arises only from, is inherent in, or is incidental to lawful sanctions, although such actions may not defeat the objective and purpose of the Convention Against Torture.

Form I-589, will be considered an application for withholding of removal under the Convention Against Torture if you tell the immigration judge that you would like to be considered for withholding of removal under the Convention Against Torture, or if it is determined that evidence indicates that you may be tortured in the country of removal.

To apply for withholding of removal under the Convention Against Torture, you must check the box at the top of **Page 1** of the application and fully complete Form I-589.

You must include a detailed explanation of why you fear torture in response to **Part B, Question 4** of the application. In your response, you must write about any mistreatment you experienced or any threats made against you by a government or somebody connected to a government.

Only immigration judges and the Board of Immigration Appeals may grant withholding of removal or deferral of removal under the Convention Against Torture. If you have applied for asylum, the immigration judge will first determine whether you are eligible for asylum under section 208 of the INA and for withholding of removal under section 241(b)(3) of the INA. If you are not eligible for either asylum under section 208 of the INA or withholding of removal under section 241(b)(3) of the INA, the immigration judge will determine whether the Convention Against Torture prohibits your removal to a country where you fear torture.

As implemented in U.S. law, Article 3 of the Convention against Torture prohibits the United States from removing you to a country in which it is more likely than not that you would be subject to torture. The Convention Against Torture does not prohibit the United States from returning you to any other country where you would not be tortured. This means that you may be removed to a third country where you would not be tortured. Withholding of removal under the Convention Against Torture does not allow you to adjust to lawful permanent resident status or to petition to bring family members to come to, or remain in, the United States.

### C. Deferral of Removal Under the Convention Against Torture

If it is more likely than not that you will be tortured in a country but you are ineligible for withholding of removal, your removal will be deferred under 8 CFR sections 208.17(a) and 1208.17(a). Deferral of removal does not confer any lawful or permanent immigration status in the United States and does not necessarily result in release from detention. Deferral of removal is effective only until it is terminated. Deferral of removal is subject to review and termination if it is determined that it is no longer more likely than not that you would be tortured in the country to which your removal is deferred or if you request that your deferral be terminated.

### D. Legal Sources and Guidance Relating to Eligibility

The documents listed below are some of the legal sources and guidance relating to asylum, withholding of removal under section 241(b)(3) of the INA, and withholding of removal or deferral of removal under the Convention Against Torture. These sources are provided for reference only. You do not need to refer to them in order to complete your application.

1. Section 101(a)(42) of the INA, 8 U.S.C. 1101(a)(42) (defining "refugee");
2. Section 208 of the INA, 8 U.S.C. 1158 (regarding eligibility for asylum);
3. Section 241(b)(3) of the INA, 8 U.S.C. 1231(b)(3) (regarding eligibility for withholding of removal);
4. Title 8 of the CFR parts 208 and 1208, et seq.;
5. Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as implemented by section 2242(b) or the Foreign Affairs Reform and Restructuring Act of 1998 and 8 CFR section 208, as amended by the Regulations Concerning the Convention Against Torture: Interim Rule, 64 FR 8478-8492 (February 19, 1999) (effective March 22, 1999); 64 FR 13881 (March 23, 1999);
6. The 1967 United Nations Protocol relating to the Status of Refugees;
7. The 1951 Convention relating to the Status of Refugees; and

8. The Office of the United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for determining Refugee Status (Geneva, 1992).

## III. Confidentiality

The information collected will be used to make a determination on your application. It may also be provided to other government agencies (federal, state, local, and/or foreign) for purposes of investigation or legal action on criminal and/or civil matters and for issues arising from the adjudication of benefits. However, no information indicating that you have applied for asylum will be provided to any government or country from which you claim a fear of persecution. Regulations at 8 CFR sections 208.6 and 1208.6 protect the confidentiality of asylum claims.

## IV. Right to Counsel

Immigration law concerning asylum and withholding of removal or deferral or removal is complex. You have a right to provide your own legal representation at an asylum interview and during immigration proceedings before the Immigration Court at no cost to the U.S. Government.

If you need or would like help to complete this form and to prepare your written statements, assistance from pro bono (free) attorneys and/or voluntary agencies may be available. Voluntary agencies may help you for no fee or a reduced fee, and attorneys on the list referred to below may take your case for no fee. If you have not already received from USCIS or the Immigration Court a list of attorneys and accredited representatives, you may obtain a list by calling **1-800-870-3676** or visiting the U.S. Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) website at [www.justice.gov/eoir/list-pro-bono-legal-service-providers-map](http://www.justice.gov/eoir/list-pro-bono-legal-service-providers-map).

Representatives of the United Nations High Commissioner for Refugees (UNHCR) may be able to assist you in identifying persons to help you complete the application. RefWorld, a resource database available on UNHCR's website or at [www.refworld.org](http://www.refworld.org), provides useful country conditions information from a variety of sources. Contact information for the UNHCR is:

**United Nations High Commissioner for Refugees**  
**1800 Massachusetts Avenue NW, Suite 500**  
**Washington, DC 20036**  
**Telephone: 202-296-5191**  
**Email: [usawa@unhcr.org](mailto:usawa@unhcr.org)**  
**Website: [www.unhcr.org](http://www.unhcr.org)**

**Calls from Detention Centers and Jails.** Asylum-seekers in detention centers and jails may call UNHCR toll-free by dialing #566 or **1-888-272-1913** on Monday, Wednesday, and Friday, 2 p.m. - 5 p.m. (Eastern Standard Time).

## V. Obtaining and Completing the Form

You may visit the USCIS website at [www.uscis.gov/I-589](http://www.uscis.gov/I-589) or call the USCIS National Customer Service Center at **1-800-375-5283** to obtain Form I-589. Customers who are deaf or who are hard of hearing who have TTY equipment may call: **1-800-767-1833**. There is no fee to obtain Form I-589. In order to view, print, or complete USCIS forms, customers should use the latest version of Adobe Reader which you can download for free at <http://get.adobe.com/reader>.

You must type or print all of your answers in black ink on Form I-589. Your answers must be completed in English. Forms completed in a language other than English will be returned to you. You must provide the specific information requested about you and your family and **answer all the questions asked**.

If any question does not apply to you or you do not know the information requested, answer "none," "not applicable," or "unknown."

You must provide detailed information and answer the questions as completely as possible. If you file your application with missing information, we may return it to you as incomplete. If you need more space, attach Form I-589 Supplement A or B (included in the application package) and/or additional sheet(s) indicating the question number(s) you are answering.

You are strongly urged to attach additional written statements and documents that support your claim. Your written statements should include events, dates, and details of your experiences that relate to your claim for asylum.

**NOTE:** Put your Alien Registration Number (A-Number) (if any), name (exactly as it appears in **Part A.I.** of the form), signature, and date on each supplemental sheet and on the cover page of any supporting documents.

You can amend or supplement your application at the time of your asylum interview with an asylum officer and at your hearing in Immigration Court by providing additional information and explanations about your asylum claim.

### Part A.I. Information About You

This part asks for basic information about you. Alien Registration Number (A-Number) refers to your USCIS file number. If you do not already have an A-Number, USCIS will assign one to you.

You must provide your residential street address (the address where you physically live) in the United States in **Part A.I., Question 8**, of the asylum application. You may also provide a mailing address, if different from the address where you reside, in **Question 9**. If someone else is collecting your mail for you at your mailing address, you may enter that person's name in the "In Care Of" field in your response to **Question 9**. If your mailing address is a post office box, include that address in **Question 9** and include a residential address where you physically live in **Question 8**.

In **Question 13**, use the current name of the country. Do not use historical, ethnic, provincial, or other local names.

If you entered the country with inspection, Form I-94 number referred to in **Question 19b** is the number on Form I-94, Arrival-Departure Record, given to you when you entered the United States. In **Question 19c**, enter the date and status as it appears on Form I-94. If you did not receive Form I-94, write "None." If you entered without being inspected by an immigration officer, write "No Inspection" in **Question 19c** in the current status or status section.

### Part A.II. Spouse and Children

You must list your spouse and all of your children, including your stepchildren, deceased children, adopted children, and adult children, in this application, regardless of their age, marital status, whether they are in the United States, or whether or not they are included in this application or are filing a separate asylum application.

In addition, you may include in your asylum application your spouse and/or any children who are under 21 years of age and unmarried, if they are in the United States. Children who are married and/or children who are 21 years of age or older must file separately for asylum by submitting their own Form I-589. Including your spouse and/or your children in your asylum application means that if USCIS or EOIR approves your application, your spouse or children may also be approved. On the other hand, if you are not approved for asylum, your spouse or children are also not approved.

If you apply for asylum while in proceedings before the Immigration Court, the immigration judge may not have authority to grant asylum to any spouse or child included in your application who is not also in proceedings.

When including family members in your asylum application, you **must** submit one additional copy of your completed asylum application and primary documentary evidence establishing your family relationship for each family member, as described below:

1. If you are including your spouse in your application, submit three copies of your marriage certificate and three copies of proof of termination of any prior marriages.
2. If you are including any unmarried children under 21 years of age in your application, submit three copies of each child's birth certificate.

If you do not have and are unable to obtain these documents, you must submit secondary evidence. Secondary evidence includes but is not limited to medical records, religious records, and school records. You may also submit an affidavit from at least one person for each event you are trying to prove. Affidavits may be provided by relatives or others. Persons providing affidavits need not be U.S. citizens or lawful permanent residents.

**Affidavits must:**

1. Fully describe the circumstances or event(s) in question and fully explain how the person acquired knowledge of the event(s);
2. Be sworn to or affirmed by persons who were alive at the time of the event(s) and have personal knowledge of the event(s) (date and place of birth, marriage, etc.) that you are trying to prove; and
3. Show the full name, address, and date and place of birth of each person giving the affidavit and indicate any relationship between you and the person giving the affidavit.

If you submit secondary evidence or affidavits, you must explain why primary evidence (for example, birth or marriage certificate) is unavailable. You may explain the reasons primary evidence is unavailable using Form I-589 Supplement B or additional sheets of paper. Attach this explanation to your secondary evidence or affidavits.

If you have more than four children, complete Form I-589 Supplement A for each additional child or attach additional pages and documentation providing the same information asked in **Part A.II.** of Form I-589.

**Part A.III. Information About Your Background**

Answer **Questions 1 - 5**, providing details as requested for each question. Your responses to the questions concerning the places you have lived, your education, and your employment history must be in reverse chronological order starting with your current residence, education, and employment and working back in time.

**Part B. Information About Your Application**

This part asks specific questions relevant to eligibility for asylum, for withholding of removal under section 241(b)(3) of the Act, or for withholding of removal under the Convention Against Torture. For **Question 1**, check the box(es) next to the reason(s) that you are completing this application. For all other questions, check "Yes" or "No" in the box provided.

If you answer "Yes" to any question, explain in detail using Form I-589 Supplement B or additional sheets of paper, as needed.

You must clearly describe any of your experiences, or those of family members or others who have had similar experiences that may show that you are a refugee.

If you have experienced harm that is difficult for you to write down and express, you must be aware that these experiences may be very important to the decision-making process regarding your request to remain in the United States. At your interview with an asylum officer or hearing with an immigration judge, you will need to be prepared to discuss the harm you have suffered. If you are having trouble remembering or talking about past events, we suggest that you talk to a lawyer, an accredited representative, or a health professional who may be able to help you explain your experiences and current situation.

**Part C. Additional Information About Your Application**

Check "Yes" or "No" in the box provided for each question. If you answer "Yes" to any question, explain in detail using Form I-589 Supplement B or additional sheets of paper, as needed.

If you answer "Yes" to **Question 5**, you must explain why you did not apply for asylum within the first year after you arrived in the United States. The Government will accept as an explanation certain changes in the conditions in your country, certain changes in your own circumstances, and certain other events that may have prevented you from applying earlier.

For example, some of the events the Government might consider as valid explanations include but are not limited to the following:

1. You have learned that human rights conditions in your country have worsened since you left;
2. Because of your health, you were not able to submit this application within 1 year after you arrived;
3. You previously submitted an application, but it was returned to you because it was not complete, and you submitted a complete application within a reasonable amount of time.

Federal regulations specify some of the other types of events that may also qualify as valid explanations for why you filed late. These regulations are found at 8 CFR, sections 208.4 and 1208.4. The list in the regulations is not all-inclusive, and the Government recognizes that there are many other circumstances that might be acceptable reasons for filing more than 1 year after arrival.

If you are unable to explain why you did not apply for asylum within the first year after you arrived in the United States or your explanation is not accepted by the Government, you may not be eligible to apply for asylum, but you could still be eligible for withholding of removal under INA section 241(b)(3), or for protection from removal under the Convention Against Torture.

## Part D. Your Signature

You must sign your application in **Part D** and respond to the questions concerning any assistance you received to complete your application, providing the information requested. Sign after you have completed and reviewed the application.

**If it is determined that you have knowingly made a frivolous application for asylum, you can be permanently ineligible for any benefits under the INA.** (See section 208(d)(6) of the INA.)

According to regulations at 8 CFR sections 208.20 and 1208.20, an application is frivolous if any of its material elements is deliberately fabricated. (See **Section IV, Right to Counsel, in Part 1** of these instructions if you have any questions.) You may not avoid a frivolous finding simply because someone advised or told you to provide false information on your asylum application.

## Part E. Signature of Person Preparing Form, If Other Than You

Any person, other than an immediate family member (your spouse, parent(s) or children), who helped prepare your application must sign the application in **Part E** and provide the information requested.

### Penalty for Perjury

All statements in response to questions contained in this application are declared to be true and correct under penalty of perjury. You and anyone, other than an immediate family member, who assists you in preparing the application must sign the application under penalty of perjury. Your signature is evidence that you are aware of the contents of this application. Any person assisting you in preparing this form, other than an immediate family member, must include his or her name, address, and telephone number and sign the application where indicated in **Part E**.

Failure of the preparer to sign will result in the application being returned to you as an incomplete application.

If USCIS or EOIR later learns that you received assistance from someone other than an immediate family member and the person who assisted you **willfully** failed to sign the application, this may result in an adverse ruling against you.

Title 18, United States Code (U.S.C.), section 1546(a), provides in part:

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement shall be fined in accordance with this title or imprisoned not more than 10 years, or both.

If aggravating factors exist, the maximum term of imprisonment could reach 25 years.

If you knowingly provide false information on this application, you or the preparer of this application may be subject to criminal penalties under title 18 of the U.S.C. and to civil penalties under section 274C of the INA, 8 U.S.C. 1324c (see 8 CFR parts 270 and 1270).

## Part F. To Be Completed at Asylum Interview, If Applicable

Do not sign your application in **Part F** before filing this form. You will be asked to sign your application in this space at the conclusion of the interview regarding your claim.

**NOTE:** You must, however, sign **Part D** of the application.

## Part G. To Be Completed at Removal Hearing, If Applicable

Do not sign your application in **Part G** before filing this form. You will be asked to sign your application in this space at the hearing before the immigration judge.

**NOTE:** You must, however, sign **Part D** of the application.

**You are reminded again that, if it is determined that you have knowingly made a frivolous application for asylum, you may be permanently ineligible for any benefits under the INA.** (See section 208(d)(6) of the INA.)

According to regulations at 8 CFR sections 208.20 and 1208.20, an application is frivolous if any of its material elements is deliberately fabricated. Again, note that you may not avoid a frivolous finding simply because someone advised or told you to provide false information on your asylum application.

## VI. Required Documents and Required Number of Copies That You Must Submit With Your Application

You must submit the following documents to apply for asylum and withholding of removal:

- 1. The completed, signed original and one copy of your completed application, Form I-589**, and the original and one copy of any supplementary sheets and supplementary statements. If you choose to submit additional supporting material, see **Section VII, Additional Evidence That You Should Submit, in Part 1** of these instructions. You **must** include two copies of each document. You should make and keep an additional copy of the completed application for your own records.
- 2. An additional copy of your completed application, Form I-589**, with supplementary statements, for each family member listed in **Part A.II.** that you are including in your application.

**3. Two copies of primary or secondary evidence** of relationship, such as birth or school records of your children, marriage certificate, or proof of termination of marriage, for each family member listed in **Part A.II.** that you are including in your application.

**NOTE:** If you submit an affidavit, you must submit the original and one copy. (For affidavit requirements, see **Part A.II in Part 1, Section V,** of these instructions.)

**4. One passport-style photograph** of yourself and of each family member listed in **Part A.II.** that you are including in your application. The photos must have been taken no more than 30 days before you file your application. Using a pencil, print the person's complete name and A-Number (if any) on the back of each photograph.

**5. Two copies of all passports or other travel documents** (cover to cover) in your possession and two copies of any U.S. immigration documents, such as a Form I-94, Arrival-Departure Record, for you and each family member included in your application, if you have such documents. Do not submit original passports or travel documents unless specifically requested.

**6. If you have other identification documents** (for example, birth certificate, military or national identification card, driver's license, etc.), we recommend that you submit two copies with your application and bring the original(s) with you to the interview.

**Copies.** *Documents filed with this application should be photocopies.* If you choose to send an original document, USCIS or the Immigration Court may keep that original document for its records.

**Translations.** Any document containing foreign language submitted to USCIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

## VII. Additional Evidence That You Must Submit

You must submit reasonably available corroborative evidence showing (1) the general conditions in the country from which you are seeking asylum, and (2) the specific facts on which you are relying to support your claim.

If evidence supporting your claim is not reasonably available or you are not providing such corroboration at this time, you must explain why, using Form I-589 Supplement B or additional sheets of paper.

Supporting evidence may include but is not limited to newspaper articles, affidavits of witnesses or experts, medical and/or psychological records, doctors' statements, periodicals, journals, books, photographs, official documents, or personal statements or live testimony from witnesses or experts.

If you have difficulty discussing harm you have suffered in the past, you may wish to submit a health professional's report explaining this difficulty.

## VIII. Fee

There is no fee for filing this application.

## IX. Biometrics, Including Fingerprints and Photographs

Applicants for asylum are subject to a biometrics check of all appropriate records and other information databases maintained by the Department of Homeland Security, the Department of Justice, and the Department of State.

You and your eligible spouse or children, regardless of age, listed on your asylum application must provide biometrics to initiate the required background investigations or for identity verification.

You and your spouse and children will be given instructions on how to complete this requirement. You will be notified in writing of the time and location of the Application Support Center (ASC) where you must go to be fingerprinted and photographed.

If filing with USCIS, unexcused failure to appear for a scheduled appointment or to provide your required biometrics, including fingerprints and photograph, or to provide other biographical information within the time allowed, may delay eligibility for employment authorization and/or result in an asylum officer dismissing your asylum application or referring it to an immigration judge. For applicants before an immigration judge, such failure without good cause may constitute an abandonment of your asylum application and result in the denial of employment authorization. (See 8 CFR section 1003.47(d)).

At the time you file your Form I-589, you **must** submit photographs as specified in **Section VI, Required Documents and Required Number of Copies That You Must Submit With Your Application, in Part 1** of these instructions.



## X. Organizing Your Application

Organize your application together in the following order, forming one complete package (if possible, secure with binder clips and rubber bands so that material may be easily separated):

1. Your original Form I-589, with all questions completed, and the application signed by you in **Part D** and signed by any preparer in **Part E**; and
2. One passport-style photograph of you stapled to the form at **Part D**.

Behind your original Form I-589, attach in the following order:

1. One Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, signed by you and the attorney or representative, if you are represented by an attorney or representative;
2. The originals of all supplementary sheets and supplementary statements submitted with your application;
3. One copy of any additional supporting documentation;
4. One copy of the evidence of your relationship to your spouse and unmarried children under 21 years of age that you are including in your application, if any; and
5. One copy of the items listed above in your original package, except your photograph.

**If you are including family members in your application, attach one additional package for each family member.**

Arrange each family member's package as follows:

1. One copy of your completed, signed Form I-589 and supplementary sheets submitted with the original application. In **Part A.II.**, staple in the upper right corner one passport-style photo of the family member to be included; and
2. One copy of Form G-28, if any.

For example, if you include your spouse and two children, you should submit your original package, plus one duplicate for you, plus one package for your spouse and one package for each child, for a total of five packages. Be sure each has the appropriate documentation.

**NOTE:** Any additional pages submitted should include your printed name (exactly as it appears in **Part A.I.** of the form), A-Number (if any), signature and date.

## XI. Incomplete Asylum Applications

An asylum application that is incomplete will be returned to you by mail within 30 days of receipt of the application by USCIS. An application that has not been returned to you within 30 days of having been received by USCIS will be considered complete, and you will receive written acknowledgement of receipt from USCIS.

The filing of a complete application starts the 150-day period you must wait before you may apply for employment authorization. If your application is not complete and is returned to you, the 150-day period will not begin until you resubmit a complete application. (See **Section V, Employment Authorization While Your Application Is Pending, Part 2** of these instructions for further information regarding eligibility for employment authorization.)

An application will be considered incomplete in each of the following cases:

1. The application does not include a response to each of the questions contained in Form I-589;
2. The application is unsigned;
3. The application is submitted without the required photograph;
4. The application is sent without the appropriate number of copies for any supporting materials submitted; or
5. You indicated in **Part D** that someone prepared the application other than yourself or an immediate family member and the preparer failed to complete **Part E** of the asylum application.

## XII. Where to File?

Although USCIS will confirm in writing its receipt of your application, you may wish to send the completed forms by registered mail (return receipt requested) for your own records.

*If you are in proceedings in Immigration Court, unless you are filing as an unaccompanied alien child (UAC):*

If you are currently in proceedings in Immigration Court (that is, if you have been served with Form I-221, Order to Show Cause and Notice of Hearing; Form I-122, Notice to Applicant for Admission Detained for Hearing Before an Immigration Judge; Form I-862, Notice to Appear; or Form I-863, Notice of Referral to Immigration Judge), you are required to file your Form I-589 with the Immigration Court having jurisdiction over your case.

At the master calendar hearing, counsel for DHS will provide you with instructions for providing biometric and biographical information to USCIS that you must follow. These instructions may also be obtained at [www.uscis.gov/laws/immigration-benefits-eoir-removal-proceedings](http://www.uscis.gov/laws/immigration-benefits-eoir-removal-proceedings). The following paragraphs describe the instructions that you will have to follow.

In addition to filing your Form I-589 with the Immigration Court and serving a copy on the appropriate U.S. Immigration and Customs Enforcement (ICE) Office of the Chief Counsel, you must also complete the following requirements before the immigration judge can grant relief or protection in your case.

**Send the following three items to the USCIS Nebraska Service Center:**

1. A clear copy of the first three pages of your completed Form I-589 that you will be filing or have filed with the Immigration Court, which must include **your full name, current residential address, current mailing address, and A-Number**. Do not submit any documents other than the first three pages of the completed Form I-589;
2. A copy of Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, if you are represented; and
3. A copy of the instructions provided by counsel for DHS that you received at your first master calendar hearing in immigration removal proceedings.

**USCIS Nebraska Service Center  
Defensive Asylum Application with Immigration Court  
P.O. Box 87589  
Lincoln, NE 68501-7589**

**Note:** There is no filing fee required for Form I-589 applications.

After the three items are received at the USCIS Nebraska Service Center, **you will receive:**

1. A USCIS receipt notice indicating that USCIS received your Form I-589; and
2. An Application Support Center (ASC) notice for you and any eligible spouse and children included in your Form I-589 who are also in removal proceedings. Each ASC notice will indicate the individual's unique receipt number and will provide instructions for each person to appear for an appointment at a nearby ASC for collection of biometrics (such as your photograph, fingerprints, and signature). If you do not receive the ASC notice in 3 weeks, call **1-800-375-5283** (TTY: **1-800-767-1833**).

**NOTE:** If you also mail applications for other forms of relief that you are applying for while in removal proceedings, as specified by the instructions provided by counsel for DHS at your master calendar hearing, you will receive two notices with different receipt numbers. You must wait for and take both scheduling notices to your ASC appointment.

You (and your eligible spouse and children, regardless of age) must then:

1. **Attend** the biometrics appointment at the ASC and obtain a **biometrics confirmation** document before leaving the ASC; and
2. **Retain** your **ASC biometrics confirmation** as proof that your biometrics were taken and bring it to your future Immigration Court hearings.

**NOTE:** If the instructions above should change for submitting copies of the first three pages of your asylum application to the USCIS Nebraska Service Center for purposes of receiving the receipt notice and ASC scheduling appointment, you will be provided the changed instructions, either at the master calendar hearing or at another point in the Immigration Court proceedings. Follow the instructions you are provided, or else you may not receive the ASC biometrics scheduling notice in a timely manner.

1. After completion of exclusion, deportation, or removal proceedings, and in conjunction with a motion to reopen under 8 CFR part 1003, with the Immigration Court having jurisdiction over the prior proceeding, any such motion must reasonably explain the failure to request asylum prior to the completion of the proceedings; or
2. In proceedings under 8 CFR 208.2(c) and 1208.2(c) and after Form I-863, Notice of Referral to Immigration Judge, has been served on you and filed with the Immigration Court, an immigration judge will have exclusive jurisdiction over your case.

***Special Filing Instructions for an Unaccompanied Alien Child (UAC)***

If you are a child in removal proceedings and filing as a UAC, your completed application package should be sent to:

**USCIS Nebraska Service Center  
UAC I-589  
P.O. Box 87589  
Lincoln, NE 68501-7589**

If you received an instruction sheet from Counsel for DHS when you attended a hearing in Immigration Court, or if you have a copy of documentation provided by the Department of Health and Human Services, Office of Refugee Resettlement (ORR) showing that you are, or that you were in ORR custody as a UAC, such as the *UAC Initial Placement Referral Form* or the *ORR Verification of Release Form*, please submit those documents with your application package as well.

**If you are a UAC but you are not in removal proceedings,** please submit your Form I-589 application package as directed below in the discussion entitled, "If you are not in proceedings in Immigration Court or before the Board of Immigration Appeals."

***If you are in proceedings before the Board of Immigration Appeals:***

You may file your Form I-589 with the Board of Immigration Appeals in conjunction with a motion to remand or reopen under 8 CFR 1003.2 and 1003.8. You may file an initial Form I-589 with the Board of Immigration Appeals only if the Board of Immigration Appeals has jurisdiction over your case. Any such motion must reasonably explain the failure to request asylum and/or withholding of removal prior to the completion of the proceedings.

***If you are not in proceedings in Immigration Court or before the Board of Immigration Appeals:***

Mail your completed Form I-589 and any other additional information to the USCIS Service Center as indicated below or visit the USCIS website: [www.uscis.gov/i-589](http://www.uscis.gov/i-589).

<b>If you live in:</b>	<b>Mail your application to:</b>
Alabama, Arkansas, Colorado, District of Columbia, Florida, Georgia, Louisiana, Maryland, Mississippi, New Mexico, North Carolina, Oklahoma, Western Pennsylvania* ( <i>in the jurisdiction of the Pittsburgh field office</i> ), Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Utah, Virginia, West Virginia, or Wyoming	<b>USCIS Texas Service Center</b> Attn: Asylum P.O. Box 851892 Mesquite, TX 75185-1892

<b>If you live in:</b>	<b>Mail your application to:</b>
Alaska, Northern California*, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Northern Nevada* ( <i>in the jurisdiction of the Reno field office</i> ), North Dakota, Ohio, Oregon, South Dakota, Washington, or Wisconsin	<b>USCIS Nebraska Service Center</b> P.O. Box 87589 Lincoln, NE 68501-7589
Arizona, Southern California*, Guam, Hawaii, or Southern Nevada* ( <i>in the jurisdiction of the Las Vegas field office</i> ),	<b>USCIS California Service Center</b> P.O. Box 10881 Laguna Niguel, CA 92607-0881
Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Eastern Pennsylvania* ( <i>in the jurisdiction of the Philadelphia field office</i> ), Rhode Island, or Vermont	<b>USCIS Vermont Service Center</b> Attn: Asylum 75 Lower Welden Street St. Albans, VT 05479-0589

**\*NOTE:** Applicants living in California, Nevada, and Pennsylvania should call the USCIS National Customer Service Center or their local asylum office if they are unsure where to mail their applications.

**National Customer Service Center: 1-800-375-5283**

*TTY: for the Hearing Impaired: 1-800-767-1833*

**California and Nevada Residents**

*Los Angeles Asylum Office: 714-808-8000*

*San Francisco Asylum Office: 415-293-1234*

**Pennsylvania Residents**

*Arlington Asylum Office: 703-235-4100*

*Newark Asylum Office: 201-531-0555*

Information concerning asylum offices and where to file asylum applications is also available on the USCIS website at [www.uscis.gov](http://www.uscis.gov).

If you previously applied for and were denied asylum by USCIS or if you were previously included in a spouse's or parent's pending application but you are no longer eligible to be included as a dependent, mail your completed Form I-589 to the Asylum Office having jurisdiction over your place of residence. (See [www.uscis.gov/asylum](http://www.uscis.gov/asylum) for information on Asylum Office jurisdiction.) Include a letter with your application stating that you previously applied for asylum and were denied or that you are now filing independently for asylum. Reference in the letter the application on which you were a dependent.

You may file your completed Form I-589 directly with the Asylum Office having jurisdiction over your case only if:

1. You have received the express consent of the Asylum Office Director or the Director of the Asylum Division to do so; or
2. You were previously included in a spouse's or parent's pending application but you are no longer eligible to be included as a derivative applicant. In such cases, you must include a cover letter referencing the previous application and explaining that you are now independently filing for asylum.

The following categories of individuals are not entitled to an asylum interview at a USCIS asylum office:

1. Certain alien crewmembers;
2. Certain stowaways;
3. Visa Waiver Program applicants for admission;
4. Visa Waiver Program overstays and status violators;

5. Certain aliens ordered removed under section 235(c) of the INA on security-related grounds; and
6. Aliens granted S nonimmigrant status under section 101(a)(15)(S) of the INA (such as witnesses and informants).

Individuals subject to these special categories who file asylum applications with USCIS service centers will be served with Form I-863, Notice of Referral to Immigration Judge, when they appear at the USCIS asylum office and will be referred to Immigration Court for an asylum-only hearing.

If you fall into one of the above categories and you have not yet been served with Form I-863, you may file your completed Form I-589 with the USCIS service center having jurisdiction over your application. The asylum office director may elect to serve you with Form I-863, in which case the asylum office director will forward your asylum application to the appropriate Immigration Court.

If you are an alien crewmember in custody and you have been given Form I-589 as well as information about the privilege of being represented by counsel and the consequences of knowingly filing a frivolous asylum application, you have 10 days within which to submit your completed Form I-589 to the U.S. Immigration and Customs Enforcement (ICE) Field Office Director having jurisdiction over the port of entry at which your vessel arrived. The Field Office Director may extend the 10-day filing period for good cause. Once you file your application, the Field Office Director will serve you with Form I-863 and immediately forward your application to the appropriate Immigration Court.

## Part 2. Information Regarding Post-Filing Requirements

### I. Notification Requirements When Your Address Changes

If you change your address, you must inform USCIS in writing within 10 days of moving.

**While your asylum application is pending with the asylum office, you must notify the asylum office on Form AR-11, Alien's Change of Address Card, or by a signed and dated letter notifying USCIS within 10 days after you change your address.**

The address that you provide on the application, or the last change of address notification that you submitted, will be used by USCIS for mailing. Any notices mailed to that address will constitute adequate service, except that personal service may be required for the following: Form I-122, Notice to Alien Detained for Hearing by an Immigration Judge; Form I-221, Order to Show Cause; Form I-862, Notice to Appear; Form I-863, Notice of Referral to Immigration Judge; and Form I-860, Notice and Order of Expedited Removal.

**If you are already in proceedings in Immigration Court, you must notify the Immigration Court on EOIR Form 33/IC, Alien's Change of Address Form/Immigration Court, of any changes of address within 5 days of the change in address.** You must send the notification to the Immigration Court having jurisdiction over your case. You must also notify USCIS on Form AR-11, Alien's Change of Address Card, or by a signed and dated letter within 10 days after you change your address.

## II. Asylum Interview Process

If you are not in proceedings in Immigration Court, you will be notified by the USCIS Asylum Office of the time, date, and place (address) of a scheduled interview.

USCIS recommends that you bring a copy of your Form I-589 with you when you have your asylum interview. An asylum officer will interview you under oath and make a determination concerning your claim. In most cases, you will not be notified of the decision in your case until a date after your interview.

You have the right to legal representation at your interview, at no cost to the U.S. Government. (See **Section IV, Right to Counsel.**) You also may bring witnesses with you to the interview to testify on your behalf.

**If you are unable to proceed with the asylum interview in fluent English, you must provide, at no expense to USCIS, a competent interpreter fluent in both English and a language that you speak fluently.**

Your interpreter must be at least 18 years of age. The following persons cannot serve as your interpreter: your attorney or representative of record, a witness testifying on your behalf at the interview, or a representative or employee of your country. Quality interpretation may be crucial to your claim. This assistance must be obtained at your expense prior to the interview.

**Failure without good cause to bring a competent interpreter to your interview may be considered an unexcused failure to appear for the interview. Any unexcused failure to appear for an interview may prevent you from receiving employment authorization, and your asylum application may be dismissed or referred directly to the Immigration Court.**

If you are deaf, or if you are hard of hearing and need a sign language interpreter in your language, one will be provided for you. Contact the Asylum Office with jurisdiction over your case as soon as you receive a notice for your asylum interview to notify the office that you will need a sign language interpreter in your language so that accommodations can be made in advance.

If available, you must bring some form of identification to your interview, including any passport(s), other travel or identification documents, or Form I-94, Arrival-Departure Record. You may bring to the interview any additional available items documenting your claim that you have not already submitted with your application. All documents must be submitted in triplicate.

If members of your family are included in your application for asylum, they must also appear for the interview and bring any identity or travel documents they have in their possession.

### III. Status While Your Application Is Pending

While your case is pending, you will be permitted to remain in the United States. After your asylum interview, if you have not been granted asylum and appear to be removable under section 237 of the INA, 8 U.S.C. 1227, or inadmissible under section 212 of the INA, 8 U.S.C. 1182, the asylum office will refer your application, together with the appropriate charging document, to the Immigration Court for adjudication in removal proceedings.

### IV. Travel Outside the United States

If you leave the United States without first obtaining advance parole from USCIS using Form I-131, Application for a Travel Document, we will presume that you have abandoned your application. If you obtain advance parole and return to the country of claimed persecution, we will presume that you abandoned your application, unless you can show that there were compelling reasons for your return.

**NOTE:** The application process for advance parole varies depending on your personal circumstances. Use InfoPass on the USCIS website to check with your local USCIS District Office for application instructions. Additional information on obtaining advance parole is available from the USCIS website at [www.uscis.gov](http://www.uscis.gov).

### V. Employment Authorization While Your Application Is Pending

You will be granted permission to work if your asylum application is granted.

Simply filing an application for asylum does not entitle you to employment authorization. You may request permission to work if your asylum application is pending and 150 days have lapsed since your application was accepted by USCIS or the

Immigration Court. (See 8 CFR sections 208.7(a)(1) and 1208.7(a)(1).) Any delay in the processing of your asylum application that you request or cause will not be counted as part of the 150-day period.

If your asylum application has not been denied within 180 days from the date of filing a complete asylum application, you may be granted permission to work by filing Form I-765, Application for Employment Authorization, with USCIS. Follow the instructions on that application and submit it with a copy of evidence as specified in the instructions that you have a pending asylum application.

Each family member whom you have asked to be included in your application and who also wants permission to work must submit a separate Form I-765.

You may obtain copies of Form I-765 by calling the USCIS forms line at **1-800-870-3676** or from the USCIS website at [www.uscis.gov](http://www.uscis.gov).

### USCIS Privacy Act Statement

**AUTHORITIES:** The information requested on this application, and the associated evidence, is collected pursuant to sections 208 and 241(b)(3) of the Immigration and Nationality Act, as amended, and 8 CFR parts 208 and 1208.

**PURPOSE:** The primary purpose for providing the requested information on this form is to determine eligibility for asylum in the United States, and for withholding of removal. The information may also be used to apply for deferral of removal under the Convention Against Torture.

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in the denial of your benefit request.

**ROUTINE USES:** DHS may share the information you provide on this benefit application with other federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS-USCIS-001 - Alien File, Index, and National File Tracking and DHS-USCIS-010 - Asylum Information and Pre-Screening] which you can find at [www.dhs.gov/privacy](http://www.dhs.gov/privacy) and EOIR-001, Records Management Information System, 69 Fed. Reg 26, 179 (May 11, 2004) or its successors. DHS may also share the information, as appropriate, for law enforcement purposes or in the interest of national security.

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## USCIS Forms and Information

You can get USCIS forms and immigration-related information on the USCIS website at [www.uscis.gov](http://www.uscis.gov). You may order USCIS forms by calling the toll-free number at **1-800-870-3676**. You may also obtain forms and information by telephoning the USCIS National Customer Service Center at **1-800-375-5283** (TTY: **1-800-767-1833**).

Additional information concerning asylum and withholding of removal is available on the USCIS website at [www.uscis.gov/asylum](http://www.uscis.gov/asylum) and the EOIR website at [www.usdoj.gov/eoir](http://www.usdoj.gov/eoir).

## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with Form I-589, we will deny your Form I-589 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

For specific information, see **Part E in Part 1, Section V**, of these instructions.

## Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 12 minutes per response, including the time for reviewing instructions, and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy & Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140. OMB No. 1516-0067. **Do not mail your completed Form I-589 to this address.**

## Supplements to Form I-589

**Form I-589, Supplement A** - For use to complete **Part A.II**.

**Form I-589, Supplement B** - For use to complete **Parts B** and **C** and to provide additional information for any other part of the application.



## Part A.II. Information About Your Spouse and Children

**Your spouse**  I am not married. (Skip to **Your Children** below.)

<b>1.</b> Alien Registration Number (A-Number) (if any)		<b>2.</b> Passport/ID Card Number (if any)		<b>3.</b> Date of Birth (mm/dd/yyyy)		<b>4.</b> U.S. Social Security Number (if any)	
<b>5.</b> Complete Last Name			<b>6.</b> First Name		<b>7.</b> Middle Name		<b>8.</b> Other names used (include maiden name and aliases)
<b>9.</b> Date of Marriage (mm/dd/yyyy)			<b>10.</b> Place of Marriage			<b>11.</b> City and Country of Birth	
<b>12.</b> Nationality (Citizenship)				<b>13.</b> Race, Ethnic, or Tribal Group			<b>14.</b> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>15.</b> Is this person in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 16 to 24.) <input type="checkbox"/> No (Specify location): _____							
<b>16.</b> Place of last entry into the U.S.		<b>17.</b> Date of last entry into the U.S. (mm/dd/yyyy)		<b>18.</b> I-94 Number (if any)		<b>19.</b> Status when last admitted (Visa type, if any)	
<b>20.</b> What is your spouse's current status?		<b>21.</b> What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		<b>22.</b> Is your spouse in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>23.</b> If previously in the U.S., date of previous arrival (mm/dd/yyyy)	
<b>24.</b> If in the U.S., is your spouse to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your spouse in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							

**Your Children.** List all of your children, regardless of age, location, or marital status.

I do not have any children. (Skip to Part A.III., **Information about your background.**)

I have children. Total number of children: \_\_\_\_\_.

(NOTE: Use Form I-589 Supplement A or attach additional sheets of paper and documentation if you have more than four children.)

<b>1.</b> Alien Registration Number (A-Number) (if any)		<b>2.</b> Passport/ID Card Number (if any)		<b>3.</b> Marital Status (Married, Single, Divorced, Widowed)		<b>4.</b> U.S. Social Security Number (if any)	
<b>5.</b> Complete Last Name			<b>6.</b> First Name		<b>7.</b> Middle Name		<b>8.</b> Date of Birth (mm/dd/yyyy)
<b>9.</b> City and Country of Birth			<b>10.</b> Nationality (Citizenship)		<b>11.</b> Race, Ethnic, or Tribal Group		<b>12.</b> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>13.</b> Is this child in the U.S. ? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location): _____							
<b>14.</b> Place of last entry into the U.S.		<b>15.</b> Date of last entry into the U.S. (mm/dd/yyyy)		<b>16.</b> I-94 Number (If any)		<b>17.</b> Status when last admitted (Visa type, if any)	
<b>18.</b> What is your child's current status?			<b>19.</b> What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		<b>20.</b> Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>21.</b> If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							



**Part A.II. Information About Your Spouse and Children (Continued)**

<b>1.</b> Alien Registration Number (A-Number) <i>(if any)</i>	<b>2.</b> Passport/ID Card Number <i>(if any)</i>	<b>3.</b> Marital Status ( <i>Married, Single, Divorced, Widowed</i> )	<b>4.</b> U.S. Social Security Number <i>(if any)</i>
<b>5.</b> Complete Last Name	<b>6.</b> First Name	<b>7.</b> Middle Name	<b>8.</b> Date of Birth ( <i>mm/dd/yyyy</i> )
<b>9.</b> City and Country of Birth	<b>10.</b> Nationality ( <i>Citizenship</i> )	<b>11.</b> Race, Ethnic, or Tribal Group	<b>12.</b> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>13.</b> Is this child in the U.S. ? <input type="checkbox"/> Yes ( <i>Complete Blocks 14 to 21.</i> ) <input type="checkbox"/> No ( <i>Specify location:</i> ) _____			
<b>14.</b> Place of last entry into the U.S.	<b>15.</b> Date of last entry into the U.S. ( <i>mm/dd/yyyy</i> )	<b>16.</b> I-94 Number ( <i>If any</i> )	<b>17.</b> Status when last admitted ( <i>Visa type, if any</i> )
<b>18.</b> What is your child's current status?	<b>19.</b> What is the expiration date of his/her authorized stay, if any? ( <i>mm/dd/yyyy</i> )	<b>20.</b> Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>21.</b> If in the U.S., is this child to be included in this application? ( <i>Check the appropriate box.</i> ) <input type="checkbox"/> Yes ( <i>Attach one photograph of your spouse in the upper right corner of Page 9 on the extra copy of the application submitted for this person.</i> ) <input type="checkbox"/> No			
<b>1.</b> Alien Registration Number (A-Number) <i>(if any)</i>	<b>2.</b> Passport/ID Card Number <i>(if any)</i>	<b>3.</b> Marital Status ( <i>Married, Single, Divorced, Widowed</i> )	<b>4.</b> U.S. Social Security Number <i>(if any)</i>
<b>5.</b> Complete Last Name	<b>6.</b> First Name	<b>7.</b> Middle Name	<b>8.</b> Date of Birth ( <i>mm/dd/yyyy</i> )
<b>9.</b> City and Country of Birth	<b>10.</b> Nationality ( <i>Citizenship</i> )	<b>11.</b> Race, Ethnic, or Tribal Group	<b>12.</b> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>13.</b> Is this child in the U.S. ? <input type="checkbox"/> Yes ( <i>Complete Blocks 14 to 21.</i> ) <input type="checkbox"/> No ( <i>Specify location:</i> ) _____			
<b>14.</b> Place of last entry into the U.S.	<b>15.</b> Date of last entry into the U.S. ( <i>mm/dd/yyyy</i> )	<b>16.</b> I-94 Number ( <i>If any</i> )	<b>17.</b> Status when last admitted ( <i>Visa type, if any</i> )
<b>18.</b> What is your child's current status?	<b>19.</b> What is the expiration date of his/her authorized stay, if any? ( <i>mm/dd/yyyy</i> )	<b>20.</b> Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>21.</b> If in the U.S., is this child to be included in this application? ( <i>Check the appropriate box.</i> ) <input type="checkbox"/> Yes ( <i>Attach one photograph of your spouse in the upper right corner of Page 9 on the extra copy of the application submitted for this person.</i> ) <input type="checkbox"/> No			
<b>1.</b> Alien Registration Number (A-Number) <i>(if any)</i>	<b>2.</b> Passport/ID Card Number <i>(if any)</i>	<b>3.</b> Marital Status ( <i>Married, Single, Divorced, Widowed</i> )	<b>4.</b> U.S. Social Security Number <i>(if any)</i>
<b>5.</b> Complete Last Name	<b>6.</b> First Name	<b>7.</b> Middle Name	<b>8.</b> Date of Birth ( <i>mm/dd/yyyy</i> )
<b>9.</b> City and Country of Birth	<b>10.</b> Nationality ( <i>Citizenship</i> )	<b>11.</b> Race, Ethnic, or Tribal Group	<b>12.</b> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>13.</b> Is this child in the U.S. ? <input type="checkbox"/> Yes ( <i>Complete Blocks 14 to 21.</i> ) <input type="checkbox"/> No ( <i>Specify location:</i> ) _____			
<b>14.</b> Place of last entry into the U.S.	<b>15.</b> Date of last entry into the U.S. ( <i>mm/dd/yyyy</i> )	<b>16.</b> I-94 Number ( <i>If any</i> )	<b>17.</b> Status when last admitted ( <i>Visa type, if any</i> )
<b>18.</b> What is your child's current status?	<b>19.</b> What is the expiration date of his/her authorized stay, if any? ( <i>mm/dd/yyyy</i> )	<b>20.</b> Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>21.</b> If in the U.S., is this child to be included in this application? ( <i>Check the appropriate box.</i> ) <input type="checkbox"/> Yes ( <i>Attach one photograph of your spouse in the upper right corner of Page 9 on the extra copy of the application submitted for this person.</i> ) <input type="checkbox"/> No			

### Part A.III. Information About Your Background

1. List your last address where you lived before coming to the United States. If this is not the country where you fear persecution, also list the last address in the country where you fear persecution. (List Address, City/Town, Department, Province, or State and Country.)  
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street (Provide if available)	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)

2. Provide the following information about your residences during the past 5 years. List your present address first.  
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)

3. Provide the following information about your education, beginning with the most recent school that you attended.  
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name of School	Type of School	Location (Address)	Attended	
			From (Mo/Yr)	To (Mo/Yr)

4. Provide the following information about your employment during the past 5 years. List your present employment first.  
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name and Address of Employer	Your Occupation	Dates	
		From (Mo/Yr)	To (Mo/Yr)

5. Provide the following information about your parents and siblings (brothers and sisters). Check the box if the person is deceased.  
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Full Name	City/Town and Country of Birth	Current Location
Mother		<input type="checkbox"/> Deceased
Father		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased

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## Part B. Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part B.)

When answering the following questions about your asylum or other protection claim (withholding of removal under 241(b)(3) of the INA or withholding of removal under the Convention Against Torture), you must provide a detailed and specific account of the basis of your claim to asylum or other protection. To the best of your ability, provide specific dates, places, and descriptions about each event or action described. You must attach documents evidencing the general conditions in the country from which you are seeking asylum or other protection and the specific facts on which you are relying to support your claim. If this documentation is unavailable or you are not providing this documentation with your application, explain why in your responses to the following questions.

Refer to Instructions, Part 1: Filing Instructions, Section II, "Basis of Eligibility," Parts A - D, Section V, "Completing the Form," Part B, and Section VII, "Additional Evidence That You Should Submit," for more information on completing this section of the form.

- 1.** Why are you applying for asylum or withholding of removal under section 241(b)(3) of the INA, or for withholding of removal under the Convention Against Torture? Check the appropriate box(es) below and then provide detailed answers to questions A and B below.

I am seeking asylum or withholding of removal based on:

- |                                      |                                                                  |
|--------------------------------------|------------------------------------------------------------------|
| <input type="checkbox"/> Race        | <input type="checkbox"/> Political opinion                       |
| <input type="checkbox"/> Religion    | <input type="checkbox"/> Membership in a particular social group |
| <input type="checkbox"/> Nationality | <input type="checkbox"/> Torture Convention                      |

- 
- A.** Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?

- No       Yes

If "Yes," explain in detail:

1. What happened;
2. When the harm or mistreatment or threats occurred;
3. Who caused the harm or mistreatment or threats; and
4. Why you believe the harm or mistreatment or threats occurred.

- 
- B.** Do you fear harm or mistreatment if you return to your home country?

- No       Yes

If "Yes," explain in detail:

1. What harm or mistreatment you fear;
2. Who you believe would harm or mistreat you; and
3. Why you believe you would or could be harmed or mistreated.

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**Part B. Information About Your Application (Continued)**

2. Have you or your family members ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in any country other than the United States?

No                       Yes

If "Yes," explain the circumstances and reasons for the action.

3.A. Have you or your family members ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerrilla organization, ethnic group, human rights group, or the press or media?

No                       Yes

If "Yes," describe for each person the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organization or activity.

3.B. Do you or your family members continue to participate in any way in these organizations or groups?

No                       Yes

If "Yes," describe for each person your or your family members' current level of participation, any leadership or other positions currently held, and the length of time you or your family members have been involved in each organization or group.

4. Are you afraid of being subjected to torture in your home country or any other country to which you may be returned?

No                       Yes

If "Yes," explain why you are afraid and describe the nature of torture you fear, by whom, and why it would be inflicted.

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## Part C. Additional Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part C.)

1. Have you, your spouse, your child(ren), your parents or your siblings ever applied to the U.S. Government for refugee status, asylum, or withholding of removal?

No                       Yes

If "Yes," explain the decision and what happened to any status you, your spouse, your child(ren), your parents, or your siblings received as a result of that decision. Indicate whether or not you were included in a parent or spouse's application. If so, include your parent or spouse's A-number in your response. If you have been denied asylum by an immigration judge or the Board of Immigration Appeals, describe any change(s) in conditions in your country or your own personal circumstances since the date of the denial that may affect your eligibility for asylum.

- 2.A. After leaving the country from which you are claiming asylum, did you or your spouse or child(ren) who are now in the United States travel through or reside in any other country before entering the United States?

No                       Yes

- 2.B. Have you, your spouse, your child(ren), or other family members, such as your parents or siblings, ever applied for or received any lawful status in any country other than the one from which you are now claiming asylum?

No                       Yes

If "Yes" to either or both questions (2A and/or 2B), provide for each person the following: the name of each country and the length of stay, the person's status while there, the reasons for leaving, whether or not the person is entitled to return for lawful residence purposes, and whether the person applied for refugee status or for asylum while there, and if not, why he or she did not do so.

3. Have you, your spouse or your child(ren) ever ordered, incited, assisted or otherwise participated in causing harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or belief in a particular political opinion?

No                       Yes

If "Yes," describe in detail each such incident and your own, your spouse's, or your child(ren)'s involvement.

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**Part C. Additional Information About Your Application (Continued)**

4. After you left the country where you were harmed or fear harm, did you return to that country?

- No                       Yes

If "Yes," describe in detail the circumstances of your visit(s) (for example, the date(s) of the trip(s), the purpose(s) of the trip(s), and the length of time you remained in that country for the visit(s).)

5. Are you filing this application more than 1 year after your last arrival in the United States?

- No                       Yes

If "Yes," explain why you did not file within the first year after you arrived. You must be prepared to explain at your interview or hearing why you did not file your asylum application within the first year after you arrived. For guidance in answering this question, see Instructions, Part 1: Filing Instructions, Section V. "Completing the Form," Part C.

6. Have you or any member of your family included in the application ever committed any crime and/or been arrested, charged, convicted, or sentenced for any crimes in the United States?

- No                       Yes

If "Yes," for each instance, specify in your response: what occurred and the circumstances, dates, length of sentence received, location, the duration of the detention or imprisonment, reason(s) for the detention or conviction, any formal charges that were lodged against you or your relatives included in your application, and the reason(s) for release. Attach documents referring to these incidents, if they are available, or an explanation of why documents are not available.

## Part D. Your Signature

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. Title 18, United States Code, Section 1546(a), provides in part: Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement or which fails to contain any reasonable basis in law or fact - shall be fined in accordance with this title or imprisoned for up to 25 years. I authorize the release of any information from my immigration record that U.S. Citizenship and Immigration Services (USCIS) needs to determine eligibility for the benefit I am seeking.

Staple your photograph here or the photograph of the family member to be included on the extra copy of the application submitted for that person.

**WARNING: Applicants who are in the United States unlawfully are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. You may not avoid a frivolous finding simply because someone advised you to provide false information in your asylum application. If filing with USCIS, unexcused failure to appear for an appointment to provide biometrics (such as fingerprints) and your biographical information within the time allowed may result in an asylum officer dismissing your asylum application or referring it to an immigration judge. Failure without good cause to provide DHS with biometrics or other biographical information while in removal proceedings may result in your application being found abandoned by the immigration judge. See sections 208(d)(5)(A) and 208(d)(6) of the INA and 8 CFR sections 208.10, 1208.10, 208.20, 1003.47(d) and 1208.20.**

Print your complete name.	Write your name in your native alphabet.
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Did your spouse, parent, or child(ren) assist you in completing this application?  No  Yes (If "Yes," list the name and relationship.)

(Name)	(Relationship)	(Name)	(Relationship)
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Did someone other than your spouse, parent, or child(ren) prepare this application?  No  Yes (If "Yes," complete Part E.)

Asylum applicants may be represented by counsel. Have you been provided with a list of persons who may be available to assist you, at little or no cost, with your asylum claim?  No  Yes

Signature of Applicant (The person in Part A.I.)

➔ [ \_\_\_\_\_ ]

Sign your name so it all appears within the brackets

## Part E. Declaration of Person Preparing Form, if Other Than Applicant, Spouse, Parent, or Child

I declare that I have prepared this application at the request of the person named in Part D, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in his or her native language or a language he or she understands for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form I-589 may also subject me to civil penalties under 8 U.S.C. 1324c and/or criminal penalties under 18 U.S.C. 1546(a).

Signature of Preparer		Print Complete Name of Preparer	
Daytime Telephone Number (      )		Address of Preparer: Street Number and Name	
Apt. Number	City	State	Zip Code

To be completed by an attorney or accredited representative (if any).	<input type="checkbox"/> Select this box if Form G-28 is attached.	Attorney State Bar Number (if applicable) [ _____ ]	Attorney or Accredited Representative USCIS Online Account Number (if any) [ _____ ]

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**Part F. To Be Completed at Asylum Interview, if Applicable**

**NOTE:** *You will be asked to complete this part when you appear for examination before an asylum officer of the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS).*

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are  all true or  not all true to the best of my knowledge and that correction(s) numbered \_\_\_\_ to \_\_\_\_ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date (mm/dd/yyyy)

\_\_\_\_\_  
Write Your Name in Your Native Alphabet

\_\_\_\_\_  
Signature of Asylum Officer

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**Part G. To Be Completed at Removal Hearing, if Applicable**

**NOTE:** *You will be asked to complete this Part when you appear before an immigration judge of the U.S. Department of Justice, Executive Office for Immigration Review (EOIR), for a hearing.*

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are  all true or  not all true to the best of my knowledge and that correction(s) numbered \_\_\_\_ to \_\_\_\_ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date (mm/dd/yyyy)

\_\_\_\_\_  
Write Your Name in Your Native Alphabet

\_\_\_\_\_  
Signature of Immigration Judge



A-Number <i>(If available)</i>	Date
Applicant's Name	Applicant's Signature

**List All of Your Children, Regardless of Age or Marital Status**

*(NOTE: Use this form and attach additional pages and documentation as needed, if you have more than four children)*

<b>1.</b> Alien Registration Number (A-Number) <i>(if any)</i>	<b>2.</b> Passport/ID Card Number <i>(if any)</i>	<b>3.</b> Marital Status <i>(Married, Single, Divorced, Widowed)</i>	<b>4.</b> U.S. Social Security Number <i>(if any)</i>
<b>5.</b> Complete Last Name	<b>6.</b> First Name	<b>7.</b> Middle Name	<b>8.</b> Date of Birth <i>(mm/dd/yyyy)</i>
<b>9.</b> City and Country of Birth	<b>10.</b> Nationality <i>(Citizenship)</i>	<b>11.</b> Race, Ethnic, or Tribal Group	<b>12.</b> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>13.</b> Is this child in the U.S. ? <input type="checkbox"/> Yes <i>(Complete Blocks 14 to 21.)</i> <input type="checkbox"/> No <i>(Specify location):</i> _____			
<b>14.</b> Place of last entry into the U.S.	<b>15.</b> Date of last entry into the U.S. <i>(mm/dd/yyyy)</i>	<b>16.</b> I-94 Number <i>(If any)</i>	<b>17.</b> Status when last admitted <i>(Visa type, if any)</i>
<b>18.</b> What is your child's current status?	<b>19.</b> What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>	<b>20.</b> Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	

**21.** If in the U.S., is this child to be included in this application? *(Check the appropriate box.)*  
 Yes *(Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)*  
 No

<b>1.</b> Alien Registration Number (A-Number) <i>(if any)</i>	<b>2.</b> Passport/ID Card Number <i>(if any)</i>	<b>3.</b> Marital Status <i>(Married, Single, Divorced, Widowed)</i>	<b>4.</b> U.S. Social Security Number <i>(if any)</i>
<b>5.</b> Complete Last Name	<b>6.</b> First Name	<b>7.</b> Middle Name	<b>8.</b> Date of Birth <i>(mm/dd/yyyy)</i>
<b>9.</b> City and Country of Birth	<b>10.</b> Nationality <i>(Citizenship)</i>	<b>11.</b> Race, Ethnic, or Tribal Group	<b>12.</b> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>13.</b> Is this child in the U.S. ? <input type="checkbox"/> Yes <i>(Complete Blocks 14 to 21.)</i> <input type="checkbox"/> No <i>(Specify location):</i> _____			
<b>14.</b> Place of last entry into the U.S.	<b>15.</b> Date of last entry into the U.S. <i>(mm/dd/yyyy)</i>	<b>16.</b> I-94 Number <i>(If any)</i>	<b>17.</b> Status when last admitted <i>(Visa type, if any)</i>
<b>18.</b> What is your child's current status?	<b>19.</b> What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>	<b>20.</b> Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	

**21.** If in the U.S., is this child to be included in this application? *(Check the appropriate box.)*  
 Yes *(Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)*  
 No

**Additional Information About Your Claim to Asylum**

A-Number (if available)	Date
Applicant's Name	Applicant's Signature

**NOTE:** Use this as a continuation page for any additional information requested. Copy and complete as needed.

**Part** \_\_\_\_\_

**Question** \_\_\_\_\_