

SELF HELP ASYLUM GUIDE: SEEKING PROTECTION IN THE UNITED STATES

2020



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Center for Immigrants' Rights Clinic

GUIDE TO SEEKING ASYLUM, WITHHOLDING OF REMOVAL, AND CONVENTION AGAINST TORTURE PROTECTION

January 2020

University of Maine's School of Law's Refugee and Human Rights Clinic
Cumberland Legal Aid Clinic
University of Maine School of Law
246 Deering Avenue
Portland, ME 04102

Penn State Law Center for Immigrants' Rights Clinic
329 Innovation Boulevard, Suite 118
University Park, PA 16802

Immigrant Legal Advocacy Project
489 Congress Street, 3rd Floor
Portland, ME

THRIVE International Programs
420 Elmira Street
Williamsport, PA 17701

INTRODUCTION

This Guide was created for the purpose of providing step-by-step instructions to assist individuals seeking asylum, withholding of removal, or Convention Against Torture (“CAT”) protection without the assistance of an attorney in the United States.

This Guide is not a substitute for a lawyer’s advice. Asylum laws are complex. They change often. If possible, it is best to seek the help of an experienced immigration lawyer before you apply for asylum.

For many reasons it is difficult to find and hire a lawyer. Many people will have to go through the asylum process without the help of a lawyer. This guide is for people who face the asylum process without the help or advice of an experienced immigration lawyer.

If you are thinking of applying for asylum, **please carefully review the *entire* guide before you start your application.** The Form I-589 acts as the application for asylum, withholding of removal, and CAT. Applying for asylum is a lot of work. Sometimes it takes the U.S. government a long time to fully process applications. **Do not get discouraged!** Asylum exists for people who need protection. If the U.S. government finds that you qualify, it will allow you to remain in the United States and pursue legal permanent residence and eventually U.S. citizenship.

Section I provides step-by-step instructions on how to apply for asylum affirmatively. An affirmative asylum application is for people who are not in removal (deportation) proceedings; that is, they have not been arrested by Immigration and/or are not required to attend any court hearings before an Immigration Judge in court.

Section II provides step-by-step instructions on how to apply for asylum defensively. A defensive asylum application is for people who are in removal (deportation) proceedings. Applicants can apply for asylum, withholding of removal, and CAT using the same Form I-589.

Section III provides step-by-step instructions on how to qualify for withholding of removal or CAT protection. Withholding of removal and CAT may be options for you if you are unable to apply for asylum for certain reasons.

Section IV provides step-by-step instructions on how to apply for asylum, withholding of removal, and CAT for individuals who have been picked up by Customs & Border Patrol (“CBP”) or Immigration & Customs Enforcement (“ICE”), are now in removal proceedings, or are being held in detention.

ACKNOWLEDGEMENTS

This Guide was created through a collaboration between the **University of Maine School of Law’s Refugee and Human Rights Clinic** (a program within the **Cumberland Legal Aid Clinic**), together with the **Immigrant Legal Advocacy Project**; and the **Penn State Law Center for Immigrants’ Rights Clinic**, in partnership with **Thrive International Programs**. The Immigrant Legal Advocacy Project is Maine’s only full service, statewide, nonprofit legal aid agency dedicated to providing immigration and related legal aid to low-income Maine residents. Thrive International Programs is a nonprofit organization based out of Williamsport, Pennsylvania that equips people from diverse cultures with increased language proficiency and cultural competence, as well as provides immigration legal assistance and opportunities to integrate with and serve the community.

Contributors from the Refugee and Human Rights Clinic, under the supervision of Anna Welch, Sam L. Cohen Refugee and Human Rights Clinical Professor, include Noel Sidorek (J.D. 2018), Dominika Blok (J.D. 2013), Eric Benson (J.D. 2018), Braden Clement (J.D. 2013), Jennifer Gillies (J.D. 2013), Katherine Power (J.D. 2014), Christiana Rein (J.D. 2019), and Hannah Wurgaft (J.D. 2019). This Guide was updated and revised in 2019 by Kristin King (J.D. Candidate 2021), Ralph Humiston (J.D. Candidate 2020), and Arianna Efstathiou (J.D. Candidate 2020).

Contributors from the Immigrant Legal Advocacy Project include Noël Young, former Asylum Coordinator Attorney, Jennifer Bailey, Asylum Program Director, Michelle Gentry, Asylum Program Attorney, Barbara Taylor, and Susan Roche, Executive Director.

Contributors from the Center for Immigrants’ Rights clinic, under the supervision of Shoba Sivaprasad Wadhia, Samuel Weiss Faculty Scholar and Clinic Professor of Law at Penn State Law, include students Kaitlyn Box (J.D. Candidate 2020) and Berenice Beltrán-Maldonado (M.I.A. Candidate 2020), and Ashika Verriest, Staff Attorney for the Center for Immigrants’ Rights Clinic.

The Center for Immigrants’ Rights Clinic would like to thank Jody Lantz, Executive Director of Thrive International Programs, for her support of this project.

This Guide’s Section II, Applying for Asylum Defensively, is adapted from materials created by the Immigrants’ Rights Clinic at Stanford Law School on behalf of Centro Legal de la Raza in Oakland, California and Community Legal Services in East Palo Alto, California.

This Guide was translated into Spanish by Melanie Vangrieken Alvarado (Penn State Law L.L.M. Candidate 2020) and into French by Kaitlyn Box (Penn State Law J.D. Candidate 2020), Mollie Kravitz-Jones (Maine Law J.D. Candidate 2022), Jordan Guerette, Giuliana Intriago (Maine Law J.D. Candidate 2022), and Ronald Dreher (Maine Law J.D. Candidate 2021).

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Section I. Applying for Asylum Affirmatively

Part 1. INTRODUCTION

Section I provides step-by-step instructions on how to apply for asylum affirmatively. An affirmative asylum application is for people who are not in removal (deportation) proceedings; that is, they have not been arrested by Immigration and/or are not required to attend any court hearings before an Immigration Judge in Court.

Part 2. THINGS YOU SHOULD KNOW BEFORE YOU APPLY FOR ASYLUM

A. What is Asylum?

Asylum is a legal protection granted by the U.S. government to people currently in the United States who are not U.S. citizens and who cannot return to their home countries because they either have been, or fear they will be harmed, based on a protected ground.

You may be eligible for asylum if you are:

- 1.) Currently **in the United States and are not a U.S. citizen**;
- 2.) You cannot return to your home country because either you have been **harmed in the past, or will be harmed in the future**;

The harm can be **threats, physical harm, or other problems** that put you at risk in your country.

- 3.) You were harmed or will be harmed because of one or more of the following reasons:
 - **Race or perceived race**
 - **Religious or perceived religious beliefs or lack of religious beliefs**
 - **Nationality or a perceived nationality**
 - **Political opinion or a perceived political opinion**
 - **Membership or perceived membership in a particular social group**
- 4.) You were harmed or will be harmed by the **government** in your home country OR by a **person or group** that your **government will not or cannot control**;
- 5.) There is no safe place in your home country where you can live; and
- 6.) Conditions have not changed in your home country since you left such that you are now safe.

If you are granted asylum, you may remain legally in the United States, although those with asylum can still lose their status if they commit certain acts, including certain criminal offenses.

B. How Do You Apply for Asylum?

The asylum application process has many steps. In Part II of this Guide, you will find detailed instructions for each of these steps, but first, find an overview below:

Step 1: Determine if you meet the requirements for asylum in the United States

Before you begin the asylum application process, first carefully make sure that you meet the basic requirements outlined on page 2.

Step 2: Complete the Application for Asylum Form I-589; Write Your Personal Declaration. If you can do so safely, Collect Documents to Support Your Application

In this step, complete the Form I-589 "Application for Asylum and Withholding of Removal," write a Declaration and, if possible, gather any documents you may have to support your case.

Step 3: Mail Your Complete Asylum Application to the U.S. Government

Keep a copy for yourself. Once the U.S. Government receives your application, they will mail you an Asylum Receipt Notice. You will get an "A" number. Each person included in your application living in the United States with you will get their own "A" number and a separate receipt. See page 23.

Step 4: Attend a Biometrics (Fingerprinting) Appointment

All asylum applicants must be fingerprinted and photographed at their local immigration office as a part of the application process. See page 24 for more information.

Step 5: Attend an Interview with an Asylum Officer

Everyone who applies for asylum must meet with an Asylum Officer for an Asylum Interview. Sometimes it takes only weeks and sometimes much longer for the U.S. government to schedule your Asylum Interview. Once it has been scheduled, the U.S. government will mail you a letter with the date, time and location of your Asylum Interview. See page 24 for more information.

Step 6: Apply for a Work Permit 150 Days After You Apply for Asylum

See Appendix E for more information.

Step 7: Receive a Decision on Your Asylum Application

See pages 32-37 for more information about each of the possible decisions.

WARNING:

There are people in the community who are not lawyers who may call themselves “notaries” or “legal advisors” and who charge money to help asylum seekers fill out their asylum applications and prepare their cases. These people may even encourage people to lie on their applications. **You should never give money to someone who is not a licensed U.S. attorney, or an accredited representative and you should never lie on your asylum application.** It is important to use this Guide to make sure that you are not paying someone to mislead you throughout the asylum process.

C. Who Is Eligible for Asylum?

Why you might not be eligible for asylum, even if you can demonstrate that you will be harmed if you return to your home country.

Even if you will be harmed, you may be ineligible to apply for or receive asylum. Those reasons may include:

- 1. You are applying for asylum more than one year after you last entered the U.S.**
- 2. You have already filed for asylum before in the United States and were denied.**
- 3. You received permanent lawful status (such as lawful permanent residence) in another country.**
- 4. You went to Canada directly before entering the United States at an official port of entry.**
- 5. You have committed a serious crime in the United States or elsewhere.**
- 6. You have harmed or caused harm to others because of their race, religion, nationality, political opinion, or membership in a particular social group.**
- 7. You participated in terrorism or are dangerous to the United States.**

Note: If any of these factors applies to you, consult an immigration attorney before filing your asylum application. Even though some of these things may apply to you, you may still be able to apply or qualify for asylum. It is important to talk to an attorney to see if you may still qualify.

Please remember there are other ways to be protected from harm. Asylum is just one way.

In addition to asylum, if your life or freedom would be threatened or if you are afraid of being tortured by a government official in your country or if you can prove that your government would allow you to be tortured, you may be eligible to stay in the U.S. based on laws that are designed to protect people who face harm or torture. Please refer to the other sections of this guide such as the section on Withholding of Removal and the Convention Against Torture (CAT). These are two other ways that you may protect you from being forced to return to your home country.

D. Important: The One-Year Deadline

A very important rule in asylum is that the U.S. government **MUST** receive your asylum application within one year of your last arrival in the United States. This rule applies to all asylum applications.



To find out the deadline for you to apply, you need to know the exact date you entered the United States. Add one year to the date you entered the United States and that is your asylum filing deadline.



For example, if you entered the U.S. on the date pictured, January 5, 2019, your application must be received by the U.S. government no later than January 5, 2020.

You might still be eligible for asylum, even if you did not apply within one year if you can prove one of the following:

- Changed Circumstances
 - If you can prove that conditions have changed in your life, your home country, or U.S. law and those changes affect your case or your situation, you might still be able to apply for asylum after the one-year deadline.
- Extraordinary Circumstances
 - If you can prove specific events or factors caused you to miss the one-year deadline such as a serious illness, physical or mental disability, a change in your immigration status, death or illness of your lawyer or a family member, or other reasons, you might still be able to apply for asylum after the one-year deadline.

Note: If you can prove one of these exceptions you still need to apply for asylum within a **REASONABLE AMOUNT OF TIME**. Generally, six months is considered a reasonable amount of time.

E. Am I Eligible for Asylum? Checklist

Requirement	Have I...	Yes	No
1	Fled my home country and entered the U.S.?		
2	Suffered serious physical or psychological harm in my home		

	country, and/or received threats of harm, or have a genuine fear of future harm?		
3	Suffered harm or fear harm because of my political opinion or religion or race or nationality or membership in a particular social group?		
4	Suffered harm or fear harm caused by the government in my home country or by a person or group the government would or could not control?		

- If you have answered YES to all of the questions above, you are likely eligible to apply for asylum within one-year of entering the U.S.
- If you answered NO to ANY of the questions, then you may not meet the requirements for asylum.
- If you answered NO to any of the questions but you genuinely fear returning to your home country, talk to an experienced immigration lawyer to discuss what options might be possible for you.

NEXT: Even if you answered YES to all of the above questions, it is important to be sure nothing else makes you ineligible for asylum. Complete the checklist below before continuing.

POSSIBLE FACTORS THAT MIGHT MAKE YOU INELIGIBLE FOR ASYLUM:

Factor	Have I...	Yes	No
1	Been in the United States for more than one year after my last entry into the United States and have not yet applied for asylum?		
2	Previously been denied asylum by the U.S. government?		
3	Lived safely and permanently somewhere other than my home country before I entered the United States?		
4	Arrived in the United States by land from Canada at an official entry point?		
5	Committed or been convicted of a crime inside or outside of the United States?		
6	Harmed or participated in harming others?		
7	Engaged in a terrorist activity or something that could be considered a terrorist activity or done anything that would make me a danger to the		

	security of the United States?		
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If any of the factors 1-7 apply to you, talk to an experienced immigration lawyer BEFORE you apply for asylum. Even if you answered yes to one of the above factors, you may still be eligible to remain in the U.S.

DISCRETION

Focus on submitting documents that help an Asylum Officer choose to give you asylum. Even if you meet all of the requirements for asylum discussed above, an Asylum Officer can make the choice to *not* give you asylum. This is called discretion.

Factors that help an Asylum Officer use discretion to approve your case:

- Family, business, community, and employment ties to the United States.
- Proof of difficulty in reunification with family or ability to live should you be deported to any country, not including the country you are fleeing.
- Proof of good character, value, or service to the community, including rehabilitation if a criminal record is present.
- Your age or health.

Factors that may affect an Asylum Officer’s decision not to approve your case:

- Significant violation of U.S. immigration laws.
- Presence of a criminal record, and the type and seriousness of your criminal record.
- Lack of honest answering of questions with the Asylum Officer that may lead to an Asylum Officer not believing you are telling the truth.

F. Questions and Answers

Do I need a lawyer?

No, you do not need a lawyer to apply for asylum, although a lawyer can be helpful as you prepare your case. This guide exists to help you if you cannot get a lawyer to prepare your asylum case. But it is not a substitute for legal advice. If you answered yes to any of the “Possible factors that might make you ineligible for asylum” you should seek the help of an experienced immigration lawyer. Check the following websites for legal help in your area:

- <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>
- <https://www.justice.gov/eoir/file/probonofullist/download>

I heard that the only way I can get asylum is if I were physically harmed in some way (like tortured or raped) in my home country. Is this true?

No. There are many ways to get asylum; everyone’s story is different. While physical harm *can* be the basis for someone’s asylum application, it is not *required*. If you have suffered severe

emotional or psychological harm in your home country, have been threatened, or you genuinely fear future harm, then you may qualify for asylum.

Can I apply for asylum even though I never had permission to enter the United States or my visa has expired?

Yes. No matter how you entered the United States or your legal status now, you may apply for asylum. You may apply for asylum after the expiration of your I-94 card and even after the expiration of your visa. In most cases you must apply for asylum within one year of entering the United States. For more information, see page 5 of this Guide.

Can the government deport me while my asylum application is pending?

Once the U.S. government has received your asylum application, you will get an appointment to present your asylum case in front of an Asylum Officer. You can have your appointment as early as 21 days after you file for asylum or it can take many months or years. The U.S. government allows asylum seekers to stay in the United States until they have a chance to present their case in front of an Asylum Officer. However, it is important that while you wait, you avoid committing any crimes or getting involved in illegal activities. People can be detained and put into removal (deportation) proceedings for committing crimes or for other reasons; even with a pending asylum application.

Will my application be shared with my home country?

No. The U.S. government will not share the information in your asylum application with others, especially those in your home country, except in exceptional circumstances.

How much does it cost to apply for asylum?

Currently, applying for asylum is free. Be sure to check the instructions to the Form I-589 found at www.uscis.gov before filing to confirm whether there is a fee. There also may be costs to you for postage, pictures, making copies or other things.

What if I do not write or speak English?

You may apply for asylum even if you do not speak English. But your asylum application must be written in English and all documents that you send with your application that are not in English must be translated. A translator should read all translated documents back to you in your primary language, so you are sure that each word is correct. The translator should sign a document

promising that he or she has translated the document correctly. See Appendix B for the document, a “Certificate of Translation.”

You do not need to hire a professional translator although you can if you want to. Your translator can not be your wife, husband, or any of your children included on your asylum application or who will be a witness in your case. They must be able to read and write fluently in your language and in English.

If you do not speak English, you must bring an interpreter to your Asylum Interview. See pages 26-32 for more information about the Asylum Interview. Your interpreter must be able to translate word for word everything you say, and everything the Asylum Officer says to you.

I heard that if I list on my asylum application a different address in the United States than where I actually live, my asylum application might be processed faster. Is this true?

Your address must be the address where you actually live. You should never list an incorrect address on your asylum application. The Asylum Office will find out and it might cause you to lose your case because you have not been honest. You should always be truthful when filling out your asylum application. If you want to try to get a faster Asylum Interview, you might want to talk to an experienced immigration lawyer.

What happens if I move after submitting or mailing my asylum application?

If you move or change your address **you must notify the U.S. government within 10 days of the move or change of address. Notifying the Post Office of your new address is not enough. If you move to a different state, your asylum case may be moved to a new, different Asylum Office.** See Appendix D for information on how to update your address with the U.S. government.

If my spouse and children are in the United States with me, should they file separate asylum applications?

Spouses and unmarried children under the age of 21 who are with you in the United States do not need to file separate asylum applications and you can include them in your own asylum application. However, if they have their own claims for asylum, they can also submit their own applications as well. If each spouse qualifies for asylum, there may be an advantage to having both spouses each submit an application for asylum as it may increase the chances of the family gaining asylum.

To be included in your application, you and your spouse must be married according to the laws of your country at the time you apply for asylum. This can mean you have a certificate or marriage license, or it can mean you were married in a traditional ceremony. If you were married in a traditional ceremony and do not have a certificate or marriage license to prove you were married,

you may want to consult with a lawyer about how to show the Asylum Office that you have been officially married. You can also get married in the United States.

In order to include your children in your asylum application, they must be under age 21 and not married, at the time you submit your asylum application. As long as you filed before they turned 21 and were not married, they will still be able to be included in your application, even if they turn 21 as long as they remain unmarried later on.

If you have adopted children, they must have been legally adopted in the country where the adoption took place before they turned 16 years old. You must also be able to prove that you had legal and physical custody over your adopted children for at least two years before you submit your asylum application to the U.S. government.

If you have family members with you in the United States who do not meet the requirements for spouses and children described above, they will not be able to get asylum through you. They must apply for asylum on their own. For example, if your children in the United States are married or 21 or older, they would need to file their own asylum applications.

If my asylum is granted, can I bring family members to the United States?

If your asylum application is granted, you may bring your spouse and unmarried children to the United States who were under age 21 at the time you applied for asylum. You must apply for them within two years from the date you are granted asylum.

In order to bring immediate family to the U.S. you must submit a Form I-730 “Asylee Relative Petition.” More information on the I-730 process can be found at <http://www.uscis.gov/i-730>. Check the following websites for legal help in your area:

- <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>
- <https://www.justice.gov/eoir/file/probonofullist/download>

When can I begin to work in the United States?

150 days after the U.S. government receives your asylum application, you normally may apply for an “Employment Authorization Document” (a work permit). See Appendix E for more information.

When can I travel outside the United States?

You should *not* travel outside of the United States while your asylum application is pending, otherwise the U.S. government will assume that you have abandoned your application. If you

MUST travel abroad while your application is pending, consult an experienced immigration lawyer BEFORE you travel.

Even if you are granted asylum, you should not travel to your home country until you become a U.S. citizen. If you do, the U.S. government can terminate your asylum status.

Part 3: THE APPLICATION PROCESS

This section is intended to help you prepare your asylum application on your own.

A. The Steps to a Complete Asylum Application:

There are several steps to prepare and mail your asylum application to the U.S. government:

1. Determine if you are eligible for asylum. See page 2.
2. Complete the asylum application (Form I-589, “Application for Asylum and Withholding of Removal”). See Appendix F.
3. Get a passport-style photograph or photographs. Most drug stores, such as Walgreens, CVS, Rite Aid, and post offices will take passport-style photographs.
4. Write your Declaration, sign it, and have it notarized, if possible. See Appendix G.
5. Gather photos, letters, and other documents that will support your case if you can do so safely. See pages 14-16.
6. Make copies of everything you are mailing.
7. Mail everything to the U.S. government via *certified* U.S. postal service or by a private carrier such as Federal Express or UPS and make sure you keep the receipt as proof that you mailed your application.

Note: You do not need to mail your Declaration or all your additional evidence at the same time as your asylum application. Your Declaration and other documents can be sent later but the U.S. government must receive them no later than 3 days (not including weekends) before the date of your Asylum Interview. For more information on where you should send your additional documents and evidence, please check the following website for your asylum office: <https://egov.uscis.gov/office-locator/#/asy>.

Step 1: Determine your eligibility

Before you begin filling out your asylum application, first make sure you meet the basic requirements for asylum. Again, here is an overview of the requirements for asylum:

- 1.) Currently **in the United States and are not a U.S. citizen**;
- 2.) You cannot return to your home country because either you have been **harmed in the past, or will be harmed in the future**;

The harm can be **threats, physical harm, or other problems** that put you at risk in your country.

- 3.) You were harmed or will be harmed because of one or more of the following reasons:

- **Race or perceived race**
- **Religious or perceived religious beliefs or lack of religious beliefs**
- **Nationality or a perceived nationality**
- **Political opinion or a perceived political opinion**
- **Membership or perceived membership in a particular social group**

- 4.) You were harmed or will be harmed by the **government** in your home country OR by a **person or group** that your **government will not or cannot control**;

- 5.) There is no safe place in your home country where you can live; and

- 6.) Conditions have not changed in your home country since you left such that you are now safe.

Step 2: Complete the Asylum Application Form I-589

Importance of Honesty

You must be completely honest throughout your entire asylum process. Any information in your asylum application, including all documents and everything you say in your interview, must be the truth. If the U.S. government thinks you are lying you will *not* be granted asylum. Criminal penalties may be applied, and you may be prevented from submitting any other immigration application.

You may have given false information about yourself to get your U.S. visa. Many people do. However, now that you are applying for asylum in the United States it is absolutely critical that you tell the truth on any paperwork you give to the government and at your Asylum Interview. Some people in the community may be telling people to lie on their applications or submit fake documents. This is illegal. Please be careful of anyone who tells you to lie and do not pay anyone but a licensed U.S. lawyer for legal advice.

7.) Filling out the Form I-589

The Asylum Application:

Form I-589 “Application for Asylum and Withholding of Removal”

The Form I-589 called “Application for Asylum and Withholding of Removal” is one of the most important documents that asylum applicants must give to the U.S. government. You can find a Form I-589 online at: <http://www.uscis.gov/files/form/Form I-589.pdf>.

Note: The current version Form I-589 being used by the U.S. government has an expiration date of September 30, 2022. Go to www.uscis.gov to download the most recent version of the form. You should use the form on this website, even if it is already expired.

Please read the instructions below to learn more about how to complete the Form I-589. Also review the U.S. government instructions on completing Form I-589 online at: <http://www.uscis.gov/files/form/Form I-589instr.pdf>.

Please see Appendix F for detailed instructions on how to fill out the Form I-589. Note that the same form is used to apply for asylum and for withholding of removal and Convention Against Torture relief. For more information on withholding of removal and Convention Against Torture, see Section III of this Guide.

Before You Start: Tips on completing the Form I-589

- You may find it helpful to complete Step 4: “Write your Declaration” before answering the questions asked in Part B of the Form I-589. See Appendix G for more information on writing your Declaration.
- Read each question very carefully. Make sure you understand the question before you answer it.
- Make sure all answers are complete, accurate and truthful.
- The application must be in English: If you do not write or speak English you will need the help of a good translator to translate your application. The translator or interpreter does not need to be a professional but avoid using online translation services like Google Translate, as they are not always accurate and can cause errors.
- Type your answers on a computer or write them by hand using a BLACK PEN, not pencil. Sign your name with a BLUE PEN.
- Write in capital letters if your handwriting is hard to read.
- To check off a box use: An X.

- If you do not know the answer to a question, write “Unknown” or “I do not know.” Do not guess.
- Do not leave any questions blank. If a question does not apply to you, write “N/A” which means “not applicable.”
- Use Supplement A or B of the Form I-589 when you do not have enough room to answer a question. If you do use Supplement A or B, write the number of the question you are answering, and type or write in BLACK INK your Alien Registration Number (“A Number”), if you have one, your name and the date. Sign each supplement you use in BLUE INK. If you do not use Supplement A or B, still fill out the top part as if you were using it, by signing it and filling out your name, Alien Registration Number, and the date, but in the spaces below, simply put “N/A” to indicate you have no response.

Step 3: Get a passport-style photograph

- You must include a passport style photograph with your Form I-589. It must be stapled to page 9, part D of Form I-589. The photo must be taken within the last 30 days of mailing the application. Please follow the instructions at <https://travel.state.gov/content/travel/en/passports/requirements/photos.html> to be sure that your picture meets the U.S. government’s requirements.
- Write your full name in pencil on the back of your photo. Most drug stores, such as Walgreens, CVS, Rite Aid, and post offices will take passport-style photographs.

8.) Write Your Declaration

Writing a Declaration is not required to apply for asylum. However, you may decide to write one because it will help explain your case to the Asylum Officer. A Declaration is your opportunity to explain to the Asylum Officer why your specific case meets all the requirements needed to get asylum in the U.S. See page 2 for the requirements for asylum.

Please see Appendix G for more information on how to write your Declaration.

9.) Gathering and Submitting Evidence

Evidence for your asylum case can be documents or items that help convince the Asylum Officer that the facts in your Declaration are true. Providing supporting documents may help your case, but it is not required. **You should never use fake or forged documents.** If you cannot get certain evidence or getting it will put you or someone else in danger, then you should explain to the Asylum Officer why it was impossible or difficult for you to get that evidence.

What types of evidence will help support my asylum case?

The following are only examples of what types of evidence you can include. Every case is different, and it is rare for one person to have all of these documents or evidence.

Documents that prove identity:

- **Passport**
- **Birth certificates**
- **Marriage Certificates**
- **Identification Cards**
- **Membership Cards** (proving membership in a religious, political, or other organization if it relates to your claim for asylum)
- **Other documents or photos that show you belong to a certain religion or show that you participated in a certain group or protest if it is relevant to your case. These documents or photos could include baptism certificates or photos of you participating in a special religious event.**

Documents that may support the facts in your Declaration and application:

These are documents that can help prove that the details of your story are true.

- **Letters or statements from witnesses:**
 - Witnesses are people who know what happened to you or know why you cannot go back to your home country. These people may have actually seen the harm you suffered or know about it in other ways. Witnesses can be family members and friends who are still in danger, or people who have experienced similar harm or who understand the harm you would face if you return to your home country. Witnesses might be able to tell just one part of your story. **They do not need to know your entire story.**
- **Written threats**
- **Medical reports**
- **Summons, Police reports and records**
- **Photographs, What's App messages, You Tube videos, Facebook posts, and/or similar documentation**

- **Character evidence:** These can be documents that show you are following the laws of the United States and you are doing good things to make your life in the United States better.
 - For example: Letters from an employer or teacher, letters from a religious leader, proof of volunteer work, significant awards, letters from mental health or social service providers, etc.
- **Country conditions and human rights reports:** See Appendix C for a list of organizations that may have written reports on conditions in your home country.
- **Newspaper & Magazine Articles (these can be from anywhere in the world including from your own country or region that prove that what you say happened or is happening is true)**

IMPORTANT:

If you mail any documents other than your asylum application, **do NOT submit the original version**. Make a copy of the original, and mail that copy. Make sure you bring the original versions with you to your Asylum Interview, as the Asylum Officer may want to see them.

NEVER SUBMIT A FALSE DOCUMENT

Original documents are often tested to see if they are true documents. If you submit a false document to support your case the U.S. government will likely discover this, and you will be denied asylum. There can be penalties for submitting false documents. It is always better to explain why you could not get a certain document than to make up a false document.

ALL documents not in English MUST BE TRANSLATED INTO ENGLISH before they are mailed, and they must have a Certificate of Translation signed by a competent translator. See Appendix B for a sample Certificate of Translation. Always review translated documents carefully to be sure they are accurate! To review, have the translator read the translated document back to you in your native language.

When you mail any document you have translated, you must include:

1. A copy of the document in your native language;
2. The English translation; and
3. A document certifying that the translator is capable of translating. See Appendix B for a Certificate of Translation.

REMEMBER:

- Do NOT put yourself or others in danger in order to get evidence for your case.
- NEVER submit a false document

- Make sure your documents are accurately translated into English accurately
- Compare dates and facts in different documents, such as birth certificates, marriage certificates, witness statements, police reports, medical reports, etc., to make sure that they are the same throughout. If they are not, be prepared to explain this to the Asylum Officer.
- Save all originals.
 - You should **save the originals** of every document that you mail with your application, including any original stamped envelopes sent to you with the document(s).

Why?

- You need to bring the originals with you to your Asylum Interview.
- Saving originals and the envelopes in which they were mailed will help you prove where a document came from and where it has been. If you mail a letter from a witness still living in your home country, the Asylum Officer may need proof that the letter is real. One way to show this is to show the Asylum Officer during your Asylum Interview the original letter in the original stamped envelope.

Step 4: Assemble All of Your Documents and Make Copies

Once you complete your application, write your Declaration, gather evidence, and make any translations necessary, you are ready to assemble everything in your asylum application and make copies.

Write a cover letter:

It is not required to include a cover letter with your asylum application. However, this Guide has a sample cover letter for asylum seekers which you may include in your asylum Application. See Appendix A for the sample cover letter.

Put Everything Together

Put all documents that you have for your asylum application in the following order:

1. The cover letter (optional)
2. Form I-589 including your passport-style photograph stapled to page 9 of the Form I-589
3. Copy of your U.S. visa, I-94 document and passport, if you have them. If you have a passport include a complete copy of the entire passport (front and back cover and ALL pages in between)
4. Your Declaration*
5. Copies of any evidence you have (see step 5)*

After completing this step, now make a copy of this entire packet. You will need to send this entire packet and its copy to the Asylum Office.

*These items can be sent at a later time, if the Asylum Office receives them no later than three (3) weekdays before your interview date. For information on where to send this additional information, please check the following website for your asylum office: <https://egov.uscis.gov/office-locator/#/asy>.

If you have a wife or husband or any unmarried children under 21 with you in the United States who you want to include on your asylum application, then you must also gather and mail the following for **each** family member:

1. One additional copy of your Form I-589 for each family member
2. One passport-style photograph of that family member (stapled to page 9 of one of the copies of your Form I-589)
3. Copy of the family member's U.S. visa, I-94 document and passport, if any. Include a complete copy of their entire passport if they have one (front, back and pages in between)
4. Documentation that shows their relationship to you (for example, a marriage certificate or birth certificate)
 - If you do not have and cannot get a marriage certificate or birth certificate, you may submit other supporting documents to prove your relationship such as medical records, school records, photos of ceremonies, or religious documents that were issued at the same time as your marriage or birth of your child or the results of DNA tests.

REVIEW THE ENTIRE APPLICATION FOR COMPLETENESS

Ensure all documents are in English and translations are accurate and with signed Certificates of Translation!

Although we suggest you gather and prepare as much evidence described above as possible, at minimum you **must** submit the following with your asylum application:

1. Original, signed Form I-589 Application for Asylum and Withholding of Removal.
2. One Passport style photo (stapled to page 9 of the Form I-589).
3. Copies of your U.S. Visa, I-94 Document and passport, if any.
4. Birth certificates, marriage certificates or any documents that confirm the relationship between you and your family members included in your asylum application.

Strongly encouraged:

5. A copy of your Declaration. See Appendix G for more information. This can be sent at a later date, no later than 3 days before the interview.

Step 5: Make Copies:

Once you have assembled everything you are mailing to the Asylum Office, make a copy for yourself to keep for your records. Keep this record with the mailing receipt you use to send your application out.

Step 6: Mail Your Complete Application to the U.S. government

Put everything you have prepared to submit in one envelope and mail to the U.S. government, specifically to U.S. Citizenship and Immigration Services (“USCIS”).

The address where you send your application will depend on where you live in the United States. Visit the following website <http://www.uscis.gov/Form I-589> or call 1-800-375-5283 to see where to send your application and where to send any additional documents you want to submit after sending your application.

Mail everything to the U.S. government via *certified* U.S. postal service or by a private carrier such as Federal Express or UPS and make sure you keep the receipt as proof that you mailed your application.

If you did not send your Declaration or supporting evidence with your Form I-589: “Application for Asylum and Withholding of Removal,” **you must mail them to the Asylum Office at least 3 business days before your scheduled Asylum Interview.**

If that is not possible, you must bring the Declaration and additional evidence to your Asylum Interview to file that day. However, it is strongly recommended that you send them earlier so the Asylum Officer has time to look over the documents and read your story.

BEFORE sending your application ask yourself:

- Did I fill out **every box and question** on the Form I-589 and **sign** it in BLUE PEN? In boxes where the answer is none, did I write “None” or “Not Applicable” so that no boxes are blank?
- Did I staple my **passport-style photograph** to Page 9 of the Form I-589?
- If I am including my Declaration (not required) at this time, did I **sign my Declaration** and, if possible, get it notarized?
- Do I have **English translations** of each document that is not in English?
- Do I have **signed Certificates of Translation** for each of my translated documents?

- Did I **keep the originals** of my supporting documents?
- Did I **save the envelopes** my original evidence and supporting documents came in?
- Did I **review my ENTIRE application package** to make sure the information I am submitting is consistent with the information in my asylum application and Declaration?
- Am I sending **enough copies** of my asylum application? See pages 17-19 for the exact number of copies that you should send.
- Have I included copies for each family member included on my application and is their passport-sized photograph where it should be? Most drug stores, such as Walgreens, CVS, Rite Aid, and post offices will take passport-style photographs.
- Did I make a copy of everything for myself to keep?
- After mailing my asylum application, did I make sure to keep a copy of the certified mail, FedEx or UPS receipt?

Once you have checked off ALL of the boxes above you are ready to send your asylum application to the U.S. government.

10.) Questions and Answers

What if I do not remember important details when I am writing my Declaration or at my interview?

Details matter in your Declaration. However, there is no one detail that will guarantee that you are approved for asylum. If you cannot remember something, such as a date or a name, do not guess or make something up. Follow this rule: if you cannot remember and you cannot find out, do not guess. If you cannot remember something because it was a traumatic experience, explain that.

What if the facts that I remember, such as dates and times, are different from facts in the official documents that I provide, such as a passport or a marriage certificate?

Before submitting your asylum application, you should review everything you are submitting to make sure that it is consistent with the information you provide in your Declaration and your asylum application. If there are differences, you should prepare yourself to explain to the Asylum Officer why there are differences.

I do not want to talk about certain events that are painful to remember. Do I have to share them?

Many people have a hard time talking or writing about events that caused them physical or emotional harm. For example, if you witnessed the death of someone you loved, you might have a difficult time talking about it with someone else, especially a stranger. Similarly, if you were physically abused or tortured it is normal not to want to talk about it. However, to win your asylum case, **you will need to explain to the Asylum Officer what happened, when it happened, how it happened, why it happened, who did it, why they did it, what happened afterwards, why you are afraid it will happen again**, and all of the other details discussed above. You should not make things up or exaggerate, just be accurate and tell the truth.

What if I did not leave my country right away after I was harmed or it is hard for me to explain?

Everyone's story is different. As you tell your story, be aware of the parts that may be hard for the Asylum Officer to understand or believe. For example, if you say that you were harmed in August 2016, but you did not leave your country until August 2017, the Asylum Officer might wonder why you did not leave your country sooner. The Asylum Officer may wonder if you were really in danger in your home country. In this example, you would explain to the Asylum Officer why you waited a year before you left.

How can I convince the Asylum Officer that I will be harmed in my country if I return?

You will have to explain to the Asylum Officer what makes your situation unique, and why it is unsafe for you to return. If you state that you fear harm in your home country but other people like you continue to live in your home country without problems, the Asylum Officer might think that you could live there safely, too. Use your Declaration to explain why this is not true. If others like you continue to be targeted in your home country, explain that in your Declaration. You can also use reports like country reports, human rights reports, and news reports that show that it is dangerous for people like you to live in your country. See Appendix C for more information on this.

Can I use my family member or a close friend who is fluent in English as an interpreter at my interview?

You should not use a family member to interpret for you. An interpreter must be objective – they cannot be a member of your family. Family may appear biased to the Asylum Officer.

Can I translate my own documents?

You are not allowed to translate your own documents. You must have another person who has not been included on your asylum application. That person must be willing to sign a "Certificate of

Translation” to include with the translated documents in the application. A sample “Certificate of Translation” is at Appendix B.

Part 4: AFTER YOU FILE YOUR ASYLUM APPLICATION

A. Asylum Receipt Notice

Once the U.S. government receives your application/Form I-589, the Asylum Office will check to make sure your Form I-589 is complete. If your application/Form I-589 is complete they will mail you a **“Receipt Notice.”** This notice is proof that your asylum application was submitted and received by the U.S. government.

Your **Receipt Notice contains your “A Number.”** This stands for your “Alien Registration Number” and will be on all immigration-related documents you receive from the U.S. government in the future. Know your “A” Number because you may need to use it when asking the status of your asylum case or for applying for your permanent residence (also known as a Green Card) if you are granted asylum. Every family member included in your asylum application is assigned their own individual “A” Number.

You might not receive your Receipt Notice for several weeks. If you do not receive anything from the U.S. government after 30 days of mailing your Form I-589, you should contact the Asylum Office where your application was sent. You may also contact USCIS Customer Service. It can tell you if a notice was mailed out and can resend the notice if you did not receive it. USCIS Customer Service number is 1 (800) 375-5283.

If your Form I-589 is not complete, it will likely be sent back to you. If it is sent back to you, the U.S. government will include a notice explaining why it was returned. If your application is returned, do not panic. A returned application does not mean that your asylum application was denied. You will need to resubmit your application. Be sure to keep proof (such as your certified mail receipt) that you originally mailed your asylum application within the one-year deadline.

To re-submit your application, review the notice from the U.S. government and correct any problems or missing information in your application. Make sure to correct *the original* (signed) *application*. Then make copies of the updated, corrected application. Once you have fixed the mistakes, re-send everything to the U.S. government via *certified* U.S. postal service or by a private carrier such as Federal Express or UPS so it has a tracking number to prove it was delivered to the U.S. government.

Do not forget to keep a copy of the corrected application for yourself!

If you are unsure what the problem or missing information is, you can seek the help of a qualified immigration lawyer.

B. Biometrics Notice

When you apply for asylum, the U.S. government researches your background. Part of the background check is called “biometrics.” **“Biometrics” involves taking your fingerprints and photograph.**

After the U.S. government receives your asylum application, they send you (and any family members who are in the United States and included in your application) a Notice, which tells you when and where you will have your fingerprints and a photo taken. The biometrics appointment is a standard process, which all asylum applicants must complete.

You (and any family members with you in the United States who received a notice) must go to your biometrics appointment at the place and time on the notice. When you go to your biometrics appointment, you should bring your biometrics notice, your asylum application Receipt Notice, and a photo identification (if you have one).

Missing your appointment may cause you problems. If you do not go it may affect your ability to get a work permit. See Appendix E for more information. If you must reschedule your biometrics appointment or if you have a disability that makes you unable to go, call the telephone number on the biometrics notice for more information.

C. Asylum Interview Notice

After your biometrics appointment, the U.S. government will schedule you for an interview with an Asylum Officer. It can take weeks or months for the U.S. government to schedule your interview. Currently, the U.S. government uses the “Last in, First Out” (LIFO) policy for scheduling interviews. This means the most recently filed applications will be processed first. Under LIFO, interviews are scheduled in the following order:

First Priority: Applications that were scheduled for an interview, but the interview had to be rescheduled.

Second Priority: Applications that have been pending 21 days or less.

Third Priority: All other pending applications.

Because it is impossible to know when you will be scheduled for an interview, make sure that you are ready for your interview before you send your asylum application. After filing an asylum application, you should be ready to be called for an Asylum Interview within three weeks, although it may take longer. However, you must file your asylum application within one year of entering the U.S.

IMPORTANT

Because you will receive important notices from the U.S. government by mail, you **MUST MAKE CERTAIN THAT THE ASYLUM OFFICE KNOWS YOUR MAILING ADDRESS**. Let the Asylum Office know your new address within 10 days after moving. See Appendix D for instructions on how to change your address. **It is not enough to change your address with the Post Office only!**

Part 5. THE ASYLUM INTERVIEW

A. Before the Interview: Things to Know

- **General Information:**

Your Asylum Interview may last anywhere from 1- 4 hours. It is conducted by an Asylum Officer. An Asylum Officer is a person who learns about your country and talks with you about your situation. The Asylum Officer then makes a decision about whether or not to approve your asylum application.

- **Changing or Rescheduling:**

You must go to the interview. If you cannot go to your interview at the scheduled time, you must ask, in writing, that your interview be rescheduled. There is no guarantee that you will be able to reschedule your interview, and you should make every effort to attend the interview as originally scheduled.

If you must reschedule your Asylum Interview due to an emergency, you may ask for a new interview date by writing to the Asylum Office where your application is pending. See <https://www.uscis.gov/about-us/find-uscis-office/field-offices> for your Asylum Office contact information.

Be sure to contact the Asylum Office as soon as possible about rescheduling your interview if an emergency prevents you from going. **Rescheduling your interview can cause a delay in receiving your work permit.** See Appendix E for information on work permits and issues that can arise.

- **Getting to the interview:**

The U.S. government will not help you with transportation; you must arrange your own transportation to the Asylum Interview. The exact address of your Asylum Interview will be included on your Interview Notice. See page 24.

- **Preparing for the interview:**

1. Be sure you know the **date, time and location** of your interview.
2. If you do not speak English fluently, you must find and bring a competent interpreter who is fluent in both English and your language to attend the interview with you. The interviews are conducted in English only, and **the government will not provide an interpreter for you.** Interpreters **should not have a pending asylum claim.**

It is critical that your interpreter **interpret everything you say word-for-word.** He or she may not add any information to what you say, and they may not speak for you.

- a. **Tip:** Practice speaking with your interpreter before your Asylum Interview. It might be helpful to share with your interpreter some information about your story so that they will be familiar with any specific words that you may use.
3. **Find childcare** to go with you to the interview. You should bring your children with you to the interview if they are included on your asylum application. However, most of the time children must wait in the waiting room during the interview. Children cannot sit in the waiting room alone and will need someone to sit with them. If you do not bring childcare with you, you will not be allowed to interview that day. This can cause many complications and issues for your asylum case.
4. Carefully **review all of your documents** including:
 - a. **Your Form I-589 and Declaration** several times to remember all of the details in your application. See Appendix F and Appendix G.
 - b. **Any country conditions reports** that you mailed with your application. See Appendix C.
 - c. **Any Supporting documents** that you mailed with your application (see pages 14 – 16 of the Guide).
 - d. **Your passport** (if you have one). Pay attention to any notations, dates, and any trips you have taken because the Asylum Officer may ask you questions about them. If you traveled a lot and there are many points of travel in your passport, you should write down the different places you traveled to, and the dates and the reasons you travelled so you are ready for any questions posed by the Asylum Officer about your previous travels.
5. **Collect the originals of all copied documents** that you sent with your asylum application to take with you to the Asylum Interview. Organize the documents in a manner that will help you find them more easily during the interview, such as by grouping similar items together, organizing them in the same order in which you submitted them with your application, or putting tabs that protrude from the document. That way, if an Asylum Officer asks to see the original of any of the documents you submitted, you will be able to quickly and easily find it.
6. **If you entered the United States on a visa, think about what you said during your visa interview and if you have a copy of your visa application, review the information carefully so that you are familiar with what it says. Be prepared to talk about this with the Asylum Officer.** Sometimes those seeking asylum have used false information on their visa application in order to help them escape from their country. The Asylum Officer will ask you questions about your visa application and interview. It is important that you are prepared to tell the Officer if there are any things

in your visa application or interview that were incorrect. If you are not honest and upfront about any incorrect statements you previously made, the Asylum Officer might distrust other parts of your asylum application.

- **What to bring the day of the interview:**

Who should I bring to my Asylum Interview?

- Family members that you included in your asylum application who are living here in the United States
- Your interpreter (if you do not speak English fluently)
- Childcare

If you have relatives who are listed on your Form I-589 who are not living in the United States, they do not have to be at the interview.

What should I bring to my Asylum Interview?

- Your passport
- Originals of the documents you mailed with your application.
- Any new evidence that you have collected since you filed your application. See pages 14-16 of the Guide for examples of documents you might include if you have them or if it is safe to get them. Please note that it is always best to submit everything you want the Asylum Officer to see at least three days before the interview.
- Drinks and snacks, especially for young children, because you may wait a long time to be at the Asylum Office.

B. At the Interview: What to Expect

How the interview is structured

When you arrive at the Asylum Office, you and every member of your family who is part of your asylum application and is here in the United States will have a photograph and fingerprints taken. Then, you will be given a document to read (or that your interpreter will read to you) that explains important things about the interview, such as the importance of telling the truth.

Then, after the Asylum Officer has taken you back to his or her office, he or she will introduce himself or herself, and will explain to you the purpose of the Asylum Interview.

Then, **you and your interpreter will take an oath, where you will promise to tell the truth** during the Asylum Interview and your interpreter will promise to interpret accurately. If an interpreter is used, the Asylum Officer will call an interpreter on the phone, who will monitor to ensure that the interpreter you have chosen is accurately interpreting what is being said by you and

the Asylum Officer. The interpreter monitor must keep confidential everything that they hear during the interview and cannot repeat what they hear to anyone.

After the oath, the Asylum Officer will begin the Asylum Interview.

IMPORTANT

If you discover any mistakes in your asylum application, be sure to bring them to the attention of the Asylum Officer at the beginning of your interview.

The Asylum Officer will first review your asylum application with you, to be sure everything is correct.

Next, the Asylum Officer will ask you questions about why you applied for asylum and why you are afraid to return to your home country. The Asylum Officer may ask you questions that may appear difficult or challenging. **Remember, the Asylum Officer is not trying to fight with you or make the process harder on you.** The Asylum Officer must ask you these questions to confirm you qualify for asylum and to be sure you are telling the truth.

Questions the Asylum Officer will ask:

Every Asylum Officer has his or her own approach to Asylum Interviews and every case is different. However, there are some common subjects that most Asylum Officers will ask about:

1. **Your biographic information.** The Asylum Officer is likely to go through the first four pages of your Form I-589 and ask you to confirm the information on the form. For this reason, it is important to be very familiar with your Form I-589 and Declaration. The Asylum Officer will correct any changes or mistakes that may be on your Form I-589.
2. **Why are you applying for asylum?** Next the Asylum Officer will probably ask you a broad question, such as Why are you applying for asylum? Why did you leave your home country? Why are you afraid to return to your home country? You should focus on the most important reasons as to why you left your home country and let the Asylum Officer know about them, including any ways that you were harmed in your home country. Give specific answers rather than general answers such as “My country is not a safe place.”
3. **What would happen if you were returned to your home country?** The Asylum Officer will want to know what kind of danger exists for you if you were made to return home as well as who is the person or group that would harm you.

4. **Questions about your specific story.** For example, if you said that you were harmed in your home country by an arrest or detention, the Asylum Officer may ask you detailed questions about it such as when you were arrested, where, who arrested you, and why you believe you were arrested. You will be expected to know details about your experience, but never make up an answer. If you do not know the details the Asylum Officer is asking you about, tell the Asylum Officer “I don’t know.” If you do not understand a question, ask them to please repeat the question.

5. **What else would you like me to know about your application?** The Asylum Officer might end the interview by giving you a chance to explain anything about your case that you did not cover in the interview, or in your application. Take this opportunity to explain or emphasize anything that is important to your case that you would like the Asylum Officer to know.

Required questions you must answer:

There are several questions that an Asylum Officer must ask everyone. Some of them you have answered on your Form I-589. These questions include the following:

- Are you a citizen of any other country or has any other country offered you citizenship?
- Have you ever applied for asylum or to be a refugee in any other country besides the United States?
- Have you ever served in the military or received military or police training? If yes, what branch of the military?
- Have you ever been a member of a terrorist organization, a gang, cartel, or an organization that uses violence?
- Have you ever provided support to any organization that uses violence?
- Have you ever harmed someone or helped harm someone else?
- Have you ever committed any crime or been involved in any crime or arrested or detained in any country?
- Have you ever been charged and found guilty of any crime?

You should be prepared to answer these questions at your interview. It is important to be honest when you answer these questions.

Helpful interview tips:

- Try not to be upset if the Asylum Officer asks questions in a difficult way.
- You are the expert on your country and the facts of your case. Your job is to educate the Asylum Officer about the situation in your home country and the danger you face.

- Try to memorize or be familiar with the details of your Declaration. It is good to be really familiar with the facts and dates you wrote in your Declaration because the Asylum Officer will expect you to know them.
- It is always OKAY to say you do not know something if you truly do not know.
- Let the Asylum Officer know if you need to use the bathroom. You can also bring a bottle of water with you. Do not rush through the interview because you are physically uncomfortable.
- The Asylum Officer may be typing during the interview, but these notes will not usually be shared with anyone else outside the U.S. government.
- If you do not understand a question, tell the Asylum Officer. They can repeat or re-word the question to make sure you understand it.

Part 6. NEXT STEPS AFTER THE INTERVIEW

A. Decision on your Asylum Application

After the interview, you will receive a decision later in the mail or you will be asked to appear in person at a future date to receive the decision. You will not be given a decision on the day of the interview. The amount of time it takes to get a decision on your Asylum Application varies and does not have to do with whether you will get asylum or not. It may take a long time, but that does not mean your application will be denied. There are hundreds of people that apply for asylum every day and Asylum Officers are very busy.

After the Asylum Officer makes a decision, you will receive *one* of four possible outcomes:

- **Positive decisions**
 - **Approval Letter**
 - This means that you received asylum. See pages 33-34 for more details about the benefits you can receive after being granted asylum.
 - **Recommended Approval Letter**
 - This means that the Asylum Officer recommends that you receive asylum but that the Asylum Office needs to finish completing your or your family's background and security investigation.
- **Negative Decisions**
 - **Referral Letter**
 - If you no longer have valid, legal status (for example, if your visa has expired) and the asylum office does not believe you qualify for asylum, the Asylum Office will send your case to court where you will have another chance to apply for asylum in front of an Immigration Judge. Please see pages 34-35 below for more information about Referrals.
 - **Denial**
 - If the Asylum Office intends to deny your request for asylum but you are still in legal status (for example, your visa is still valid and unexpired), the office will send you a letter explaining why it intends to deny your application and give you a chance to respond. Please see pages 35-36 below for more information on Denials.

B. If Your Asylum Application is granted

If you have received an approval notice, congratulations! You now have asylum and you may work and remain in the U.S. indefinitely. **You are an asylee.**

After you receive the approval notice, you will get a **new Form I-94 and a new Employment Authorization Document (EAD or “work permit”)** automatically. The new I-94 card will be included in your approval notice and the new work permit should come to you by mail shortly after your approval notice. If you do not receive these documents within two weeks of your approval notice, you should call the number provided on your Approval Notice.

Once you have asylum you may be able to:

Bring your immediate family members to the United States.

- You can apply for your husband or wife to come to the United States if you were married at the time your asylum was approved. You can apply for your unmarried children who were under 21 at the time you submitted your application, including legally adopted children, to come to the United States. You must apply for these qualifying family members within two years after your asylum is approved.

How? In order to bring immediate family to the United States, you must submit a Form I-730 “Asylee Relative Petition.” More information on the I-730 process can be found at <http://www.uscis.gov/i-730>. Check the following websites for legal help in your area:

- <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>
- <https://www.justice.gov/eoir/file/probonofulllist/download>

Receive Federal and State Benefits

- Once your asylum has been granted, you may qualify for some federal and state benefits. To find out more about these benefits go to your local refugee services office. Please visit this website to find your local refugee services office: <https://www.acf.hhs.gov/orr/state-programs-annual-overview>.

Travel Outside the United States

- Once asylum is granted, you can travel outside the United States. You must first get a “Refugee Travel Document” **BEFORE** you leave the United States. You should **NOT** return to your home country until you become a U.S. citizen. Also, you should **NOT** use a passport from your home country, even for identification purposes.
- A Refugee Travel Document looks like a passport, but it is not. Before you travel, confirm the laws of the country you would like to visit and see if they accept a Refugee Travel

Document as a valid travel document. You may also need to get a visa from that country. Contact that country's Embassy in the United States for more information on what documents you need, and how to apply for a visa.

How to get a Refugee Travel Document: You need to file Form I-131 with the U.S. government with copies of the required documentation and a filing fee. More information on Form I-131 can be found at <https://www.uscis.gov/i-131>. Check the following websites for legal help in your area:

- <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>
- <https://www.justice.gov/eoir/file/probonofullist/download>

You do not need an Employment Authorization Document (EAD) to work once you are granted asylum.

You can apply for U.S. Lawful Permanent Residence (“Green Card”) One Year from the Date of your Asylum Approval

One year after you receive asylum, you may apply to become a lawful permanent resident (“Green Card” holder) of the U.S. To be eligible to apply for your “Green Card” you must have been physically present in the U.S. for one year since the date printed on your asylum approval notice.

You can apply for U.S. Citizenship Five Years After Receiving Lawful Permanent Residence

- After you have been a lawful permanent resident for five years or more, you are able to apply to become a citizen of the U.S if you choose.
- You should consult with a lawyer before you apply for U.S. citizenship to be sure you can and should apply.

C. If You Receive a Referral Letter

If an Asylum Officer does not approve your asylum application and you no longer have permission to legally stay in the United States (perhaps because your visa expired), your case will be sent to Immigration Court. This means you will get a second chance to apply for asylum in front of an Immigration Judge.

If your case is sent to Immigration Court you will receive a Referral Notice in the mail, which will inform you why your application has not been approved. You will also receive a “Notice to Appear,” which will tell you that you must appear in court. Sometimes it will give you a specific date, time, and location for you to appear. Sometimes, the date and time of the hearing is not included. If that is the case, you will receive a notice later telling you the date and time of your hearing.

To find out the date, time and place of your hearing, you can always **call 1-800-898-7180**. **You will be asked to enter your A-number, which is a 9-digit ID number that you can find on your Notice to Appear or most other immigration documents. Press “1” to listen to the instructions in English; Press “2” to listen to the instructions in Spanish.**

You must attend ALL court hearings (even if you do not have a lawyer) or you risk being deported. You have the right to ask the Immigration Judge for more time to find a lawyer. However, your request for more time may delay your ability to get a work permit. Please see Appendix E for detailed information on obtaining a work permit and issues that may arise.

You will not be given a lawyer for your appearances in court. You must find and bring a lawyer yourself or appear on your own.

The referral notice does NOT mean that your asylum case was denied or that you will be deported! You are being sent on to court where you will be able to present your asylum case again, this time to an Immigration Judge. The Immigration Judge will make a decision about whether to grant you asylum.

Defending your case in Immigration Court is complicated and you should seek the help of an experienced immigration lawyer as soon as you learn your case has been sent to Immigration Court. Also please see Section II of this Guide for Defensive Asylum.

D. If You Receive a Denial

If the Asylum Officer does not think you qualify for asylum and you are in the U.S. legally (for example you have a valid, unexpired visa), the Asylum Officer will issue you a letter called **Notice of Intent to Deny (NOID)**, explaining why he or she believes you should not get asylum.

The Asylum Officer will give you the opportunity to respond to this letter. In your response, you can explain why you believe you qualify for asylum and you can address the Officer’s concerns about your application.

You should seek the help of an experienced immigration lawyer for help answering this letter. You must respond to the letter within the time period listed on the Notice or your asylum application will be denied.

- If the Asylum Officer agrees with your response, he or she will grant you asylum at that time. However, if the officer still does not think you qualify, he or she will deny your application.
- If you receive a denial notice, you may reapply for asylum. To reapply you must go through the same process you followed the first time. You may add to your application more information or evidence that address the Asylum Officer’s concerns. Remember,

you still need to apply for asylum within one year of entering the United States. See page 5 for more on the one-year deadline.

Can I legally stay in the United States while my I wait for a decision from the Asylum Office on my case?

Yes, you will be allowed to stay in the United States while your case is pending.

Section II. Applying for Asylum Defensively

Part 1. OVERVIEW OF THE LAW OF ASYLUM

Asylum is a legal protection granted by the U.S. government to people currently in the United States who are not U.S. citizens and who cannot return to their home countries because they either have been, or fear they will be harmed, based on a protected ground.

You may be eligible for asylum if you are:

- 1.) Currently **in the United States and are not a U.S. citizen;**
- 2.) You cannot return to your home country because either you have been **harmed in the past, or will be harmed in the future;**
The harm can be **threats, physical harm, or other problems** that put you at risk in your country.
- 3.) You were harmed or will be harmed because of one or more of the following reasons:
 - **Race or perceived race**
 - **Religious or perceived religious beliefs or lack of religious beliefs**
 - **Nationality or a perceived nationality**
 - **Political opinion or a perceived political opinion**
 - **Membership or perceived membership in a particular social group**
- 4.) You were harmed or will be harmed by the **government** in your home country OR by a **person or group** that your **government will not or cannot control;**
- 5.) There is no safe place in your home country where you can live; and
- 6.) Conditions have not changed in your home country since you left such that you are now safe.

If you are granted asylum, you may remain legally in the United States, although those with asylum can still lose their status if they commit certain acts, including certain criminal offenses.

Note: You must submit your asylum application within one year of arriving in the United States. If it has been more than a year since you arrived in the United States, consult an immigration lawyer.

Note: If you are seeking asylum based on harm that one of your family members suffered, you may want to seek assistance from an experienced immigration lawyer in preparing your application.

Affirmative asylum is for people who the U.S. government is not currently trying to deport. See Section I of this Guide for more information on affirmative asylum. Defensive asylum is for people who have been sent to Immigration Court and their request for asylum is their **defense** to removal.

You must apply for asylum defensively if:

- The U.S. government has placed you in **removal (or deportation) proceedings**, which means you have to go to court. This may happen if you crossed the border into the United States without lawful permission.

The U.S. government should have given you a document called a **Notice to Appear (NTA)**. **This document is sent to the court** and begins your removal proceedings.

Helpful Hint: If you do not know if your Notice to Appear has been filed with the Court, you can call the Executive Office for Immigration Review (“EOIR”) hotline at 1-800-898-7180. You will be asked to enter your A-number, which is a 9-digit ID number that you can find on your Notice to Appear or most other immigration documents. Press “1” to listen to the instructions in English; Press “2” to listen to the instructions in Spanish. If you are not yet in removal proceedings, see the Affirmative Section (Section 1) of this Guide.

U. S. Department of Justice
Immigration and Naturalization Service

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No. _____
A-Number _____
FIN # _____

In the Matter of:

Respondent: _____ currently residing at: _____

(Number, street, city state and ZIP code) (Area code and phone number)

1. You are an arriving alien.
 2. You are an alien present in the United States who has not been admitted or paroled.
 3. You have been admitted to the United States, but are deportable for the reasons stated below.

- 1.) You **already filed an asylum application** with an Asylum Office within United States Citizenship and Immigration Services (USCIS), your application was denied, and your case was sent or “referred” to Court.

Consult an immigration lawyer if any of the following circumstances apply to you, as you may not qualify for asylum:

- It has been one year or more since you arrived in the United States.
- You have applied for asylum before.

- You lived in another country before coming to the United States and that country offered you permanent immigration status.
- You traveled through another country before reaching the United States.
- You have committed a crime.
- You have harmed others.

Part 2. GOING TO COURT HEARINGS

The first hearing you will have in Immigration Court is called a **Master Calendar Hearing**.

In this type of hearing, the U.S. government will explain why they are trying to remove (deport) you; for example, you overstayed your US visa, or you crossed the border without permission. You will request asylum as a defense to these charges. **Asylum is a defense to removal**, meaning that if you are granted asylum by the Immigration Judge, you will not be deported

It is a requirement that you **attend all of your Master Calendar Hearings** in order to be able to apply for asylum. If you do not show up, the judge can order you deported in your absence.

Reminder: If you are not sure when or where your next Court date is, you can call 1-800-898-7180. You will be asked to enter your A-number, which is a 9-digit ID number that you can find on your Notice to Appear or most other immigration documents. Press “2” to listen to the instructions in Spanish.

What to Expect at Your Master Calendar Hearing

If you already filed for asylum with a USCIS asylum office, there is usually no need to file a new application, but you should review your first application to make sure that none of your information has changed. If you are applying for asylum for the first time in court, you may submit your application to the Immigration Judge in the courtroom or with the court clerk at the window.

If you are applying before the Court, the Immigration Judge at the first Master Calendar Hearing will likely schedule a second Master Calendar Hearing where you will file your application. You should ask the judge for **2-3 weeks in order** to complete your asylum application and find a lawyer, if necessary.

At your first Master Calendar Hearing, you will meet with an Immigration Judge and the government’s attorney to determine how your case will proceed. You will tell the Immigration Judge and the government’s attorney about your intent to apply for asylum and **answer their questions**. The government’s attorney will argue that you should be removed based on the grounds listed in your Notice to Appear. You should not answer questions that you do not understand or agree to charges or facts on the Notice to Appear that you do not believe to be true. For example, the Notice to Appear may contain your wrong country of origin or the incorrect date of entry into the United States. You should review everything before you agree to the charges.

Normally, an Immigration Judge will not ask you about your fear of return to your home country until later.

If you are asked a question and do not know the answer, it is fine to say that you do not know. Do not guess.

You will likely only have a short time to speak to the Immigration Judge at your first hearing. Many other immigrants will likely be present in the courtroom during your interview.

You can ask for an interpreter to be present during your hearing. If you cannot understand the interpreter, it is important that you let the Immigration Judge know as soon as possible. The immigration court should provide an interpreter that you can understand.

Finding a Lawyer

At your first Master Calendar Hearing, the judge will probably recommend that you find a lawyer.

After your hearing, you should try to find your own lawyer. The Immigration Judge may provide you with a list of free legal services. You can also check the following websites for legal help in your area:

- <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>
- <https://www.justice.gov/eoir/file/probonofulllist/download>

Even if you are not able to find an attorney, you can still apply for asylum without one. You can ask the Immigration Judge for extra time to find an attorney, but this could make your case take longer, which would mean a longer wait before you can obtain a work permit. See Appendix E.

Next, the judge will schedule what is called an Individual Hearing for a later date and set a deadline for you to submit your application and any other documents or evidence. This is the hearing where you have a chance to explain your story and provide witness testimony and other documentation that can help convince the judge what you are saying is true. You will also have an interpreter provided by the court at this hearing.

Part 3. APPLYING FOR ASYLUM (FORM I-589)

The asylum application is called a **Form I-589**, Application for Asylum and Withholding of Removal.

Note: The current version Form I-589 being used by the United States government has an expiration date of September 30, 2022. Go to www.uscis.gov to download the most recent version of the form.

Read each question on the form carefully, and make sure your answers are **complete, accurate, and truthful**.

It is important to fill the form out **completely**. Include any **additional documents** you reference with the form. If a section of the form does not pertain to you, write either **“unknown”** or **“not applicable”**. If you want to check a box, mark it with an **“X”**. **Do not leave ANY boxes or sections of the form blank.**

See Appendix F for question-by-question instructions on filling out the Form I-589.

Part 4. TURNING IN YOUR ASYLUM APPLICATION

Remember, the Form I-589 for asylum is the same one you use for withholding of removal and protection under the Convention Against Torture (discussed in the next section). After you have filled out your Form I-589 asylum application, make **three copies** of the form. You can do this at a FedEx or UPS Store location.

NOTE: It is possible that you have received a Notice to Appear but are not yet scheduled for a hearing or in formal removal proceedings. You can call 1-800-898-7180 to find out if you are scheduled for a hearing. If you are not yet scheduled to go to court, and you are nearing the date when you will have been in the United States for one year, you may want to send your asylum application to USCIS. See Section I of the Guide discussing Affirmative Asylum or talk to an experienced immigration lawyer for help. If you are in removal proceedings and you file an asylum application with USCIS, it will likely get rejected. However, filing your application with USCIS before your one-year deadline will ensure you meet the one-year deadline requirement discussed at page 5.

Making sure the court receives your Form I-589

If you are scheduled for a hearing in court, you can apply for asylum in the courtroom or in person at the window in the courthouse.

If you are **applying for asylum before the Immigration Judge in court**, you will submit your application at your second Master Calendar Hearing.

- **Give one copy of your application to the Immigration Judge, one to the government's lawyer, and keep the third copy** for yourself.
- The Immigration Judge will set a date for you to file any additional materials in support of your case (also called a "call-up date").
- The Immigration Judge will then schedule your Individual Hearing.

If you are **applying for asylum at the Court's filing window**:

- Hand in one copy to the clerk at the **filing window** of the court where you are scheduled for a hearing. The clerk will stamp this copy and give it back to you. Make sure you keep this copy for your own records.
- Take one copy to the **Office of Chief Counsel** at the courthouse. You can leave your application at the window even if no one is there.

Reminder: It is very important that you apply for asylum within one year of entering the United States. Submit your asylum application as soon as possible, rather than waiting for

your next Court date. If it has been more than a year since you entered the United States, consult an experienced immigration lawyer before filing your application for asylum.

Note: If you are not sure what court to go to, you can call 1-800-898-7180. You will be asked to enter your A-number, which is a 9-digit ID number that you can find on your Notice to Appear or most other immigration documents. Press “2” to listen to the instructions in Spanish.

Part 5. AFTER FILING YOUR ASYLUM APPLICATION

You should receive an appointment with a **date** for you to go in and get your **fingerprints** taken. This is called your “biometrics appointment.”

It is very **important that you attend this appointment.**

If you do not receive these notices, **call 1-800-898-7180** to make sure that your application has been received. **You will be asked to enter your A-number, which is a 9-digit ID number that you can find on your Notice to Appear or most other immigration documents. Press “2” to listen to the instructions in Spanish.**

Part 6. PREPARING FOR YOUR INDIVIDUAL HEARING

Because the Court has many cases to hear, you may have to wait up to **several years** after your final Master Calendar Hearing before you have an Individual Hearing.

At your Master Calendar Hearing, you should have gotten a **notice** that includes your individual hearing date and instructions. You can also find your hearing date by calling **1-800-898-7180**.

What to Expect at Your Hearing

Your individual hearing will be a full hearing about your asylum claim.

You can expect to talk about your asylum claim and invite witnesses who have knowledge about your asylum claim and be asked questions by the Immigration Judge and the government's lawyer.

How to Prepare

It is a good idea to **write down** your story. See Appendix G for instructions on how to write your Declaration.

You should also find **people** and **documents** who can support your story.

Write down a list of **people who know about your story**. Ask those people if they would be comfortable **writing a letter** to support your story. For example, if a family member or friend witnessed harm you faced in your home country or comes from the same place where you face harm, they may explain what they witnessed or describe the conditions in your home country. If so, make sure that they **sign** and **date** the letter. They should also get the letter **notarized** and include a **copy of their ID** with the letter.

Examples of documents you could use to support your story include:

- Police reports
- Medical records
- Text messages, emails, or social media messages
- Letters
- Newspaper articles
- Photos
- Statements from witnesses who know about your case

See page 14-16 of Section I of this Guide for more information about gathering and submitting evidence.

If you have any of these documents, start collecting them **as soon as possible** so that you can submit them to the Immigration Judge on the date the Immigration Judge orders you to submit all supporting documents (typically **15 days** before your Individual Hearing).

Even if you do not have any people or documents to support your asylum claim, **your own story, by itself, may be sufficient**, especially if you can show through country conditions reports that what you experienced really does happen in your country.

Think about whether any of the **people** who can support your story can **come to Court to testify** on your behalf. Make sure that you trust these people to tell the truth, that they can physically come to Court with you, and that they do not have their own immigration cases.

Note: If any of the people who you want to bring to Court to testify about your case have their own immigration case, they should first consult an experienced immigration lawyer. Make sure that these people know that anything they say during your hearing can be used by the government in their own immigration case.

Take any documents you have gathered in support of your story to the Court on the date ordered by your Immigration Judge (typically **15 days** before your Individual Hearing). If they are not in English, you must get them **translated into English**, and provide the original (non-English) document, the English translation, and a translation certification. See Appendix B for a sample Certificate of Translation. Make two copies of these documents. You can do this at a FedEx or UPS Store location.

Take one copy of your documents to the **Court's filing window**, get it stamped, and retain it for your own records. Take another copy to the **"Office of Chief Counsel" window**.

Part 7. GOING TO YOUR INDIVIDUAL HEARING

If you are detained, your first hearing or the Master Calendar Hearing will be scheduled relatively soon. If you are not detained, be prepared to wait up to **several years** after your last Master Calendar Hearing for your Individual Hearing to take place.

Your Individual Hearing will be structured very differently than your other hearings. It will **take longer**, so plan to be at the courthouse most of the day.

Reminders:

- Your Individual Hearing is **private** and **confidential**.
- If your **children and/or a spouse are included in your case**, you must bring them unless the Immigration Judge gives you permission not to.
- If possible, **wear nice clothing** to your hearing. This means no jeans, T-shirts, or open-toed shoes. Collared shirts with ties and/or blazers, or dresses, are appropriate for court. It is a formal event.
- **Stand up** when the Immigration Judge stands. The entire courtroom will do so.

Note: You may want to hire an attorney before your hearing. You can hire an attorney at any time, but it is preferable to begin working with them as soon as possible so that you have plenty of time to work on your case.

Steps of Your Hearing:

1.) Arrive at the Court and find your courtroom.

It is very important that you be on time for your hearing, so allow plenty of time to get to the courthouse and find your courtroom. Keep in mind that it may take a long time to find parking, and it may take a long time to get through courthouse security. You will want to arrive very early and give yourself plenty of extra time. If you are not on time for your hearing, the Immigration Judge might make a decision about your case without you being present, including giving you an order of removal.

To find out the date, time and place of your hearing, you can always **call 1-800-898-7180**. **You will be asked to enter your A-number, which is a 9-digit ID number that you can find on your Notice to Appear or most other immigration documents. Press “1” to listen to the instructions in English; Press “2” to listen to the instructions in Spanish.**

2.) **Wait for the Immigration Judge to speak to you.**

The Immigration Judge might talk to the government attorney before speaking to you. When the Immigration Judge is ready to talk to you, they will address you directly using an interpreter, if you need one.

The Immigration Judge will ask you to promise that you will tell the truth at your hearing. You will stand up, raise your right hand and promise to tell the truth.

3.) **Answer questions from the Immigration Judge and the government's attorney.**

Make sure you tell the Immigration Judge **why you are afraid to return home** and need protection in the United States.

An **interpreter** will be provided to help you tell your story if you do not speak English.

You can ask the interpreter to **repeat questions**.

If you **do not understand the interpreter**, be sure to **tell the Immigration Judge** as soon as possible.

If you **do not remember** certain details about your story, it is **okay** to say so.

If you **do not know** the answer to a question, it is **okay** to say so.

It is important that your testimony in Court is **consistent** with the **written information** in your asylum application and Declaration.

Some **examples of questions** that the Immigration Judge and the government's attorney might ask you are:

- Who harmed you? How did they harm you?
- Are you afraid of people harming you in the future?
- What might the people you are afraid of do to you?
- Why do you think these people harmed you?
- Did you ask the police to help you? Did they help you? If not, why did they not help you?
- Why are you unable to move to another part of your country to avoid the people who harmed you?

It is a good idea to **write down** your answers to these questions and be **prepared to talk** about them.

- 4.) **If you brought people with you who know about your story, the Immigration Judge and the government’s attorney will ask them questions.** The Immigration Judge will likely ask them to wait outside until it is their turn to testify.

Note: It is normal to be nervous during your hearing. Some of the questions you may be asked could involve events that are upsetting or difficult to talk about, but it is important that you tell the truth. It is okay to ask for a break to get water or a tissue if you get emotional.

- 5.) **After the Immigration Judge is done asking you questions, you must wait for him or her to make a decision about your case.**

The Immigration Judge might tell you their decision at the end of your hearing, or they might wait several days or weeks after your hearing to decide. If the Immigration Judge decides to make their decision later, you will receive the decision by mail. **Note: You cannot be deported while you are waiting for the Immigration Judge to make a decision about your asylum case.**

Part 8. NEXT STEPS

If the Immigration Judge grants you asylum:

If the Immigration Judge decides to grant you asylum, **congratulations!** You will receive an order **from the Immigration Judge with instructions** on what to do next.

You will then be able to apply for a **work** permit and **Form I-94**, which is proof that you have been granted asylum. **One year** after being granted asylum, you will be able to apply for a **green card**.

If you have been granted asylum, your **spouse and/or children** may also be eligible for **immigration benefits**. If you think this situation applies to you, contact an experienced immigration lawyer.

If denied asylum:

If the Immigration Judge decides not to grant you asylum, you have the **right to appeal** their decision. The Immigration Judge will give you a **form with instructions** on how to appeal, should you want to.

Fill out this form and mail it to the address listed on the form within **thirty days** of receiving the Immigration Judge's decision.

Consider contacting an **experienced immigration lawyer** to help you appeal the Immigration Judge's decision.

Note: You cannot be deported while your appeal is pending and your permission to work legally in the United States continues.

Section III. Withholding of Removal and Convention Against Torture (CAT) Protection

Part 1. WHAT ARE WITHHOLDING OF REMOVAL AND CONVENTION AGAINST TORTURE?

What is Withholding of Removal?

Withholding of removal is a legal protection that allows you to live and work in the United States. It does not provide a path to permanent residence and does not allow family members to be part of your application or join you in the United States. Withholding of removal can only be granted by an Immigration Judge in Immigration Court (not by USCIS).

You apply for Withholding of removal by using the Form I-589 (see Appendix F) as well as page 44 for instructions on how to turn in your Form I-589 with the Immigration Court.

Who is Eligible?

Withholding of removal may be an option for you if you are unable to apply for asylum for certain reasons, which may include:

- You are applying more than one year after your arrival into the United States.
- You have been convicted of an aggravated felony and have been issued a Final Administrative Removal Order due to a serious crime you committed.
- You have reentered the United States illegally after being deported or leaving voluntarily, and have received a Reinstatement of Removal Order, which is an order the U.S. government issues indicating that it intends to deport you back to your country.

You may not be eligible for withholding of removal if:

- You were convicted of a particularly serious crime while in the United States.
- You committed a serious crime before entering the United States.
- You were convicted of an aggravated felony.
- You participated in harming others.
- You are a danger to the United States.

If you believe that one of these bars apply to you, it is important that you contact an immigration attorney.

What is the Convention Against Torture?

The Convention against Torture (CAT) is an international human rights treaty that aims to prevent torture.

Who is eligible for protection under the Convention Against Torture?

Convention Against Torture protection may be an option for you if you cannot apply for asylum for reasons which may include:

- You are applying more than one year after you arrived to the United States.
- You have been convicted of certain crimes and have been issued a final order of deportation.
- You have reentered the United States illegally after being deported or leaving voluntarily and have an order that the U.S. government intends on deporting you again.

Part 2. WHAT MUST YOU PROVE?

Withholding of Removal

To qualify for withholding of removal, which you may want to ask for if you do not qualify for asylum, you must prove that it is likely that you would be harmed **on account of race, religion, nationality, membership in a particular social group, or political opinion** if you return to your home country. See page 2 of Section I of this Guide.

If you have suffered **persecution (severe harm) in the past** in your home country, it is assumed that that you will suffer harm in the future, as well. Persecution includes a threat to your life or freedom on account of race, religion, nationality, political opinion, or membership in a particular social group. However, the government may try to argue that conditions in your home country have changed so that you would no longer suffer persecution, or that you could safely live in another part of your home country to avoid persecution.

If you have not suffered persecution in the past, you can prove that you will suffer **persecution in the future** if you show that it is more likely than not that you will be persecuted based on your **race, religion, nationality, membership in a particular social group, or political opinion** if you return to your home country.

Additionally, you must show that either the **government** harmed you or will harm you or that they cannot or will not control the people who harmed you in the past or that you think will harm you in the future. This means that the person or people harming you must be part of the government or a group or individual(s) who the government cannot or will not protect you from. For example, a police officer or other public official is considered part of the government.

The government **must** grant you withholding of removal **if** you prove that you are eligible and that you are not barred from receiving asylum. See page 2.

Convention Against Torture

To be eligible for Convention Against Torture protection, you must show that it is **more likely than not** that you will be tortured if you return to your home country.

In order to show that it is more likely than not that you will be tortured if you return to your home country, you must prove that the **probability** that you will be tortured **is more than 50 percent**. You can do this by showing evidence that other people like you have been harmed in your country, for example. See pages 14-16 for examples of more evidence. You can prove to the court that you will be tortured by talking about how you were harmed in your home country and why you think it will happen again.

Unlike applying for asylum or withholding of removal, you **do not need** to prove that you have been tortured based on the reasons mentioned above.

If the harm that you would suffer is not serious enough that it would be considered torture, you may not be eligible for protection under the Convention Against Torture.

U.S. law defines torture as: An act that causes severe mental or physical suffering for the purpose of: getting information or a confession from you or someone else, punishing you for something you or another person did, scaring or trying to force someone to do something, or for any reason based on discrimination. Torture is done by or with the permission of a public official.

If you prove that you have been tortured, a judge must grant you withholding of removal under the Convention Against Torture unless they determine that:

- You are a danger to the community because you committed a particularly serious crime.
- You committed a serious nonpolitical crime outside the United States.
- You participated in the persecution of others on account of a protected ground.
- Are a danger to the United States.

If any of these bars applies to you, you will be granted a protection called **deferral of removal**. With deferral of removal, you can be detained by the government. But there are ways to challenge this.

NOTE: See Section II to understand the process for applying for Withholding of Removal or CAT relief before an Immigration Judge.

Part 3. REASONABLE FEAR INTERVIEW

If you are issued an Administrative Removal Order or Reinstatement of Removal Order and you express fear of returning to your home country, the Department of Homeland Security should refer you to an Asylum Officer for a reasonable fear determination. If the Department of Homeland Security does not ask you about your fear but you are afraid, you should express this fear and ask for a reasonable fear interview.

The Asylum Officer will decide if you have a reasonable fear of being tortured if you are returned to your home country.

You can expect this interview to take 2-3 hours. An interpreter will be provided to you in your native language. You may have an attorney present at this interview. If you have an attorney, make sure that you ask for your attorney to be with you during your interview, even if the government tells you that you cannot have an attorney.

At the end of the interview, the Asylum Officer will write a summary which you should review carefully. The Asylum Officer will then read the statement back to you and you should correct the officer if they tell you anything that is incorrect **or did not include information you told them.**

If the Asylum Officer determines that you do have a reasonable fear of returning to your home country, your case will be referred to an Immigration Judge who will determine whether you are eligible for withholding of removal and/or Convention Against Torture protection. See page 53 of this Guide.

However, if the Asylum Officer determines that you do not have a reasonable fear of returning to your home country, you can still ask that a judge review your case.

If the Immigration Judge agrees with the Asylum Officer's finding, you cannot seek further review of the decision and can be returned to your home country by the Department of Homeland Security.

If the Immigration Judge finds that you do have a reasonable fear of persecution and/or torture, you will be placed in withholding-only proceedings and will have the opportunity to apply for withholding of removal and Convention Against Torture protection.

A withholding only proceeding is similar but not the same as the court hearings for defensive asylum outlined in Section II. One key difference is that in a withholding only proceeding, you can apply for withholding of removal and CAT only. For a resource on these kind of proceedings, see: <https://pennstatelaw.psu.edu/sites/default/files/documents/pdfs/Immigrants/Withholding-Only-Toolkit.pdf>

Part 4. NEXT STEPS

If you are granted protection under Withholding of Removal or the Convention Against Torture:

If the Immigration Judge decides to grant you protection under Withholding of Removal or Convention Against Torture, **congratulations!** You will receive an Order **form from the Immigration Judge with instructions** on what to do next.

If you are granted Withholding of Removal:

You will be able to apply for a **work permit**. You must pay a yearly fee to renew your work permit. See Appendix E for more information.

Once you are granted withholding of removal, you **cannot travel outside the United States**. If you do, your removal order is likely to be re-issued, which would make it very difficult for you to re-enter the United States.

Once you are granted withholding of removal, the **government still has the right to deport you** to a third country where they believe you do not face danger. However, this type of deportation is rare.

If you were detained and have been released from detention, the government may issue you a document called an “Order of Supervision” once you are granted withholding of removal. The Order of Supervision will require you to “check-in” regularly with immigration either in person or by phone, and to request prior permission before leaving the state you live in. These required check-ins can sometimes last for years, or for forever. It is very important that you comply with your Order of Supervision. You will be able to apply for a work permit based on your Order of Supervision.

If you are granted withholding of removal while in detention, the government may still detain you even after you won your case. However, this type of detention may be improper, and you may be able to challenge it legally. If you are granted withholding of removal and are in detention, consult an experienced immigration lawyer.

Withholding of removal does not grant you any permanent right to stay in the United States. Withholding of removal does not provide you with a path to a green card/permanent residence in the United States.

If you are granted withholding of removal, this form of protection **does not** allow you to **bring family members** to join you in the United States.

If you are granted withholding of removal under the Convention Against Torture:

You will be able to apply for a **work permit** either after being granted protection under the Convention Against Torture, or while your application is pending. You must pay a yearly fee to renew your work permit.

Once you are granted withholding of removal under the Convention Against Torture, you cannot travel outside the United States. If you do, it will be very difficult for you to re-enter the United States.

Once you are granted withholding of removal under the Convention Against Torture, the government still has the right to deport you to a country (other than your home country) where you would be unlikely to suffer harm. If conditions in your home country change such that the government determines you would no longer be likely to face harm if you returned, your withholding of removal protection can be terminated and you can be deported. Protection under the Convention Against Torture does not provide any permanent right to stay in the United States, nor a path to a green card/permanent residence in the United States.

The government may issue you a document called an “Order of Supervision” once you are granted withholding of removal under the Convention Against Torture. The Order of Supervision will require you to “check-in” regularly with immigration either in person or by phone, and to request permission before leaving the state you live in. These required check-ins can sometimes last for years, or for forever. It is very important that you comply with your Order of Supervision. See above section.

If you are granted withholding of removal under the Convention Against Torture, this form of protection does not allow you to bring family members to join you in the United States. See above section.

If you are granted deferral of removal under the Convention Against Torture:

You may be ineligible for withholding of removal under the Convention Against Torture if you have been convicted of a “particularly serious crime” or otherwise are believed to pose a security risk to the United States.

Like withholding of removal under the Convention Against Torture, deferral of removal prevents the government from returning you to your home country as long as you would face harm there. However, the government still has the right to deport you to a country (other than your home country) where you would be unlikely to suffer harm. If conditions in your home country change such that the government determines that you would no longer be likely to face harm if you returned, your withholding of removal protection can be terminated and you can be deported.

Protection under the Convention Against Torture does not provide any permanent right to stay in the United States.

Deferral of removal is a temporary protection and can be terminated quickly if conditions change in your home country and you would no longer face torture there.

Additionally, a grant of deferral of removal still allows the government to hold you in detention. However, this type of detention may be improper, and you may be able to challenge it legally. If you are granted deferral of removal under the Convention Against Torture and are in detention, consult an experienced immigration lawyer.

If you are granted deferral of removal under the Convention Against Torture, this form of protection **does not allow you to bring family members** to join you in the United States.

Protection under the Convention Against Torture does not provide any permanent right to stay in the United States, nor a path to a green card/permanent residence in the United States.

If denied withholding of removal/Convention Against Torture protection:

If the Immigration Judge decides not to grant you withholding of removal or protection under the Convention Against Torture, you have the **right to appeal** their decision. The Immigration Judge will give you a **form with instructions** on how to appeal, should you want to.

Fill out this form and mail it to the address listed on the form within **thirty days** of receiving the Immigration Judge's decision.

Consider contacting an **experienced immigration lawyer** to help you appeal the Immigration Judge's decision.

Note: You cannot be deported while your appeal is pending.

Section IV. Asylum and Withholding of Removal Applications in Removal Proceedings for Detained Immigrants

Part 1. INTRODUCTION

This section of the Guide is for individuals who have been picked up by Customs & Border Patrol (CBP) or Immigration & Customs Enforcement (ICE), are now in removal (deportation) proceedings, and are being held in detention. If you have been picked up and are now in detention, you may be set for hearings before an Immigration Judge while you are still detained.

Part 2. DEFINING ASYLUM

Asylum is a legal protection granted by the U.S. government to people in the U.S. who are not U.S. citizens and who cannot return safely to their home countries. Asylum seekers either have been or fear they will be harmed, based on a protected ground.

You may be eligible for asylum if you are:

- 1.) Currently **in the United States and are not a U.S. citizen;**
- 2.) You cannot return to your home country because either you have been **harmed in the past, or will be harmed in the future;**

The harm can be **threats, physical harm, or other problems** that put you at risk in your country.

- 3.) You were harmed or will be harmed because of your:
 - **Race or perceived race**
 - **Religious or perceived religious beliefs or lack of religious beliefs**
 - **Nationality or a perceived nationality**
 - **Political opinion or a perceived political opinion**
 - **Membership or perceived membership in a particular social group**
- 4.) **AND** you were harmed or will be harmed by the **government** in your home country OR by a **person or group** that your **government will not or cannot control;**
- 5.) There is no safe place in your home country where you can live; and
- 6.) Conditions have not changed in your home country since you left such that you are now safe.

If you are granted asylum, you may remain legally in the United States, although those with asylum can still lose their status if they commit certain acts, including certain criminal offenses. Please see pages in Section I of this Guide to learn more about the benefits of asylum.

Note: You must submit your asylum application within one year of arriving in the United States. If it has been more than a year since you arrived in the United States, consult an immigration lawyer.

Note: If you are seeking asylum based on harm that one of your family members suffered, you may want to seek assistance from an experienced immigration lawyer in preparing your application.

Affirmative asylum is for people who the government is not currently trying to deport. See Section 1 of this Guide for more information on affirmative asylum. Defensive asylum is for people who the government is trying to deport, but asylum is their **defense** to deportation.

Why you might not be eligible for asylum, even if you can demonstrate that you will be harmed if you return to your home country.

Even if you will be harmed, you may be ineligible to apply for or receive asylum. Those reasons may include:

- 1. You are applying for asylum more than one year after you last entered the United States.**
- 2. You have already filed for asylum before in the United States and were denied.**
- 3. You received lawful status (such as lawful permanent residence) in another country.**
- 4. You went to Canada directly before entering the United States at an official port of entry.**
- 5. You have committed a serious crime in the United States or elsewhere.**
- 6. You have harmed or caused harm to others because of their race, religion, nationality, political opinion, or membership in a particular social group.**
- 7. You participated in terrorism or are dangerous to the United States.**
- 8. You have been previously deported.**

Note: If any of these factors applies to you, consult an immigration attorney before filing your asylum application. Even though some of these things may apply to you, you may still be able to apply or qualify for asylum. It is important to talk to an attorney to see if you may still qualify.

Please remember there are other ways to be protected from harm. Asylum is just one.

In addition to asylum, there are other ways to protect people from being sent back to their home countries where they may face harm. If you are afraid of being tortured by a government official in your country or if you can prove that your government would allow you to be tortured, you may be eligible to stay in the U.S. based on laws that are designed to protect people who are afraid of being tortured. Please refer to Section III of this Guide for more information about Withholding of Removal and the Convention Against Torture (CAT). These are two other ways that you may protect you from being forced to return to your home country.

Part 3. STEPS IN THE PROCESS

Being in Detention

When you were first arrested by immigration (CBP or ICE) they should have asked you a series of questions, such as: your name, date of birth, where you are from, and most importantly if you fear returning to your home country.

If you told immigration officials that you fear returning home → you should now be on the “credible fear” or “reasonable fear” track in the process.

If you are afraid to return to your country, but immigration officials do not know this, you need to let them know. This could happen if immigration officials simply never asked you if you are afraid to return. It could also happen if the immigration officials did ask you, but at first you said you were not afraid to return.

In your dormitory at the detention facility there should be a box where you can submit letters to your Deportation Officer. Write your Deportation Officer a note that says, “I am afraid to return to my home country and I want to seek asylum.”

Credible Fear Interview/ Reasonable Fear Interview

What’s the difference?

“Credible fear” process: *If you recently arrived to the U.S., expressed fear of returning home, and this is your first time entering the country you may be in the “credible fear” process.*

- In the “credible fear” process, you must show that there is a “significant possibility” that you are eligible for asylum or other protection that an Immigration Judge might grant. So, in order for an Asylum Officer to find that you have “credible fear,” the Asylum Officer must believe that there is a significant possibility that you can prove to the Immigration Judge that you will be persecuted or tortured if you are forced to return to your home country.
- This means you will have a “credible fear” interview with an Asylum Officer within the first few weeks of your arrival in detention. You may be transferred to a different facility before you have the interview.

“Reasonable fear” process: *If you have been deported before, have a prior deportation, or have been convicted of certain crimes, you may be in the “reasonable fear” process. See Section III of this Guide to learn more about Withholding of Removal and Convention Against Torture. The*

“reasonable fear” process is very similar to the “credible fear” process but the “reasonable fear” standard is a little harder to prove.

- In the “reasonable fear” process, you must show that there is a reasonable possibility that you are eligible for asylum or other protection that an Immigration Judge might grant. “Reasonable fear” is harder to prove than “credible fear,” so the process may be more difficult for individuals who are in this process than for individuals in the “credible fear” process.
- You will have an interview with an Asylum Officer who will determine if, upon your return back to your home country, there is a “reasonable possibility” that you will be harmed or tortured.
- If you are in the “reasonable fear” process you may be held in immigration detention until your asylum case is finished.

The Credible or Reasonable Fear Interview

This interview will be done either in person or on the telephone between you, the Asylum Officer, and an interpreter if you do not speak English.

- You have a right to have an interpreter for this interview. If there is a problem with the interpreter or you do not understand each other well, make sure to tell the Asylum Officer immediately. You may ask questions to clarify or better understand what the interpreter is saying. You can lose your case because the interpreter did not translate correctly and the Asylum Officer may think that the mistakes or errors were caused by you.

The purpose of this interview is for the Asylum Officer to focus on your fear of returning home.

Important Tips to Remember During the Interview

- You must tell the truth.
 - **Do not exaggerate your story.**
 - If you lie, it is likely that someone in the government will find out, and this will hurt, if not ruin, your chances of being granted asylum.
- You must tell your whole story about why you are afraid to return to your home country, even if you are scared or embarrassed to talk about some things.
 - If you hold any information back, and get a negative result, you could be deported.

- Your conversation with the Asylum Officer is a confidential interview that stays within the U.S. government. It will not be made public.
- This interview is your chance to tell your story and to advocate for yourself. This is your opportunity to explain why you came here and why you should be allowed to stay.
- Make sure you understand all of the questions and do not be afraid to ask the Asylum Officer to repeat their question or to say that you do not think the translation is correct. Stand up for yourself and make sure you are getting a fair chance in the interview.
- Try your best to tell your story in a chronological order so it will be easier for the Asylum Officer to understand.
- Make sure to let the Asylum Officer know if you have extra documents or evidence supporting your story.

The Asylum Officer will want to know the following things:

- **Who** harmed, tortured, or threatened you?
- *If the harm was not physical* what happened to make you believe that it would soon turn physical?
 - For example: threats of death, knowledge of physical harm to others by the same person?
- **When** were you harmed, tortured, or threatened? How many times did it happen? Where did it happen?
 - Be as descriptive as possible and include as many details as you remember. If you do not remember that is okay, but you must explain to the Asylum Officer that you cannot remember.
- **Why** did they harm, torture, or threaten you?
 - Identify the particular reason or reasons why you were targeted. The Asylum Officer will want to evaluate if you may be eligible for asylum, so make sure to tell the Asylum Officer if the person was harming you because of:
 - Your religion;
 - Your race;
 - Your nationality;
 - Your political opinion; or
 - Your membership in a particular social group; for example, sexual orientation, gender, family.
- **Did you ever go to the police?**
 - If the government did not harm, persecute, or torture you itself, what did the government of your country—including the police—try to do about it?
 - Did they do anything about it? Did it help? In other words, can you prove that the government of your country, including the local police, were either unwilling or unable to protect you?

- If you never went to the police, explain why.
- **Can you live safely somewhere else in your home country?**
 - Explain why moving to another location within your own country would not stop the harm.
 - You have to be able to show that if you tried to go somewhere else in your country, either:
 - The people who harmed you (or want to harm you) are still there and still want to harm you;
 - The people who will harm you will find you wherever you go; or
 - It would be unreasonable for you to go anywhere else, maybe because you would be at great risk of harm in general somewhere else.
 - **If you returned to your home country, what do you think would happen?**
 - Tell the Asylum Officer about the harm you think you would face if you returned.

At the end of the interview the Asylum Officer will read a summary of your story back to you. If any of the information is incorrect or has been left out, let the Asylum Officer know. It is your right to correct the record and to ensure that everything is complete. Do not sign any form or document that you cannot understand.

Sometime after your interview, the Asylum Officer will give you a decision.

If you are given a **positive** result: this means you passed your interview. This does NOT mean you have won your asylum case. Passing the interview means you will have the opportunity to see an Immigration Judge to apply for asylum.

- After passing your credible fear interview, you may now be able to get what is called “bond.” This means that an Immigration Judge might allow you to be released from detention while you fight your asylum case. Please see pages 80-81 for more information about the bond process.

If you are given a **negative** result: you can ask the Immigration Judge to review the Asylum Officer’s decision. This will allow you one more chance to tell your story, this time in front of a judge who will decide if you have a credible or reasonable fear (depending which process you are in).

- If you decide not to appeal the Asylum Officer’s decision, you will be scheduled for deportation.

- If you appeal, an Immigration Judge will review notes from your interview with the Asylum Officer and ask you about your story. The Immigration Judge will either confirm the negative result or cancel the previous decision.
 - If the Immigration Judge cancels the negative result, you get to move on as though you had been given a positive result by the Asylum Officer.
 - If the Immigration Judge agrees with the negative result, you will be scheduled for deportation.

Part 4. OPTIONS FOR GETTING OUT OF DETENTION – SEEKING BOND OR PAROLE

The process for seeking bond or parole is complicated and is a separate process entirely from your asylum case. We are only including a minimal amount of detail here.

“Bond” means that you pay the government a certain amount of money, and you are released from detention on the condition that you comply with all of the rules you are given and present yourself to the government every time you are required to.

- To seek bond, you should start with documents called “Notice of Custody Determination” and “Notice to Appear” (NTA). You might receive these documents from ICE after you have your credible fear interview, or you might receive them from CBP. **If you do not receive these documents, talk to your Deportation Officer about how ICE bonds work at the detention facility you are in.**
- The Notice of Custody Determination is a document with a number. If the Notice of Custody Determination document says you are “detained” or, if the listed bond amount is very high, you can ask an Immigration Judge to review that determination. This is what we mean when we say “seek bond.”
 - There is a box on the Notice of Custody Determination that you can check if you want your bond amount to be reviewed by an Immigration Judge.
 - The lowest amount your bond can be is \$1,500.
- You may not be eligible for a bond if:
 - You have a criminal record
 - The government believes you are a danger to the community
 - The government believes that you might not attend your future immigration hearings, and/or you might try to move so that the government cannot find you in the future.
- In order to ask the judge to allow you to pay a bond to be released, you must have a person (called a “sponsor”) to whom the Immigration Judge will release you. You should prepare the following information about your sponsor:
 - How you know the sponsor
 - Family members make for the strongest sponsors, though close friends are also good.
 - Immigration Judges will be wary of releasing you to someone you have only met on online.
 - Immigration status of the sponsor

- The sponsor should be prepared to give their social security number when they pay the bond.
- Often, the sponsor has to provide Federal Income Tax Returns to show their income and evidence that he or she will be able to provide for you.
- The sponsor should also be prepared to give their address (where you will also live), along with some sort of bill to prove their residency
- The sponsor should not be in the U.S. illegally
- It is best to have an affidavit or Declaration from the sponsor notarized or signed under penalty of perjury. The sponsor can do this by going to a local notary public.

“**Parole**” is available to people who presented themselves to Immigration, for example, by crossing the bridge and asking immigration officials for asylum. Such people are known as “Arriving Aliens” and **are not** eligible for a bond.

- You will have a parole interview with your Deportation Officer to discuss the identity of your parole sponsor and to provide all the required information, like:
 - How you know the sponsor
 - Family members make for the strongest sponsors, close friends are also good.
 - Immigration Judges will be wary of releasing you to someone you have only met online.
 - Immigration status of the sponsor
 - The sponsor should be prepared to give their social security number when they pay the bond.
 - Often, the sponsor has to provide Federal Income Tax Returns to show their income and evidence that he or she will be able to provide for you.
 - The sponsor should also be prepared to give their address (where you will also live), along with some sort of bill to prove their residency.
 - The sponsor should not be in the U.S. illegally.
 - It is best to have an affidavit or Declaration from the sponsor notarized or signed under penalty of perjury. They can do this by going to a local notary republic.
- Whether you get parole or not is decided by ICE, not by an Immigration Judge. If ICE does deny your request for parole, you can still ask them to reconsider. If they do grant you parole, but the amount is very high, you can also ask ICE to consider lowering the amount.
- If you are released on bond or parole, **this does not mean you now have asylum**. It just means you are now fighting your case from outside of detention. **Your case will be transferred to the court that is closest to the detention center releasing you.**

For more information about your responsibilities when applying for asylum outside of detention, please see Section II of this Guide about Defensive Asylum.

If you move to a different state you must submit a request to the court to change the location of your future court hearings. See Appendix D.

You must attend all of your scheduled court dates, including filing your application for asylum (which must be done within one year from the date you entered the United States).

APPENDIX A

Date: _____

**USCIS Vermont Service Center
Attn: ASYLUM
75 Lower Welden Street
St. Albans, Vermont 05479**

Re: Affirmative Asylum Application

To Whom It May Concern:

I am a *pro se* applicant for asylum in the United States. Please find below the details of my case:

My full name:

My date of birth:

Please find my asylum application and supporting documents attached.

Sincerely,

X _____

My name: _____

My address : _____

Prepared based on *pro se* materials produced by the University of Maine School of Law's Refugee and Human Rights Clinic and the Immigrant Legal Advocacy Project in Portland, Maine.

APPENDIX B

CERTIFICATE OF TRANSLATION OR INTERPRETATION

Your asylum application and all accompanying documents must be submitted in English. However, it is acceptable to have your Declaration and supporting documents translated from your native language into English. **If you choose to write your Declaration in a language other than English or if you have other documents such as witness letters in a language other than English, you must have them translated to English by a competent translator before you submit your application.** You must include with *each* translated document a “Certificate of Translation” that is completed and signed by your translator.

The person who translates your documents does NOT need to be a professional, nor have a stamp of translation. S/he only needs to speak and read both languages fluently and sign the Certificate of Translation.

Keep in mind that you must submit a copy of the document in the original language, the translated copy, and the Certificate of Translation.

Following are two example certificates of interpretation/translation:

CERTIFICATE OF TRANSLATION

I, _____, hereby certify that I am competent to translate the foregoing document into English from the original _____, and that the translation is true and accurate to the best of my abilities.

[Name]

[Address]

[Date]

CERTIFICATE OF INTERPRETATION

I, _____, hereby certify that I orally translated the attached affidavit into _____ from _____ and read it to the affiant who indicated that he understood it and agreed with its contents. I further certify that I am competent in both _____ and _____ to render and certify such translation.

[Name]

[Address]

[Date]

APPENDIX C

WHAT DOCUMENTS ARE COUNTRY CONDITION DOCUMENTS?

Country Conditions Documents and Human Rights Reports:

The Asylum Officer or Immigration Judge who reviews your application may not know anything about your country. Therefore, it is important to teach them about your country and why you believe you cannot live there. Country Condition Reports are generally available on the Internet. If you have access to the Internet, some places to access country condition documents and reports include (but are not limited to) the following:

- U.S. Department of State – <http://www.state.gov/i/drl/rls/hrrpt/>
- RefWorld – <http://www.refworld.org>
- Executive Office of Immigration Review (EOIR) Law Library and Immigration Research Center (LLIRC) – <https://justice.gov/eoir/country-conditions-research>

You may also find country conditions reports relevant to your home country from the following organizations:

- Human Rights Watch – <http://www.hrw.org/>
- Amnesty International – <http://www.amnesty.org/>
- AsylumLaw.org – <http://www.asylumlaw.org/>

Newspaper & Magazine Articles, Books:

It may be useful to submit copies of articles from respected news publications. News sources often cover human rights abuses around the world. Sometimes these stories can be found on the Internet.

NOTE: **Always review the articles carefully, and only include them if they specifically support your claim.**

APPENDIX D

WARNING ON CHANGE OF ADDRESS:

1. You must change your address within ten days of any move with the asylum office (if you are applying for asylum affirmatively) or within five days of any move with the Immigration Court (if you are applying for asylum defensively).
2. Your new address must be the address where you actually live. Sending a false address, especially to get an interview at a different asylum office, may cause your asylum application to be denied.
3. If you do not notify the Asylum Office or Immigration Court (depending on whether you are applying affirmatively or defensively, see Section 1 of this Guide) of your new address as soon as possible you can miss important notices.

HOW TO CHANGE YOUR ADDRESS WITH IMMIGRATION ONLINE IF YOUR ASYLUM CASE IS PENDING WITH AN ASYLUM OFFICE (HOW TO FILE AN AR-11)

Before you start, have ready:

1. The receipt number for your pending case;
2. Your new address;
3. Your old address

Online Directions:

1. Go to www.uscis.gov
2. On the bar near the top, click on 'Tools'
3. Click on 'Change Your Address on File'
4. At the Change of Address information page, click on "Online Change of Address" and follow the directions.
5. When asked "Is this change of address for an application or petition currently in progress?", say YES
6. To complete the first part of the form, you **MUST HAVE THE RECEIPT NUMBER** for your application. This number is on the Receipt notice and other Notices you have received from Immigration about your application. It usually appears in the upper left of the notice. It may be called the Receipt Number or the Application Number. It will begin with three letters, followed by ten numbers.
7. Fill out all of the boxes of the form marked with a red star.
8. Once the form is complete, press submit. Print two copies of your completed form. You will keep one copy for yourself and mail one copy to the asylum office that is reviewing your case.

Mailing Directions:

Once you complete and print your online form, make two copies. **You need to send a copy to the asylum office listed under your state** (visit this link to locate your asylum office: <https://egov.uscis.gov/office-locator/#/asy>). Keep a copy of the form for your own records.

HOW TO CHANGE YOUR ADDRESS WITH IMMIGRATION ONLINE IF YOUR ASYLUM CASE IS PENDING WITH AN IMMIGRATION COURT

Before you start, have ready:

1. The receipt number for your pending case;
2. Your new address;
3. Your old address

Complete the appropriate EOIR-11 Change of Address Form for your respective Immigration Court. Go to this website to access the correct form: <https://www.justice.gov/eoir/form-eoir-33-eoir-immigration-court-listing>.

APPENDIX E

Applying for Your First Work Permit If you have a Pending Asylum Case

WHAT GOES IN THE ENVELOPE:

- The cover letter (found below), with the blank spaces filled in and signed by you;
- Form 1-765, filled in and signed by you; (parents sign for child under age 14)
- Two passport-style photos of you, put in the little plastic bag (write your full name and A number on the back of each photo);
- A copy of your photo ID (passport) (NOT the original!)
- A copy of your filing receipt and/or other letters from USCIS or Immigration Court about your asylum application or court date; (NOT the original!)
- A copy of your I-94 card, **if you have one.** Do not worry if you do not have one.

BEFORE YOU MAIL THE ENVELOPE

- Make a photocopy of everything you are putting in the envelope before you send it. Keep the copies for yourself. This is important.
- Put your address in the upper left corner of the envelope and also on back of the green postcard. Take the envelope and the green postcard to the post office. They will show you how to attach the green postcard to the envelope and send the envelope **by certified mail.**
- Note: This packet includes 2 instruction pages. The pages should NOT go in the envelope.
- Note: You must send every page of the application.

DO NOT FILE ON YOUR OWN / Get help from your lawyer if any of the following applies to you:

- Your asylum case has been pending less than 150 days, or you know that the clock is stopped on your case;
- Your asylum case is in Immigration Court and you have never had a work permit;
- Your name, or date of birth, or country of birth, or nationality is wrong on any of your documents;
- You have changed your address since you filed your asylum application but you have not told USCIS or the Asylum Office or the Immigration Court;
- **You have been arrested or convicted of a crime in the United States.**

If any of the following apply to you, you may not be eligible to apply for your work permit even if your application for asylum has been pending more than 150 days. You should consult an immigration lawyer if:

- You requested that your asylum interview be rescheduled.
- You missed your fingerprinting/biometrics appointment.
- You were asked for documentation at an interview or appointment with immigration and have not provided it.
- You failed to appear for the asylum interview.
- You failed to appear to pick up the asylum decision from the asylum office.
- The asylum office issued a final denial for your asylum case.

Fill out Parts 1 and 2 **USING BLACK INK.**

YOU MUST SEND EVERY PAGE OF THE APPLICATION.

Part 1. Reason for Applying

1.a. If this is an initial application, check the box next to “Initial Permission to accept employment.”

1.b. If this application is to replace a lost, stolen, or damaged employment documentation, check the box next to “Replacement of...” Do not check this if you are renewing due to the expiration of your employment authorization.

1.c. If this is a renewal application, check the box next to “Renewal of my permission to accept employment.” If you check this box, include a copy of your previous Employment Authorization Document.

Part 2. Information About You.

Your Full Legal Name

1. Write your Last name, First name, and Middle name (if any).

Other Names Used

2-4. If you have ever used a different name, OR had your name misspelled or in the wrong order on a document, write all those names here. If you need more space, use page 7. Otherwise, write None.

Your U.S. Mailing Address

5. Write your mailing address here.

5.a. If someone else receives your mail, put their name. Otherwise, write N/A.

5.b. Include the building or house number and street name.

5.c. Include the Apartment, Suite, or Floor number, if necessary.

5.d-e. Include City, State, and Zip Code in the correct spaces.

6. **Is your current mailing address the same as your physical address?** If your mailing address is the same as your physical address, check the box next to yes. Then, in Step 7, write ‘Same as above.’ If your mailing address is different than your physical address, check no. Then, in Step 7, provide your physical address.

U.S. Physical Address

7. Write the address where you currently live, including all information. If this is the same as your mailing address, write ‘Same as above.’

Other Information

8. **Alien Registration Number:** Write your A number here. This 9 digit number is on the receipt you received when you applied for asylum, and from any other official document form USCIS.

9. **USCIS Online Account Number:** Write your USCIS Online Account Number if you have one. You would have received this number if you have previously filed through the Online Electronic Immigration System. You can find this number by logging into your account. If you don’t have one, write N/A.

10. **Gender:** Check one box.

11. **Marital Status:** Check one box.

12. **Have you previously filed Form I-765?** If this is a renewal application, check yes. If this is an initial application, check no.

13.a. **Has the SSA ever officially issued you a Social Security card?** If this is your first

application and you do not have a Social Security number, check No. If you already have a Social Security number, check Yes, then put your Social Security number in the space provided.

13.b. **Provide your Social Security Number (SSN).** Write your social security number.

14. **Do you want the SSA to issue you a Social Security card?** If you do not have a Social Security card, check Yes.

15. **Consent for Disclosure:** If you do not have a Social Security check Yes.

16. **Father's Name:** If you checked Yes for question 15, fill this out. If you checked No, write N/A.

17. **Mother's Name:** If you checked Yes for question 15, fill this out. If you checked No, write N/A.

Your Country or Countries of Citizenship or Nationality

18.a-b. Write any countries where you currently have citizenship status. For the second space, if you have citizenship status in only one country, write N/A.

Place of Birth

19. Write the City, State (or Province), and Country of your birth.

20. Write the date of birth (month/day/year).

Information About Your Last Arrival in the United States

21.a. **Form I-94 Arrival-Departure Number:** If you were issued a Form I-94 when you arrived, provide your Form I-94 number.

21.b. **Passport Number:** Write your most recent passport number.

21.c. **Travel Document Number:** If you have a travel document, but not a passport, fill in your travel document number. If you have a passport, write N/A.

21.d. **Country That Issued your Passport:** Write the country from which you received your passport or travel document.

21.e. **Expiration Date for Passport:** Write the expiration date of your passport or travel document. This should be on the biographical page.

22. **Date of Last Arrival Into the U.S.:** Write the date of the last time you entered the U.S. This information should be stamped in your passport.

23. **Place of Last Arrival Into U.S.:** Write where you last entered the U.S.

24. **Immigration Status at Your Last Arrival:** Write the immigration status you had when you first entered the U.S. For example: student visa, visitor visa, B1/B2 visa. If you entered without documents, write EWI.

25. **Your Current Immigration Status or Category:** Write *Asylum Pending*.

26. **Student and Exchange Visitor Information System Number:** If you were given a SEVIS number, write it here. If you were not, write N/A.

Information about your Eligibility Category

27. **Eligibility Category:** Write (c)(8) in the boxes. This indicates Asylum Pending.

28.a. Write N/A.

28.b. Write N/A.

28.c. Write N/A.

29. Write N/A.

30. If you have **never** been arrested or convicted of a crime, anywhere in the world, choose No. If you have **EVER** been convicted, charged, or arrested, in the U.S. *or* in another country, choose yes. Choose yes even if it was a political arrest or a wrongful arrest. Write underneath the question: "See addendum".

If the arrest was **inside** the U.S., you must provide a **certified** copy of the court docket of your arrest (**not** of the police report). It may be a good idea to consult with a private attorney about the immigration consequences of your arrest or conviction.

If the arrest was **outside** the U.S., provide documentation if you have it. If you included a description of the arrest or conviction in your asylum application, write a **BRIEF** explanation of what happened and write “please refer to my asylum application for more details.”

If it was a political arrest or you have no documentation, explain the situation on the final page. If you were arrested in your home country for purely political reasons, you should write that the arrest or arrests were for political reason and that it is discussed in your asylum application. For **example**, you could write, “I was arrested in my home country for political reasons and it is discussed in my asylum application.”

***Please note**, you may get a notice from the government of their intention to deny this document, if you do not include any evidence or explanation of arrest.

31.a. Write N/A.

31.b. Leave these boxes blank.

Part 3. Applicant’s Statement, Contact Information, Declaration, Certification, and Signature

Applicant’s Statement

1.a. Check this box if you filled out this form by yourself.

1.b. Check this box if an interpreter went through this form with you. Fill in the language the interpreter spoke to you in. The interpreter will need to provide their own information in Part 4.

2. Check this box if someone else filled out this form for you. This person will need to fill out Part 5.

Applicant’s Contact Information

3. Write a telephone number at which you can be reached.

4. Write your mobile telephone number, if you have one and want to provide it.

5. Write your email address, if you have one and want to provide it.

6. Check this box if you are a Salvadoran or Guatemalan national who can receive benefits under the ABC settlement agreement.

Applicant’s Signature

7.a. Sign your first and last name **with blue ink**.

7.b. Write today’s date.

Part 4. Interpreter’s Contact Information, Certification, and Signature

If someone interpreted for you in order to fill out this form, they must complete this information in **black ink**, and then sign their first and last name **with blue ink**. If you did not use an interpreter write N/A in the boxes.

Part 5. Contact Information, Declaration, and Signature of the Person Preparing This Application, If Other Than Applicant

If someone completed this application for you, they must complete this information in **black ink**, and then sign their first and last name **with blue ink**. If no other person helped you fill out this form write N/A in the boxes.

[Date]

VIA CERTIFIED MAIL

USCIS

Attn: I-765

2501 S. State Hwy. 121 Business

Suite 400

Lewisville, TX 75067

Re: Form I-765, Application for Renewal of Employment Authorization under
Category (c)(8) for: **[Insert your Name, Alien No. XXX XXX XXX]**

Dear Sir or Madam:

Enclosed please find documents in support of my application for employment authorization, Form I-765.

It has now been at least 150 days since I filed my I-589. I am now filing my first I-765 application under category (c)(8), for asylum applicants. No fee is required for employment authorization applications in this category.

The following documents are enclosed in support of my application for employment authorization:

- Form I-765
- Two (2) passport photos
- Copy of first page of my Form I-589
- Copy of Notice with date confirming at least 150 days have passed
- Copy of passport or other identification

Sincerely,

[SIGN IN BLUE INK HERE]

[Insert your full name]

APPENDIX F

Form I-589 “Application for Asylum and Withholding of Removal”

The Form I-589 called “Application for Asylum and Withholding of Removal” is one of the most important documents that asylum applicants must give to the U.S. government. You can find a Form I-589 online at: <http://www.uscis.gov/files/form/Form I-589.pdf>.

Note: The current version Form I-589 being used by the U.S. government has an expiration date of September 30, 2022. Go to www.uscis.gov to download the most recent version of the form. You should use the form on this website, even if it is already expired.

Please read the instructions below to learn more about how to complete the Form I-589. Also review the U.S. government instructions on completing Form I-589 online at: <http://www.uscis.gov/files/form/Form I-589instr.pdf>.

The same form is used to apply for asylum and for withholding of removal and Convention Against Torture relief. For more information on withholding of removal and Convention Against Torture, see Section III of this Guide.

Before You Start: Tips on completing the Form I-589

- You may find it helpful to complete Step 4: “Write your Declaration” before answering the questions asked in Part B of the Form I-589. See Appendix G for more information on writing your Declaration.
- Read each question very carefully. Make sure you understand the question before you answer it.
- Make sure all answers are complete, accurate and truthful.
- The application must be in English: If you do not write or speak English you will need the help of a good translator to translate your application. The translator or interpreter does not need to be a professional but avoid using online translation services like Google Translate, as they are not always accurate and can cause errors.
- Type your answers on a computer or write them by hand using a BLACK PEN, not pencil. Sign your name with a BLUE PEN.
- Write in capital letters if your handwriting is hard to read.
- To check off a box use: An X.
- If you do not know the answer to a question, write “Unknown” or “I do not know.” Do not guess.

- Do not leave any questions blank. If a question does not apply to you, write “N/A” which means “not applicable.”
- Use Supplement A or B of the Form I-589 when you do not have enough room to answer a question. If you do use Supplement A or B, write the number of the question you are answering, and type or write in **BLACK INK** your Alien Registration Number (“A Number”), if you have one, your name and the date. Sign each supplement you use in **BLUE INK**. If you do not use Supplement A or B, still fill out the top part as if you were using it, by signing it and filling out your name, Alien Registration Number, and the date, but in the spaces below, simply put “N/A” to indicate you have no response.

QUESTION BY QUESTION INSTRUCTIONS FOR FORM I-589:

PAGE 1:

Check the box in the upper right corner of this page stating that you want to apply for withholding of removal under the Convention Against Torture. See Section III of this Guide for more information on applying for withholding of removal and protection under the Convention Against Torture.

Part A1: Information about you

- 1. Alien Registration Number (“A Number”):** This is the number that the U.S. government uses to identify you. It is the letter A followed by 8 or 9 numbers. If you do not know your number write “unknown”. If the U.S. government has not given you one, write “None”; you will be assigned an A Number after you submit your application.
- 2. U.S. Social Security Number:** if you have a **VALID** social security number from the Social Security Administration, write it here. If not, write “None.” If you have used a false number or someone else’s number in the past, write “None.”
- 3. USCIS Online Account Number:** If you have a USCIS Online Account Number include it here. If you do not have one, write “N/A.”
- 4. Complete Last Name:** write your Family Name. If you have more than one family name, like “Garcia Morales,” write them both.
- 5. First Name:** This is your given or first name. Use your legal name. Do not use a nickname.
- 6. Middle Name:** If you have a middle name, write it here.

Tip: If your name is different from the name listed on your passport or visa be prepared to explain that in your asylum interview or in court. On the I-589, make sure your name is spelled the correct way.

7. Other names: List any nicknames, maiden name, and/or any other name you may have used to identify yourself.

8. Residence in the U.S.: Write down where you are physically living in the U.S. Also provide your current phone number if you have one.

9. Mailing address: Write down where you receive your mail. If someone else collects your mail, write their address and “In care of: [their name].”

10. Gender: Check “male” or “female”

11. Marital Status: If you are not married, check “single.” If you are legally married, check “married.” If you were legally married, but have been *legally* divorced, check “divorced.” If you were legally married, but your spouse has died, check “widowed.”

Your marriage must be recognized as legal in the country where you were married. If you were married without a marriage certificate, you may want to provide additional evidence that you were married such as photographs or written statements from family or friends who witnessed the marriage. Know that the U.S. does not consider a marriage to more than one spouse at the same time to be legal.

12. Date of Birth: Use eight numbers to show your Date of Birth. It should be in this order: month, date, and then year. For example, if you were born on March 1, 1978, you would write 03/01/1978.

13. City and Country of Birth: Write the city and country in which you were born.

14. Present Nationality: Write the country or countries where you are a citizen.

15. Nationality at Birth: Write the country where you were a citizen on the day you were born.

16. Race, Ethnic, or Tribal Group: some people belong to tribal groups, such as “Tutsi” or “Hutu.” If you do not have a distinct tribal group, list your race, such as “White/Caucasian,” “Latino,” “Black,” and so on.

17. Religion: if you follow a religion, such as Christianity, Judaism, Islam or any other religion, write that here.

18. Check the box that applies: If you have **never** been in immigration proceedings, required to attend court hearings, or been given papers to attend immigration court, write “X” in box 18(a). If you are currently in Immigration Court proceedings, write an “X” in box 18(b). If you are not currently in Immigration Court proceedings, but have been in the past, write an “X” in box 18(c).

19. Complete a through c.

(a) **When did you last leave your country:** write the date on which you left your country of citizenship (the country from which you seek asylum). Use the same format as your birth date (month/day/year). If you do not remember the exact date, you may write the month and year only.

(b) **What is your current I-94 Number:** If you entered the U.S. on a visa or through the Visa Waiver Program, you can find your I-94 number online at: <https://i94.cbp.dhs.gov/I94/#/home>. This will tell you your most recent date of arriving in the United States and the history of your arrivals and departures to and from the U.S. You can print your I-94 and use it as evidence that you legally entered the U.S. Please visit the above website for more detailed information on how to get your I-94.

If you entered the U.S. without permission or papers that allowed you to enter, write “no inspection” or “none.”

(c) **U.S. Entry History:** begin with your last entry into the U.S. It does not matter if you entered legally or illegally.

Date: First, write the date you entered the U.S. Use the month/day/year format. This date can be found in your passport and/or on your I-94 document, if you have one. If you are not sure of the exact date, you can either write the month and year, or just the year.

Place: Next, write where you entered the U.S. (city, state). If you are not sure where, you can look at your I-94 record (see above, 19(b) for how to find it.)

Status: If you came in to the U.S. legally, write the type of visa you used, such as B-1, B-2, F-1, “tourist,” “student,” etc. If you did not enter the U.S. legally, write “entered without inspection.”

Date Status Expires: Write the date your Form I-94 or authorized stay expires, NOT the date your US visa expires. This is the date that tells how long you could stay in the U.S. The U.S. government wrote it in your passport when you entered the U.S. If the U.S. government wrote “D/S” that means “duration of status.” Write D/S in this box.

Continue to write the above information for each time you entered the U.S., legally or illegally. If you do not have enough space, use supplement B to include the rest.

20. What country issued your last passport or travel document: Write the country that issued you the passport you used to leave your country and/or enter the U.S

21. Passport and travel document number: Your passport number is the number used to identify your passport. It is typically found on the same page as your picture. If you came to the U.S. without a passport, you may have a travel document number. If you do not have either of these numbers or documents, write “N/A.” If you have lost these documents since coming to the U.S., write “Unknown.”

22. Expiration Date: Write the date on which your passport or travel document expires. This is also typically found on the picture page. Be sure to follow the month/day/year date format.

23. What is your native language: Your native language is considered your first language, the language you speak best, or the language you spoke growing up. If you speak a certain dialect of that language, write it here.

24. Are you fluent in English: If you speak English fluently, place an “X” in the box “Yes.” If you do not speak English fluently, place an “X” in the box “No.”

25. What other language do you speak fluently: Write the language(s) here.

Leave blank “For EOIR use only” and “For USCIS use only.”

PAGES 2 & 3

Part A.II.: Information About Your Spouse and Children:

This section asks questions about your *current* marriage (if any) and your children (if any).

Your spouse. Your spouse is your husband or wife.

If you are **not** married, place an “X” in the box that states “I am not married” and write “N/A” in all of the boxes asking questions about your spouse. Then go on to the next set of questions entitled “Your Children.”

If you are married, you must complete this section, whether or not your spouse is in the U.S. If you are divorced, you do not have to include your divorced spouse.

If your current spouse is included on the application, they will also be granted asylum status if they are in the U.S. and if your asylum is approved. If you have a spouse with you in the U.S. who you want to receive asylum if you are granted asylum, you must submit the following:

1. One additional copy of your Form I-589, with a passport-style photograph of your spouse stapled to page 9 of this additional copy. Please follow the instructions available at <https://travel.state.gov/content/travel/en/passports/requirements/photos.html> to ensure that your photographs comply with the U.S. government’s requirements.
2. Two copies of documents showing you are married (for example, your marriage certificate). Do not send originals of these documents, just a copy. However, you will want to bring originals to your asylum interview or to court in case anyone wants to see it.

NOTE: If you do not have or cannot get these documents, you may mail (or bring to your hearing) “secondary” evidence of your relationship, such as medical records, religious records and school records. You can also mail a written statement from at least one person for each event, like a marriage or birth of a child that you are trying to prove. Written statements may be provided by relatives or others, and they do not need to be U.S. citizens or lawful permanent residents. The statements must be translated if they are not in English.

Your Children

If you do not have any children, place an “X” in the first box “I do not have any children”, and write “N/A” in all of the boxes asking questions about your children. Then go on to the questions in Part A.III. beginning on Page 4 of Form I-589.

If you do have children, place an “X” in the second box, “I have children”, and write how many children you have next to “Total number of children.” Include **ALL** biological, adopted, and step-children regardless of age, whether or not they are in the United States and marital status.

- **Adopted Children:** An adopted child means a child who was under the age of 16 at the time the legal, foreign adoption took place and who has lived with you and of whom you have had legal custody for at least two years. It is important to list **ALL** children. There is space for four children on this section of the form. If you have more than four children, you can list your additional children on “Supplement A, Form I-589.”

Only children who are under 21 years of age, unmarried, and in the United States can be given asylum status as part of your asylum application. If you have any unmarried children under 21 with you in the U.S. who you want to also receive asylum if you are granted asylum, then you must include the following for each child:

1. One additional copy of your Form I-589, with a passport-style photograph of your spouse stapled to page 9 of this additional copy. Please follow the instructions available at: <https://travel.state.gov/content/travel/en/passports/requirements/photos.html> to ensure that your pictures comply with the U.S. government’s requirements;
1. Two copies of evidence of your relationship with the child (for example, a birth certificate).

PAGE 4

Part A.III.: Information About Your Background:

This section asks about where you have lived, your education, and your employment history, both in the U.S. and your home country. For these questions, list your most recent address, school, or job first, and then write the rest in reverse order.

1. List the address and dates of residence where you lived just BEFORE coming to the U.S.

- If you were hiding for a period of time immediately before entering the U.S., you should list that address, including a hotel, friend’s house, etc.
- You must also list the last address and dates you lived in your country of citizenship where you fear harm. For example, if you fled to Uganda because you fear persecution in Burundi, write both the address and dates of residence in Uganda and the address of your last residence in Burundi.

2. List each of your residences for the past five years, including the dates of residence for each place. Start with where you live now in the U.S., then list your address before that, then the one before that until you have covered the last five years. It is very important to list **ALL** residences, even if you only lived there for a short time like a homeless shelter or the place you were in hiding. The address(es) listed in Question 1 above should also be listed in this response. If you have lived in more than five places in the past five years, use Supplement B to add your remaining addresses.

3. **List all of the schools you have attended, including dates of attendance.** This includes all levels of education you have received and any education either in the U.S. or abroad. If you have attended more than four schools in your lifetime, list the rest of the schools on Supplement B.

4. **List each of your places of employment for the past five years.** If you are working in the U.S., start with the job you have now or your most recent job and provide the name and address of the employer, your job title and dates of employment. If you have had more than 3 jobs in the last 5 years, list the rest on Supplement B.

5. **List information about your parents, brothers and sisters, including their name, city/town and country where they were born, and their current location. Include parents and siblings who are no longer living and write “Deceased.”** If they are still living, you MUST indicate their current location. If you do not, your application will be returned to you. If you do not know where any of your parents, brothers and sisters are living, write “Unknown.” If you have more than four siblings, use Supplement B to add information about your remaining siblings.

PAGE 5

Part B. Information About Your Application:

This section asks for information about *why* you are seeking asylum. Be sure to read each question carefully and include information on what happened to you or your family in the past that now makes you afraid to return to your home country, why you and/or your family were harmed, who harmed you and what you believe will happen to you if you return to your home country now.

NOTE: If you write your Declaration or statement before completing the I-589, you should answer the questions in Part B in one to three sentences that summarize what you write in your Declaration. Be sure that what you put in your Declaration matches your answers in Part B. Following your answers, you should include this sentence, **“Please see my Declaration submitted with this Form I-589 for more information” only if you include a Declaration.**

If you do not plan to mail your Declaration, you need to completely answer each question in Part B. See Appendix G for how to write your Declaration. If you run out of space and need more room to answer these questions, you may add additional pages to your Form I-589 using Supplement B at the end of the Form I-589. If you attach additional pages, be sure each page includes your first and last name, A number, if any, the date and your signature in BLUE PEN.

1. I am seeking asylum or Withholding of Removal based on: check the box(es) for all of the reasons that apply to your case. If you checked the box on Page 1 related to the **Convention Against Torture**, check the Torture Convention box on Page 5, too.

1(A): If you, your family, close friends or colleagues have experienced harm, mistreatment, or threats in the past, check “Yes” and then explain briefly what happened. You might want to include who harmed you, what happened, when it happened, and why you believe you were harmed. You may also write “Please see my personal Declaration for more information” if you have included a Declaration. If you check “No”, write “N/A” in the box following the question.

1(B): If you fear you will be harmed in the future if you return to your home country, check “Yes” and then explain briefly why you fear this harm. You might want to include information on who you think may harm you in the future, what they might do to you, why you believe they want to harm you and why you think they will be able to harm you. You may also write “Please see my personal Declaration for more information.” If you check “No”, write “N/A” in the box following the question. If you do not fear harm, see Section 1 of this Guide on the requirements for asylum.

PAGE 6

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?

Check “Yes” or “No.” If you check “No”, write “N/A” in the box following the question. If you check “Yes,” explain what happened and why. If you were detained, make sure you mention that here.

3(A) and 3(B): Both of these questions ask about any group that you or your family may have belonged to in your home country. For example, if you were a member of a political party in your home country, you should check “Yes” and include that information here.

- Include any organizations, movements, or other groups you have been a part of in the past and/or continue to be a part of now. These may include:
 - **religious groups, military or paramilitary groups, guerilla organizations, ethnic groups, student groups, labor groups or unions, human rights groups and any other organization of which you consider yourself a member and/or participant.**
- **If you believe you were or might be harmed in your home country because of your participation in one of these groups, explain that in response to this question.**
- If you check “No”, write “N/A” in the box following both questions 3A and 3B. Note: if you state in your Declaration that you were involved in certain groups, these groups should be included here.
- If you checked “Yes” in Question 3A and you or your family continue to be involved in these groups, check “Yes” in response to Question 3B and explain briefly. You may also write “Please see my personal Declaration for more information.” If you and your family are no longer involved in the groups you listed in Question 3A, check “No” in response to Question 3B and write “N/A” in the box following the question.

WARNING: If you ever belonged to or were associated with a paramilitary or guerilla organization, or any armed group, consult an experienced immigration lawyer before

submitting your Form I-589 to get advice about whether your activities might affect your eligibility for asylum in the U.S.

4. Are you afraid of being subjected to torture in your home country or any other country to which you may be returned? If you are afraid you could be tortured if you return to your home country, or to any other country, check “Yes” and explain what harm you fear, why you fear that harm and who you believe might cause the harm. You can also write “Please see my personal Declaration for more information” only if you include a Declaration. If you check “No,” write “N/A” in the box following the question.

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Part C. Additional Information About Your Application:

Part C asks questions to ensure that you are eligible for asylum in the U.S. See Section 1 (if you are applying for asylum and not in removal (deportation) proceedings) or Section 2 (if you are applying for asylum with an Immigration Judge) of this Guide for information about things that might make you ineligible for asylum. Like the rest of the application, it is very important to answer these questions truthfully and accurately.

Consult an experienced immigration lawyer BEFORE you submit your asylum application if you answer “Yes” to any of the questions in section C on pages 7-8.

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Part D. Your Signature

- Staple your passport-style photograph on the square in the right-hand corner of this page. See <https://travel.state.gov/content/travel/en/passports/requirements/photos.html> to make sure your photograph complies with the U.S. government’s requirements.
- In the box that says “Print your complete name,” you should handwrite your name as it appears in English. In the box that says “Write your name in your native alphabet,” you should write your name as you do in your native language.
- Before signing your application, review all of the questions and make sure they are truthful and complete and that you understood them. By signing the Form I-589, you are swearing that everything in the application is true, to the best of your knowledge.
- Use a BLUE PEN TO SIGN
- Check “Yes” or “No” to say if a spouse, parent or child(ren) assisted you in preparing the Form I-589 and give the information requested about that person.
- Check “Yes” or “No” about whether you were given a list of persons, such as attorneys, who may be available to assist you, at little or no cost, with your asylum application.

Part E. Declaration of Person Preparing Form, if Other Than Applicant, Spouse, Parent or Child

If someone who is not a family member helped you fill out your Form I-589, they must complete this section and sign their name using a BLUE pen. If no one assisted you in completing your Form I-589, write "N/A" in all of the boxes to indicate it is not applicable to you.

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Part F. To Be Completed at Asylum Interview, if Applicable

Do not write in this section of the Form I-589 at this time. You will complete this at your Asylum Interview if you have one.

Part G. To Be Completed at Court, if Applicable.

Do not write in this section of the Form I-589 at this time. This will be completed when you have your court hearing, if you have one.

You have finished the Form I-589. Review the document to make sure you completed each question honestly and accurately. You may also want to compare your answers with the documents you are sending, such as marriage and birth certificates, your Declaration, and any other evidence you are preparing for your case to ensure that what you say in your asylum application is the same as what the documents and evidence indicate. If there are differences, you will have to be prepared to explain the reasons why during your Asylum Interview or in Immigration Court.

APPENDIX G

What is a Declaration?

- A Declaration is a typed or handwritten statement that explains in detail why you fled your home country and why you now fear returning to your home country.
- A written Declaration lets you tell the story of what happened to you in your home country and why you fear returning.
- A Declaration should be specific to you and your case.

Why should I write one?

- The Asylum Officer or Immigration Judge who will read your application knows nothing about you and might not know a lot about your home country. Your Declaration tells the Asylum Officer or Immigration Judge your story and teaches the Officer who you are, where you are from, what harm you experienced, and why you cannot safely return to your home country.

What should I include in my Declaration?

- You should include the following information in your Declaration:
- Begin with your personal background, and the conditions in your country. Only include information that is related to the reason you are seeking asylum.
- Explain the harm you suffered in your home country or the harm you fear you will suffer if you are forced to return. You do not have to include every detail as you may be asked to provide more detail when testifying. You just want to give a general idea of what happened. If you cannot remember something because it is so traumatic, you can explain why.
- Explain WHY you believe you were harmed or will be harmed, and by WHOM. This is very important to include.

What should my declaration look like?

You may handwrite your Declaration on paper or you can type and print it. Remember to number each paragraph.

There is no page limit, but your Declaration should be long enough to include all the important information about the harm you faced or fear, why you experienced or fear that harm, who is harming you or has threatened to harm you and so on. See page 2 of this Guide for the requirements to be eligible for asylum. Usually Declarations are about 5 pages.

How to Organize Your Declaration

There is no “right” or “wrong” way to structure your Declaration. You should try to be sure that your Declaration is clear and easy for the Asylum Officer or Immigration Judge to understand.

Here are a few tips for organizing your Declaration:

- Write your Declaration in chronological order—the order in which things happened.
- Begin with a summary paragraph. It should be a short, one-paragraph summary explaining what happened to you and why. Then you can go into detail in the following paragraphs.
- Number your paragraphs.
- Consider writing your Declaration so that it has a beginning, a middle, and an end.
 - The beginning is your personal background relevant to why you are applying for asylum,
 - The middle is an explanation of the harm you suffered or fear suffering in the future, **why** you suffered or will suffer that harm, and **who** caused or will cause the harm,
 - The end is your escape from your home country and your arrival in the United States.
- Write as if the Asylum Officer or Immigration Judge knows very little about you or your country, and your job is to educate them in your Declaration.
- **Be honest!**
- **NEVER** guess about important details! If you do not remember something, say so.

Your Declaration must be written in English. If you do not read and write English, you should write it in your own language and have it translated by someone who is completely fluent in both English and your language. This person does *not* have to be a professional. They do not need to charge you money. But they **MUST** be able to **SPEAK AND READ** fluently in your language **AND** in English. The translator should not be any spouse or children included on your asylum application or anyone who will be testifying for you. The translator should **NOT** be a member of your family.

- Once you get your Declaration translated, carefully go over the translation word for word with the person who translated your Declaration to make certain everything is correct.
- If your Declaration is translated, you need to attach a Certificate of Translation to the copy of your Declaration in English. See Appendix B for a copy of a Certificate of Translation.

While writing your Declaration follow these rules:

- Do not copy or use someone else's Declaration to help you in your case. It is important that your Declaration be your own.
- If you cannot remember a detail, do not guess. You must tell the truth. If you cannot remember a detail, explain that you cannot remember.
- You are the expert on your story, and if you do not tell the Asylum Officer or Immigration Judge your story, then no one else will.
- Try to think about where your story may be difficult to understand, and explain your story carefully and truthfully.
- If you work with a translator, review all translations carefully and make sure that the translator signs the Certificate of Translation.



Migrant Protection Protocols (“Remain in Mexico Policy”)

Updated June 11, 2019

1. **What are the MPP?** [Announced](#) in December 2018, Migrant Protection Protocols (MPP), commonly referred to as the “Remain in Mexico” policy, is a new [policy](#) implemented by the Department of Homeland Security (“DHS”). The MPP allows certain noncitizens entering or seeking admission to the U.S. from Mexico – without papers or proper documentation – to be returned to Mexico and wait outside of the U.S. for the duration of their immigration proceedings.
2. **What is the purpose of the MPP?** In [announcing](#) the MPP, DHS asserted that the new policy is intended to address a purported problem of asylum seekers “trying to game the system” by making groundless asylum claims and then “disappear[ing] into the United States, where many skip their court dates.” However, [critics](#) argue that MPP will unnecessarily place vulnerable asylum seekers at risk, in violation of U.S. and international law.
3. **What authority has DHS cited to support the MPP?** DHS cites to [Section 235\(b\)\(2\)\(C\)](#) of the Immigration and Nationality Act (INA). That section provides that individuals arriving by land from a foreign contiguous territory (i.e., Mexico or Canada)– whether or not at a designated port of entry—generally may be returned, as a matter of enforcement discretion, to the territory from which they are arriving pending a removal proceeding under Section 240 of the INA.
4. **Who is subject to the MPP?** According to [DHS](#), “With certain exceptions, MPP applies to individuals arriving in the U.S. on land from Mexico (including those apprehended along the border) who are not clearly admissible and who are placed in removal proceedings under INA § 240. This includes individuals who claim a fear of return to Mexico at any point during apprehension, processing, or such proceedings, but who have been assessed not to be more likely than not to face persecution or torture in Mexico.” The policy has been in place since January at the [San Ysidro, California](#), port of entry at Tijuana and been [expanded](#) to additional regions. One [news report](#) estimates that the MPP policy has resulted in more than 600 asylum seekers being sent back to Mexico since late January.
5. **What are the policy concerns raised by advocates about the MPP policy?** Advocacy groups and the immigration bar have [expressed](#) concern that the MPP will endanger asylum seekers forced to remain in Mexico for long periods of time and will [hinder their access to counsel](#). They believe MPP [will restrict](#) due process for asylum seekers and subject individuals to dangerous conditions for long periods of time.
6. **Have courts challenged the implementation of the MPP policy?** [Innovation Law Lab v. Nielsen](#) – On April 8, 2019, the U.S. District Court for the Northern District of California enjoined and restrained DHS from continuing to implement or expand the MPP. The decision focused on the narrow issue of whether the MPP complied with the Administrative Procedure

Act (APA). The Court held that the Plaintiffs were likely to show that the MPP does not comply with the APA. On April 9, 2019, the White House released a [statement](#), stating that it intended to appeal the District Court ruling. On May 7, 2019, the Ninth Circuit [granted a motion to stay](#) the district court's injunction. This means that the administration may continue to return asylum seekers to Mexico. The court focused on the statutory language governing applicants for admission, and concluded that DHS will likely prevail on the argument that the "expedited removal" statute only applies to those processed under this statute and that applicants for admission placed in Section 240 removal proceedings may be returned to Mexico pursuant to return provisions in [Section 235\(b\)\(2\)\(C\)](#) of the INA.

7. **Where can I find more resources?** More information can also be found on the [DHS](#), [ACLU](#) or [Human Rights First](#) websites. The Congressional Research Service has also [published a recent brief](#) on the legal issues surrounding MPP.

The goal of this document is to provide general information regarding the Migrant Protection Protocols and is not meant to act as a substitute to legal advice from an attorney.



Third Country Asylum Rule: What You Need To Know

Updated September 19, 2019

What is the new policy?

On July 15, 2019, the Department of Homeland Security (DHS) and Department of Justice (DOJ) [announced](#) that it would issue an [interim final rule](#) affecting asylum seekers at the southern border of the United States. This policy adds a bar to asylum for all individuals who enter or attempt to enter across the southern border, if they did not seek protection from a third country while en route to the United States. The rule will be added to the regulatory framework that governs asylum seekers at the border and eligibility for asylum.

What is the current status of enforcement of the interim final rule?

On September 11, 2019, the [Supreme Court reinstated the interim final rule nationwide](#) in a brief unsigned order pending litigation on the merits in the courts. In dissent, Justice Sotomayor, joined by Justice Ginsburg, expressed concerns about upending “longstanding practices regarding refugees who seek shelter from persecution,” the administration’s bypassing of typical public notice and comment procedure in issuing the rule, and the importance of respecting lower courts’ decisions and appeal processes.

What is the scope of the interim final rule?

The effective date of the rule was July 16, 2019 and will be invoked by asylum officers in DHS and immigration judges in DOJ. The rule does not impact two related forms of relief known as withholding of removal and protection under the Convention Against Torture. These forms of relief are narrower and without the same benefits of asylum protection.

What legal authority is the administration relying upon to issue the interim final rule?

The interim final rule points to sections in the immigration statute known as the Immigration and Nationality Act (INA). Two of these sections are summarized below.

- [INA § 208\(d\)\(5\)\(B\)](#) states that “[t]he Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.”
- [INA § 208\(b\)\(2\)\(C\)](#) states that the “Attorney General may by regulation establish additional limitations and conditions, consistent with this section, under which an alien shall be ineligible for asylum under paragraph (1).”

The goal of this document is to provide general information and is not meant to act as a substitute to legal advice from an attorney.

Has the administration invoked these immigration statutory sections before?

Yes. Last November, DOJ and DHS issued a [joint interim final rule](#) to limit asylum to those who arrive at a place other than a port of entry and in doing so, invoked various sections of the immigration statute, including those outlined above. That rule was successfully challenged in the courts.

What are the legal concerns with the interim final rule?

There are several concerns, including that the interim final rule violates the immigration statute and other laws. While the interim final rule identifies some sections of the immigration statute, these sections cannot be read in isolation to the statute as a whole, nor can it conflict with the U.S. Constitution, statutes and other laws. To illustrate, Congress has set a framework for asylum seekers who pass through another country before arriving in the United States through doctrines known as “firm resettlement” and “safe third country.” The interim rule exceeds this framework and in doing so may violate the INA. Further, [INA § 208](#) states that any person physically present in the United States, regardless of *how* or where they entered is eligible to apply for asylum. The section states in part, “Any alien . . . who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) irrespective of such alien's status, may apply for asylum . . .” (emphasis added)

Why is the administration issuing these policies?

The position of the government is that the policy will aid in “detering meritless asylum claims and de-prioritizing the applications of individuals who could have obtained protection in another country.” The government has also indicated that the policy will reduce the number of people crossing the border “without an urgent or genuine need for asylum.” Finally, the government believes the new rule will improve foreign relations between the United States and other nations on migration issue.

What are some of the countervailing views by some refugee advocates and scholars?

Many asylum seekers arriving at the southern border are from the Northern Triangle which is comprised of Guatemala, El Salvador and Honduras. The violence and danger in these countries is [well documented](#). Further, the dangerous conditions in Mexico is [well documented](#). Individuals who have suffered or will suffer individual harm for a specific reason are eligible to apply for asylum under the immigration statute and other laws. Many asylum claims made by those arriving from the Northern Triangle are with merit. Further, because withholding of removal and protection under the Convention Against Torture to not allow a person to petition for their families or apply for permanent status, there are concerns about how this rule will “[rip even more families apart](#).” Finally, advocates have tied the new rule to a [larger narrative and set of policies](#) enacted by the current administration to place restrictions on asylum seekers at the border and beyond.

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What is an “Interim Final Rule”?

An [Interim Final Rule](#) becomes effective immediately upon publication in the *Federal Register* and is an exception to the general rule that public notice and comment must take place before the effective date of a regulation. DOJ and DHS have concluded that a “good cause” exception exists to publish this asylum regulation as an interim final rule because “this rule is essential to avoid a surge of aliens.” Alternatively, the Departments have invoked the “foreign affairs exception” tying the flow of noncitizens to the southern border to national security and foreign policy interests of the United States. Written comments can be submitted by the public for a period of thirty days from the date of publication.

Has the interim final rule been challenged in court?

Yes. Lawsuits have already been filed challenging the rule. [One lawsuit](#) was filed by the ACLU, Southern Poverty Law Center, and the Center for Constitutional Rights in the federal district court for Northern California, arguing that the rule violates the Immigration and Nationality Act and the Administrative Procedure Act. The relief sought by the plaintiffs includes but is not limited to a declaration that the rule is unlawful and invalid and temporary and permanent injunction blocking the government from implementing the rule. A [second lawsuit](#) was filed in the federal district court for the District of Columbia on behalf of the CAIR Coalition and RAICES, arguing that the rule violates these same statutes as well as the Trafficking Victims Protection Reauthorization Act. The relief sought by the plaintiffs is a temporary restraining order followed by a preliminary injunction.

What is the current status of these lawsuits?

On July 24, 2019, the federal district court for the District of Columbia rejected the argument for a temporary restraining order and permitted enforcement of the interim final rule.¹ On the same day, Judge Tigar, a federal judge in the district court for Northern California, [issued a nationwide injunction](#) to block enforcement of the interim final rule throughout the country. On August 16, the Ninth Circuit, on appeal, [narrowed the scope of this ruling to California and Arizona but permitted the district court to consider additional evidence](#). On September 9, Judge Tigar again [expanded the scope of his ruling to the entire country](#), citing additional evidence warranting blocked enforcement of the interim final rule nationwide and administrability issues if enforcement were only blocked in certain states. On September 10, the very next day, the Ninth Circuit again [temporarily stayed Judge Tigar’s second nationwide injunction](#) and sought additional information from both parties.

The administration filed an [emergency application to the Supreme Court](#) on August 26, 2019 – before Judge Tigar’s second nationwide injunction based on additional evidence – seeking a stay of Judge Tigar’s first ruling. On September 11, 2019, the Supreme Court, as explained above, issued a “stay” on both nationwide injunctions issued by Judge Tigar and in doing so reinstated the [interim final rule](#) in full while this litigation is pending.

¹ Transcript of Oral Ruling, *Capital Area Immigrants’ Rights Coalition, et al. v. Trump, et al.*, No. 1:19-cv-02117-TJK, 2019 WL 3436501 (D.D.C. July 24, 2019).

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Is this the first time the Supreme Court has allowed a new immigration policy to take effect before a decision has been made on the merits in the courts?

No. On December 4, 2017, the Supreme Court [permitted the administration to enforce President Trump's September 24 proclamation](#) banning nationals from several countries from entering the United States before the courts were able to reach a decision on the merits. The Supreme Court ultimately [upheld the travel ban indefinitely](#) when it made a decision on the merits on June 26, 2018.

Where can I find more resources?

See the [Penn State Law Center for Immigrants' Rights Clinic](#) website for updates on this and other immigration policies. Also visit:

- [Department of Homeland Security](#)
- [American Immigration Lawyers Association](#)
- [American Immigration Council](#)
- [Human Rights First](#)

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