

WHAT IS ASYLUM?

Asylum is a protection granted to foreign nationals already in the United States or at the border who meet the international definition of a “refugee.”

WHAT ARE THE BENEFITS OF ASYLUM?

Once an individual has applied for Asylum, they must wait 6 months to receive legal work authorization. This authorization lasts for the duration of time it takes until being granted asylum. Those granted asylum (Asylees) may apply for a social security card, may request permission to travel overseas, and can petition to bring family members to the United States. Asylees may also be eligible for federal or Office of Refugee Resettlement benefits, such as Medicaid or Refugee Medical Assistance. After one year of granted asylum, an Asylee may apply for lawful permanent resident status (green card). One must wait four years to apply for citizenship.

WHAT IS THE ASYLUM APPLICATION PROCESS?

Affirmative Asylum: A person who is not in removal proceedings may *affirmatively* apply for Asylum. If the USCIS asylum officer does not grant the asylum application, the applicant is referred to removal proceedings where he or she may renew the request for asylum through the *defensive* process and appear before an immigration judge.

Defensive Asylum: A person who *is* in removal proceedings may apply for asylum defensively by filing the application with an immigration judge at the EOIR in the Department of Justice.

HOW LONG DOES THE ASYLUM PROCESS TAKE?

The Asylum process can take years to conclude. In some cases, a person may file their application and receive a hearing or interview date years in the future. In 2016, the U.S. immigration court and asylum systems were backlogged with more than 620,000 pending cases.

WHAT HAPPENS TO ASYLUM-SEEKERS WHILE THEIR APPLICATION IS PROCESSED?

Some individuals live in the U.S. while their application is processed, while others (including children and families) are detained for some of this time. Detention exacerbates the challenges asylum-seekers already face and can negatively impact a person’s asylum application. Children and families who are detained suffer mental and physical health problems including depression, PTSD, and frequent infections. The duration of an asylum seeker’s detention varies since “there are no statutory limits to the amount of time a non-citizen may be held in immigration detention.” Some asylum applicants may be kept in detention for several months or even years.

WHO'S INVOLVED IN THE ASYLUM PROCESS?

ASYLEE: Individual that left home country due to a fear of persecution or mistreatment. You may often hear an asylee referred to as a 'client' at HIAS.

LAWYER: The information shared between client and lawyer is confidential. Our lawyers are named Hector and Aleks. They provide legal protection and representation to our clients at no cost. HIAS has a Pro-Bono attorney program in which outside lawyers partner with HIAS to provide pro-bono legal representation. Because of this, you may hear your client refer to their lawyer by a name other than Hector or Aleks.

INTERPRETER: Volunteer interpreters are often used throughout the entire asylum seeking process. Additionally, we partner with many volunteer translators to help us translate important documents that assist our client's asylum case.

USCIS: United States Citizenship and Immigration Services. This is the government office that handles immigration and affirmative asylum applications. Their website is www.uscis.gov

EOIR: Executive Office of Immigration Review. This is the Immigration Court and Board of Immigration Appeals, where an Immigration Judge will rule on asylum applications if the client is in deportation proceedings.

ASYLUM OFFICER: In *affirmative* asylum cases, an asylum officer will interview the client. The asylum officer may approve the asylum application if the client can show that they qualify as a refugee under U.S. immigration law and a background check has already been completed. Otherwise, the Asylum Officer may issue a "recommended approval" of the application pending the successful completion of the background check.

IMMIGRATION COURT AND IMMIGRATION JUDGE: An Immigration Judge will determine the asylum case if the client is *already* in deportation proceedings. If an Asylum Officer has denied the client's application and referred the client for deportation proceedings, the client may renew the application to the Immigration Judge.

ICE: Immigration and Customs Enforcement. ICE officers can detain persons and start deportation. If ICE detains a client, that client should insist to speak to their lawyer. They should not sign anything that ICE asks them to sign without consulting their lawyer first. **Every asylum case is different. If the immigration Judge turns the client down, the client has the right to appeal the decision.

BIA: Board of Immigration Appeals. If the Immigration Judge turns the client down, this is the first step in an appeal.

11th Circuit Court of Appeals: If the BIA turns down the client's appeal, the lawyer can ask the 11th Circuit (federal court) to hear the case

DOCUMENTATION FOR ASYLUM CASE

- 1) **Ins form 1-589:** Federal Application for Asylum and for Withholding of Removal administered by the Department of Homeland Security and the U.S. Department of Justice.
- 2) **Form EOIR-28:** Form that authorizes presence of a lawyer
- 3) **AFFIDAVIT:** The client will need to explain what happened to them, why they left their country, and why they want to remain in the United States. They are encouraged to write down everything they can remember from their home country as well as conversations they had with officials in the U.S. from the time they entered the country.
- 4) **IDENTIFICATION DOCUMENTS:** Often people leave their country quickly and with very limited resources. Birth certificate, passports, or other official documentation are very helpful in providing proof of identification. Clients are encouraged to have these documents sent if left in home country.
- 5) **THINGS THAT EXPLAIN THE SITUATION:** This could include arrest warrants, threatening letters, or newspaper stories that explain why the client left their country.
- 6) **REPORTS ABOUT COUNTRY AND THE CONDITIONS:** The lawyer is regularly staying updated on both archives and changes in country conditions. They often consult with experts to testify in immigration court about client's country.
- 7) **REPORTS ABOUT PERSONAL, MEDICAL, OR PSYCHOLOGICAL STATE:** Obtaining medical and/or psychological evaluations by health professionals is helpful so the court has an objective assessment of physical or mental marks of torture and persecution.
- 8) **PHYSICAL EXAMS:** Especially in incidents of torture, a medical evaluation is often important to show the facts about what happened to the client. (scars, burns, FGM, etc)