

Reasons to Seek Asylum

Asylum protects people within the United States or at a port of entry who have a well-founded fear of being persecuted in their country of nationality. The reasonable fear must be due to race, religion, nationality, membership in a particular social group, or political opinion. Additionally, to qualify for asylum, you must be outside of your country of nationality and unable or unwilling to return.

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Well-Founded Fear of Persecution

Likelihood of Persecution

When you apply for asylum, you can show that you have a well-founded fear of persecution in one of two ways. First, you can show that you have suffered persecution in the past. Second, you can show that you have at least a ten percent chance of being persecuted in the future. The immigration judge or the asylum officer will try to determine how likely you are to be persecuted based on the details of your story. This is why it is so important to clearly describe your fear of prosecution. Do not use vague statements or generalities. Organize your story and use specific facts.

What is Persecution?

Persecution is difficult to define and reduce to simple rules. For example, persecution can include imprisonment even if a country is enforcing its own laws. It can also include arrest, property confiscation, interrogations, detention, and unlawful searches. However, simply being bothered or harassed is not persecution. Some courts have said that unless an act is severe enough to threaten someone's life or freedom, it is not considered persecution. Courts can also define persecution

based on a combined effect of several acts. In fact, some federal courts have ruled that one act alone is not bad enough to be considered persecution when compared to other acts.

Example: One client was beaten so severely that he had to be hospitalized. The immigration judge found that this single act was not persecution. However, based on the other facts of the case, the same judge thought that there was a more than a ten percent chance of future persecution, which qualifies as a well-founded fear. In sum, persecution is a complicated concept. This is one reason why it is important to have an experienced attorney who is familiar with asylum cases.

When you write about what happened to you or what you fear will happen to you, be honest. Do not be embarrassed or ashamed of what happened. You will not say anything that will shock Immigration.

Unable to Relocate in Home Country

To qualify for asylum, you also have to show that you could not safely live anywhere else in your home country. This means you should consider two things. First, consider whether there is anywhere else in your country where you could safely live. Second, think about if it would be reasonable to expect you to relocate to another place in your home country. Is there an ongoing war in your country? Are there social and cultural issues? For example, India is a large country with people who speak many different languages and live with very different cultures according to their region. It might not be reasonable to expect you to live in a place where you do not speak the language or understand the culture. You can also consider what personal aspects would make it very hard to relocate, such as: age, gender, health, and social and familial ties.

Reason for Persecution

Overview

When you apply for asylum, you not only have to show that someone wants to persecute you, but also that it is because of your: race, religion, nationality, political opinion, or particular social group. The persecution can also be imputed. This means that the person or people who want to hurt you **think** that you are of that race, religion, nationality, political opinion, or particular social group even if you are not. For example, you may have no political opinion, but if your persecutor **thinks** that you support his political rival, then they might persecute you based on a characteristic that you don't really have.

Keep in mind, your persecutor may have several reasons to want to hurt you, but you have to show that at least one central reason was because of these grounds. For example, a Catholic Charities client got into a huge argument with his neighbor for splicing into his electric box and stealing energy. The client's neighbor threatened to kill him, and he may have feared persecution. But this story alone won't help him get asylum because the persecution is not due to his: race, religion, nationality, political opinion, or particular social group.

Defining religion and race is straightforward and what you would expect. However, it is more difficult to define political opinion, nationality, and particular social group

Political Opinion

To prove that your persecution is based on political opinion, it can't be just that your opinion differs from those in power. Your political opinion has to be one that those in power want to stop. Many people disagree with the political opinions of their government, but that does not always mean that their government wants to persecute them.

Nationality

Nationality can be confusing to understand. Firstly, nationality and citizenship are not the same thing even though they are very similar. Generally speaking, nationality means that you can enjoy the protection of the government, but your participation is limited. For example, you often cannot vote. Whereas, citizenship allows you to fully participate in government by voting and running for office.

From a legal perspective, all citizens are nationals, but not all nationals are citizens. For example, people of American Samoa are nationals of the United States, but they

are not citizens. Also, you might be a citizen of more than one country, especially if your parents are from two different countries.

The asylum officer or immigration judge will look to see if you have ties to your second country of citizenship. In other words, to the country where you are not trying to obtain asylum. They want to determine whether or not you can safely live there instead of getting asylum in the United States.

Particular Social Group

Particular social group is harder to understand, especially because no one ever really defined it before making it part of immigration law. Instead, courts have created a definition of it as they reviewed cases. Particular social group involves people who share a characteristic that is so important to who they are that they either cannot or should not have to change it. Typical examples include gender, marital state, and sexual orientation. But it can protect all kinds of different groups, such as Somali tribe members or wealthy Salvadoran land owners.

Until recently, particular social group also included certain immigrant victims of domestic violence. This area of law is a current topic of debate, and may be revised. It will likely go through the federal courts again. If your asylum claim is based on being a victim of domestic violence, it is critical that you work with a really good immigration attorney. The results of your case can have an all important effect on any appeal you might need to file later.

The Persecutor

The Government or Private Actor

It is easy to understand why someone would be unwilling to return to a country where their government intended to harm them. However, to qualify for asylum, the persecution does not have to come from the government. Your persecutor could also be someone that your government cannot, or will not, control. For example, Somali tribe members have been persecuting each other for decades. However, right now there is no Somali government to step in and stop the persecution. Another common example of persecution is guerrilla warfare.

Currently, the attorney general is trying to change the idea that the persecutor can be an individual, or private actor. In other words, the law may change so that the only people who qualify for asylum are those who are persecuted specifically by their own government. This is also likely to be debated in the federal courts. Again, this is why it is critical that you work with an experienced immigration attorney. A good immigration attorney will help you organize your case up front so that your story is clearly understood by the asylum officer or immigration judge. You do not want your story to sound inconsistent at any point during your case.

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