

# STEPS IN AN ASYLUM CASE

## For People in Detention



1. Come to the bridge (Arriving Alien) or swim across the river (Entry Without Inspection, EWI)

2. Tell a U.S. immigration officer you are afraid to go back to your country



3. Explain your situation to an asylum officer  
(Credible Fear Interview or Reasonable Fear Interview)



4. Get your results – positive results allow you to request parole (Arriving Aliens) or bond (EWI) AND allow you to see an immigration judge to explain your case



5. Receive a Notice to Appear (NTA)

6. 1<sup>st</sup> Court: respond to the charges in the NTA and ask for protection OR ask for more time



7. Turn in your application for protection

8. Give your evidence to the judge and government lawyer



9. Individual, final hearing



10. Decision!



## HOW TO PREPARE FOR THE ASYLUM INTERVIEW

The **purpose of the asylum interview** is to see if you have a strong enough case for protection in the United States that you should be given the opportunity to explain your case to an Immigration Judge. You have to get a positive “credible fear” decision in order to file an application for protection with a judge, as well as to be able to ask for your release from detention. If you get a negative decision you can ask that an Immigration Judge review the asylum officer’s decision but that is it.

Asylum is a process **for people who are afraid of returning** to their country. Unfortunately **asylum doesn’t protect everyone** who is afraid of going back to their country. It protects people who are afraid that someone will seriously hurt them because of their political opinion, religion, race, nationality, or because they’re part of a “**particular social group**”, which is the **legal way of saying that there’s something different about them**. This could be like being a homosexual person, a single mother, a victim of domestic violence, a witness, a reporter, or having another difference.



There is also a separate type of **protection for people who are afraid of the government**, which includes the police a private actor like a gang that is working with the police/government, or when the government knows what is happening and does nothing to protect you. When the government is responsible for the harm you suffered/will suffer you may qualify for protection under the United Nations Convention Against Torture.

**Don’t assume that the officer understands what your culture is like.** It is your responsibility to explain. This is your chance at protection in the U.S. so explain everything about your fear of return. The Asylum Officer is required by law to keep all the information they hear confidential.

**You can request a female or male asylum officer** if you feel uncomfortable speaking with someone from the other gender. There is no guarantee the Asylum Office will grant your request but if you do not make the request then you will never know. Regardless of gender, all officers are trained in asylum law and *general* human rights country conditions.

**You have the right to have an attorney present at the interview** if you hire one. You can also ask for another interview date if you want more time to look for an attorney or if you are not feeling well.



**Let the officer know if you’ve been interrupted and you need to finish your response:** You can say, "Excuse me, before responding to your new question I’d like to finish my answer to your previous question".

At the end of the interview, the Asylum Officer will give you a brief summary of your testimony – **make sure nothing is incorrect and that nothing major is missing**. Ask to add to anything at the end that the officer has not thought to ask you about.

## HOW TO WORK WITH AN INTERPRETER

You have the right to have everything said at your asylum interview and/or court hearing accurately translated. This Tip Sheet is designed to help you prevent confusion and misunderstandings that can occur when working with an interpreter either during your asylum interview or in court.

As a general rule it is a good idea to speak slowly, clearly, and loudly, as well as make sure to pause after each sentence or idea to give the interpreter a chance to interpret before they forget what you said. If you have not finished your answer to the question and someone interrupts just say “please, I’d like to finish my answer to the question”.



### **1. Ask for clarification if you do not understand a question.**



Example: Say you do not understand and ask that the asylum officer or judge repeat the question or rephrase the question.

Example: Say something like “If I understand you correctly, you are asking if the government police ever...” followed by “Is that correct?” or “If you are asking whether the police ever... than the answer is...”

### **2. Repeat the question in your answer to avoid confusion.**

Example: If you are asked “Did you last *see* your mother in 2011?” but the interpreter says “talked to” instead of “see” and you only answer “yes”, then it is thought that you are saying yes to the question asked in English, in other words that you “saw” your mother, not “talked to her. Instead, respond with a complete sentence like “The last time I *talked* to my mother was in 2011.” In this example, the individual lost asylum in part because there was a confusion between the words “see” and “talked” and the judge thought the person had changed their story and was lying.

### **3. Provide extra, clarifying detail.**

Example: In the example above, the individual could have said “The last time I talked to my mother *on the phone*...” instead of “The last time I talked to my mother...”

**4. Do not guess!** Always say the truth. If you are not sure about something it is ok to say so. You should, however, explain what you think and why you think that.

Example: “I am not sure who the men were who attacked me but I believe they were Al Shabaab because they were dressed like Al Shabaab and they threatened to kill me if I continued to work for the government.”

**5. Do not use absolutes** like “always”, “never”, “everyone”, “no one”, specific days or times, or specific numbers unless you are *absolutely* sure. The government can sometimes show that it is not always true and make you look like you are lying.

Example: Instead of “I left my country on August 6, 2016” say “I left my country around the first week of August” if you are not sure. In this example, the government lawyer had a passport with an exit stamp showing that the person left his country on August 8 and not on August 6. This makes the judge doubt other things you say during your case that may important.

## COMMON QUESTIONS

### **Motive**

- Who threatened/harmed you? (Even if you don't know their names you can give their aliases or other information about who you think they are and why you think they are that person/group.)
- Why did they target you?
- Have other family members, friends, acquaintances or similarly situated people been harmed? If so, why? What happened to them?

### **Level of Harm**

- How did they threaten/harm you?
  - How many times did they threaten/harm you?
  - For what period of time did they threaten/harm you? (first and last incident)
  - What was the worst incident? What happened? How long did it last?
- What [specifically] do you fear will happen if you are forced to return? Why will this happen?

### **Safety in Your Country**

- Can the police protect you? Why or why not? (If you have evidence of a complaint, you can tell the Asylum Officer.)
- Can you live in another part of your country? Why or why not?

## **SAMPLE QUESTIONS**

### **These questions are just a guide.**

The asylum officer will ask only some of the questions on the sheet as well as other questions that are not on the sheet.

### **You should NOT try to memorize these questions.**

Only read through them once. You do not want your answers to sound memorized and fake, or scripted by a smuggler. Otherwise you may lose your interview. You know your story better than anyone else so you should not worry too much about the questions.

## **INTRODUCTION**

To the interpreter, do you swear or affirm that you will interpret completely and accurately to the best of your abilities?

Do you understand the interpreter? What language do you speak and understand the best?

My name is \_\_\_\_\_ and I am the person who will do your Credible Fear Interview today. The purpose of this interview is to determine whether you have a fear of returning to your country and whether you may qualify for protection in the United States.

I am going to put you under oath. Please raise your right hand. Do you swear or affirm that you will tell the truth, the whole truth, and nothing but the truth?

Thank you, you can lower your hand. Please speak loudly, clearly and please speak in short sentences or phrases so that the interpreter can interpret everything you say.

## **BACKGROUND**

**Q. Do you still have a fear of returning to your country?**

Q. Todavía usted tiene miedo de volver a tu país?

**Q. Do you have an attorney/consultant to represent you?**

Q. Tiene un abogado o consultor/a?

**Q. Are you comfortable continuing without an attorney present?**

Q. Se siente cómoda continuar sin abogado?

**Q. We want to be sure that you know that you can speak to us about whatever fear that you may have. Do you understand?**

Q. Queremos estar seguros que sepan que ustedes pueden hablarme acerca de cualquier temor que puedan tener. Comprende usted?

**Q. What is your full name?**

Q. Cual es su nombre completo?

**Q. Have you ever been known by any other names or aliases?**

Q. Alguna vez ha conocido por otro nombre o alias?

**Q. What is your date of birth?**

Q. Cuál es su fecha de nacimiento?

**Q. Do you have any mental or medical conditions or concerns?**

Q. Tiene alguna condición medica o mental?

**Q. In what country where you born?**

Q. En que país nació?

**Q. Are you a citizen of \_\_\_\_\_?**

Q. Eres ciudadano de \_\_\_\_\_?

**Q. Are you a citizen of any other countries?**

Q. Eres ciudadano de otros países?

**Q. Have you ever lived in another country?**

Q. ¿Ha vivido usted en otro país?

**Q. Do you speak any other languages besides Spanish?**

Q. ¿Habla usted otros idiomas más que el español?

**Q. What is your race/ethnicity?**

Q. ¿Cuál es su raza?

**Q. What is your religious affiliation, if any?**

Q. ¿Cuál es su afiliación religiosa?

**Q. What was your last address in \_\_\_\_\_?**

Q. ¿Cuál fue la última dirección suya en \_\_\_\_\_?

**Q. Are you married, single, or living with a partner?**

Q. ¿Está usted casado, soltero, o vive con su pareja?

**Q. Do you have any children?**

Q. ¿Tiene usted hijos?

**Q. Have you ever been threatened by another form on any other occasion?**

Q. ¿Ha sido usted amenazada de otra forma o en alguna otra ocasión?

**Q. Why do you think you were designated?**

Q. ¿Por qué cree que usted fue señalada?

**Q. Did you report these threats to the police or to the appropriate authorities?**

Q. ¿Reportó usted estas amenazas a la policía o a las autoridades pertinentes?

**Q. When did you report it?**

Q. ¿Cuándo las reportó?

**Q. What was the response of the police?**

Q. ¿Cuál fue la respuesta de la policía?

**Q. Is it dangerous to report threats to the police?**

Q. ¿Es peligroso para informar de las amenazas a la policía?

**Q. Did the police investigate anything regarding your complaint?**

Q. ¿Investigó algo la policía acerca de su denuncia?

**Q. Did you think the police will protect you?**

Q. ¿Cree usted que la policía la protegería?

**Q. Did you think anyone else in the government would protect you?**

Q. ¿Cree usted que alguien más en el gobierno la protegería?

**Q. Why? Or Why not?**

Q. ¿Por qué sí? o ¿Por qué no?

**Q. Where did you live before you came to the United States? For how long?**

Q. ¿Dónde vivía usted antes de venir a los Estados Unidos? ¿Por cuánto tiempo?

**Q. What did you do for a living?**

Q. ¿A qué se dedicaba usted para ganarse la vida?

**Q. Why don't you want to return to \_\_\_\_\_?**  
Q. Porque usted no quiere regresar a \_\_\_\_\_?

**Q. Have you or a member of your family been threatened in \_\_\_\_\_?**  
Q. Ha sido usted o algún otro miembro de su familia amenazado en \_\_\_\_\_?

**Q. How many times?**  
Q. Cuantas veces?

**Q. Have you or a member of your family ever been injured, cut, or hit in any way in \_\_\_\_\_?**  
Q. Ha sido usted o algún miembro de su familia perjudicado, herido, golpeado de alguna manera en \_\_\_\_\_?

**Q. What do you think will happen if your return to \_\_\_\_\_?**  
Q. Que cree usted le suceda si usted regresa a \_\_\_\_\_?

**Q. Have you ever attempted to get protection from your government?**  
Q. Ha intentado alguna vez adquirir protección de su gobierno?

**Q. Did you hire/use a smuggler to bring to the United States?**  
Q. Utilizó usted a un contrabandista para que la trajera a Los Estados Unidos?

**Q. Do you remember if you were interviewed by the border patrol in \_\_\_\_\_?**  
Q. Recuerda usted haber sido entrevistada/o por la Patrulla Fronteriza en \_\_\_\_\_?

**Q. Are you afraid that someone in your government of \_\_\_\_\_ or people acting with the approval of the public officials will physically or mentally harm you for whatever reason?**  
Q. Teme usted que alguien del gobierno de \_\_\_\_\_ o personas actuando con el consentimiento de oficiales públicos puedan intencionalmente hacerle daño físico o mental por cualquier razón?

## NEXUS

**Q. Have you or a member of your family ever been discriminated against or injured based on your race?**  
Q. Ha sido usted o algún miembro de su familia discriminado o perjudicado por su raza?

**Q. Have you or a member of your family ever been discriminated against or injured based on your religion?**  
Q. Ha sido usted o algún miembro de su familia discriminado o perjudicado por su religión?

**Q. Have you or a member of your family ever been discriminated against or injured based on your nationality?**  
Q. Ha sido usted o algún miembro de su familia discriminado o perjudicado por su nacionalidad?

**Q. Have you or a member of your family ever been threatened or injured because of their political opinion?**  
Q. Ha sido usted o algún miembro de su familia amenazado o perjudicado por su opinión política?

**Q. Have you or your family ever been harmed because you are in a political party or because you go to political rallies?**  
Q. Ha sido usted o algún miembro de su familia perjudicado por su afiliación a un partido político o porque participa usted en manifestaciones políticas?

**Q. Have you or a member of your family ever been discriminated against or injured based on your membership in any particular social group?**

Q. Ha sido usted o algún miembro de su familia discriminado o perjudicado por pertenecer a algún grupo?

## **CONVENTION AGAINST TORTURE**

**I am now going to ask you a series of question regarding mistreatment from public officials, which includes the pólice, government officials, and military member.**

Ahora le voy a preguntar una serie de preguntas sobre el mal trato de funcionarios publicos que incluyen la policía, oficiales del gobierno, y miembros del ejercito.

**Q. Have you ever seen any pólice misconduct in your town?**

Q. Ha visto usted mala conducta policial en su pueblo?

**Q. Do you think anyone else from the government could protect you?**

Q. Cree usted que alguien mas del gobierno le puede proteger?

**Q. Have you ever experienced any mistreatment in the past by public officials or persons associated with public officials?**

Q. Ha usted experimentado malos tratos en el pasado de oficiales públicos o personas asociadas a los oficiales públicos?

**Q. Do you fear you could be harmed in the future by public officials or someone operating with the consent of public officials?**

Q. Tema usted que podría ser daño en el futuro por parte de oficiales publicos o alguien actuando con el consentimiento de oficiales públicos?

## **INTERNAL RELOCATION**

**Q. Do you think you could live in any other part of your country?**

Q. Cree usted que puede vivir en alguna otra parte del pais?

**Q. Why not?**

Q. Porque no?

## **MANDATORY BARS**

**Q. Have you lived in any other country?**

Q..Ha vivido en algún otro pais?

**Q. Have you ever had legal permission to live in any other country, beside the United States and your country?**

Q..Ha usted tenido permiso de vivir legalmente en otro pais, al lado de los Estados Unidos y su pais?

**Q. Have you ever persecuted or harmed another human being?**

Q..Ha usted perseguido o perjudicado a otro ser humano?

**Q. Have you ever been arrested for any reason in your country? Have you ever been convicted?**

Q. Ha sido usted arrestada por algún motivo en cualquier país? Ha sido usted. condenada/o ?

**Q. Have you ever supported, assisted or been affiliated with a group accused of using violence to obtain its objectives?**

Q. Ha apoyado, asistido o/y afiliada a grupos que han sido acusados de usar violencia como medios de obtener sus objetivos?

**Q. Have you ever served in the military?**

Q. Ha usted servido en las fuerzas armadas?

**Q. Have you received any military-type training?**

Q. Ha recibido algún tipo de entrenamiento tipo militar?

**Q. Did you use a smuggler to enter the United States?**

Q. Contrato a una persona para ayudarla entrar a los Estados Unidos?

**Q. Why did you tell the border patrol agent that interviewed you that you did not fear returning to your country and did not believe that you would be harmed if you returned to your country?**

Q. Porque le dijo al agente de la Patrulla Fronteriza cuando la entrevisto, que no tenía miedo de ser dañada en su país?

**Q. When they first interviewed you did you tell them you were not afraid?**

Q. Cuando la entrevistaron por primera vez le dijo que no tenía miedo?

### **END OF INTERVIEW QUESTIONS**

**Q. Aside from what we've discussed, do you have any other problems in your country?**

Q. De parte de lo que hemos hablado, tiene usted otros problemas en tu país?

**Q. Did you understand everything that I have asked you?**

Q. Entendió todo lo que le pregunte?

**Q. Did you have any problems understanding the interpreter?**

Q. Usted tuvo algún problema entendiendo al interprete?

**Q. Is there anything else that you would like to add that you think we have not covered today?**

Q. Hay alguna otra cosa que quiera añadir que no fue cubierta hoy?

## HOW TO PROTECT YOURSELF AGAINST FRAUD

### WHO CAN HELP YOU WITH YOUR IMMIGRATION CASE?

Just two groups of people are able to provide legal advice and services in your immigration case: 1) lawyers/attorneys and 2) accredited representatives from religious organizations, charitable, social services, or non-profit organizations recognized by the Board of Immigration Appeals (BIA).

### LAWYERS/ATTORNEYS



Although you are allowed to be represented by a lawyer, the court will not give you a lawyer for free. It can be very important to find a licensed and qualified lawyer who can help you understand your legal options. Remember that although it is very helpful to have a lawyer, you are not required to have one, and you should always go to your court hearings even without a lawyer representing you.

To find a lawyer please call the Asylum National Help Line at 612-746-4674 or refer to the Immigration Court's List of Pro Bono Legal Service Providers.

### NO TO NOTARIES!



You should know that in the US notaries public and immigration consultants are neither allowed, nor licensed or qualified to assist in immigration matters. Notaries and immigration consultants are not lawyers. They can cause serious problems in immigration cases due to their lack of legal training. They will charge you money but are not allowed under the law to represent immigration cases, so they won't go to court with you. In the United States a notary public is a civil servant who is authorized by law to certify official documents, take depositions and oaths.

- **Before paying any money, educate yourself on who can help you with your immigration case.**
  - Don't trust people who claim to have a special relationship with the Department of United States Citizenship and Immigration Services (USCIS) or who guarantee results.
  - Be careful with anyone who works in the United States claiming to be a lawyer in a foreign country but who's not a lawyer licensed in the United States.
  - Ask to see their bar certificates / card issued by the state (lawyers) or the letter of accreditation from the BIA (accredited representatives) before accepting advice or legal services.
- **Follow Some Precautions**
  - Ask for and save a written contract that explains what legal services you will receive.
  - Don't make cash payments for professional immigration services. If possible, use a check or credit card instead, and ask for and save a receipt.
  - Avoid giving away your original documents (birth certificates, passport or others) to anyone who's helping you with your immigration case. Make them a copy!
  - Don't sign a blank form, application or petition, or a document that you don't understand.
  - Don't sign any form, application or document that contain false or incorrect information.



### What to do if you've been victim of fraud?

Contact a non-profit law office, immigrant rights group, or another community organization that's trustworthy for advice on filing a state bar or EOIR complaint.