

Asylum, Withholding of Removal, Convention against Torture

***Thinking About My Claim**

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

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

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

Why did I leave my home country?

Who am I afraid of?

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

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

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

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

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My experiences in the past

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

Experience 1: date: _____

What happened to you? What happened to other people like you? _____

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

Why were they threatening or mistreating you? _____

How do you know they were specifically targeting you? _____

What did they say when they were threatening or mistreating you? _____

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

How do you know? _____

Who else did they threaten or mistreat, if anyone? _____

Did they threaten or mistreat your family or friends? _____

Experience 2: date: _____

What happened to you? What happened to other people like you? _____

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

Why were they threatening or mistreating you? _____

How do you know they were specifically targeting you? _____

What did they say when they were threatening or mistreating you? _____

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

How do you know? _____

Who else did they threaten or mistreat, if anyone? _____

Did they threaten or mistreat your family or friends? _____

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Experience 3: date: _____

What happened to you? What happened to other people like you? _____

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

Why were they threatening or mistreating you? _____

How do you know they were specifically targeting you? _____

What did they say when they were threatening or mistreating you? _____

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

How do you know? _____

Who else did they threaten or mistreat, if anyone? _____

Did they threaten or mistreat your family or friends? _____

Experience 4: date: _____

What happened to you? What happened to other people like you? _____

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

Why were they threatening or mistreating you? _____

How do you know they were specifically targeting you? _____

What did they say when they were threatening or mistreating you? _____

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

How do you know? _____

Who else did they threaten or mistreat, if anyone? _____

Did they threaten or mistreat your family or friends? _____

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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WRITING YOUR DECLARATION

What is a Declaration?

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

A Good Declaration Will:

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

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

What should be in the declaration?

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

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

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

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For example, suppose you lived in a small village in the mountains, in an area where there is a lot of fighting. One night, a group of men came. They went into the houses and ordered all the people to come out. They mistreated people and told all the men they would have to join their group or that they would come back and kill them.

Before describing this event in your declaration, you should talk about your village and what started this whole problem to begin with. Who is involved in the fighting? What is it about? How did it affect your village before this event? How did it affect you? Did it affect your relatives? Your neighbors? Which family members, and how?

When you speak about the event, you should describe it in great detail.

- *When did it occur? *At what time?
- *What were you doing when these men came?
- *How were the men dressed? *How many were they?
- *Had you seen them before? *When and where? *Were they armed?
- *What type of arms did they have?
- *Who were they? *Soldiers? *Guerrillas?
- *How do you know? *What did they look like?
- *What did the men do when they arrived? *Exactly what did they say?
- *How did they mistreat people? *Did they threaten you?
- *What threats did they make?
- *Did they touch or speak to you, your relatives, or your neighbors? How?
- *How much time did this incident last? *What happened afterwards?
- *How did it affect you and others in the village?

Describe everything you saw, everything that happened, and everything you felt.

What should the declaration look like?

You can type or print your declaration on separate pieces of paper, and it may be anywhere from two to ten pages long. It can be any length as long as it contains all the important information. Remember that if you use blank sheets of paper, you have to put your name, A number, the date, and your signature on each page. Also, write "Declaration" at the top. You should include it at the end of your Application.

How do I answer the questions in the Application using the Declaration?

On the application form, when you answer each of the questions in Part C, you can answer in a few sentences and then write "Please see Declaration." This way, you will have answered all these questions in one declaration. Be sure that there is information in the Declaration that answers each of the questions in Part C.

Where can I get more information about how to write a Declaration?

Read the packet called "HOW TO APPLY FOR ASYLUM AND WITHHOLDING OF REMOVAL" which you can find in the library, especially pages 25, 26 and 27.

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If you are applying for Asylum and Withholding of Removal:

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

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

Try to answer the following questions in writing your declaration:

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

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

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

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

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

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If you are applying for the Convention Against Torture:

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

How do I describe the harm or torture I suffered?

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

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

Try to answer the following questions in writing your declaration:

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

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

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

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

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DOCUMENTATION

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

General tips on documentation:

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

What kinds of documents should I try to get?

Official documents

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

Personal documents

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

Get started early:

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

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

A little can go a long way:

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

How to get documentation:

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

How to ask for documentation

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

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

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

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

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

This information will be kept strictly confidential.

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

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Testimony: preparing to talk to the Judge

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

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

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

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

***Credibility & consistency**

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

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

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

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

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

***Techniques for preparing testimony**

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

***Witnesses**

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

***Negative facts**

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

***Be courteous and respectful**

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

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***Stay calm!**

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

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

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

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