



Guidelines

Guidelines for exiled journalists

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Foreword

Thousands of men and women of diverse nationalities regularly flee persecution, leaving everything behind them from one day to the next, escaping from countries ravaged by war or dictatorship. All of them have suffered persecution because of their religion, nationality, membership of a social or ethnic group or their political opinions.

Hundreds of journalists are among this group, an average of six each month becoming refugees, or displaced, driven by the instinct for survival to flee their country of origin for their own safety.

These journalists pay a high price for speaking out freely. They go into exile to avoid further arrest, brutal score-settling or unfair sentencing to long years in prison.

This guidelines for exiled journalists has been produced to accompany, familiarise and inform them through this difficult process. Sadly, it cannot ease the pain of dislocation and exhaustion. But that will provide them with invaluable help, the practical assistance required to take the necessary steps to start their new lives.

This manual is not exhaustive. It does not set out to provide complete and tailor-made legal information. Rules governing immigration are complex and vary from one country to another, and often depend on the specific case of the asylum-seeker. This handbook is designed to describe the main steps and procedures for the exile, while pointing up the difficulties and obstacles.

These few pages do not moreover provide a formula for obtaining refugee status. Protection of new arrivals remains a sovereign decision of states, some of whom scorn or get round international law. Reporters Without Borders' work in this area can only have as much impact as government and bodies responsible for asylum will allow.

Reporters Without Borders also advises journalists in trouble to read accounts written by their colleagues who have found exile in different parts of the world. Their stories, which can be read on the organisation's website (http://www.rsf.org/en-pays228-Helping_journalists.html), shed light on the various stages of exile.

This essentially practical handbook is designed to be added to through further accounts and interviews. Please do not hesitate to share your own experiences with us (assistance@rsf.org).



BURMESE JOURNALISTS IN THAILAND

Journalists in exile

The current state of affairs

Hundreds of journalists are driven into exile. Between the start of 2007 and the end of 2008, Reporters Without Borders has assisted more than 200 media workers from 39 countries, mainly arriving from Africa and the Middle East, forced to flee their countries after being attacked or threatened for doing their job.



Most frequently government reprisals, but also terror groups, criminal gangs, drug-traffickers, religious extremists and political militants catch up with scores of journalists ever year. Some countries such as Eritrea, Somalia, Iraq, Iran, Afghanistan, Burma and Sri Lanka are emptying of their journalists, allowing the government to rid itself of embarrassing witnesses.

Journalists seeking asylum are in the majority victims of reprisals on the part of the authorities in their own countries. One third of them are targeted by armed militia, political or religious groups or organised crime.

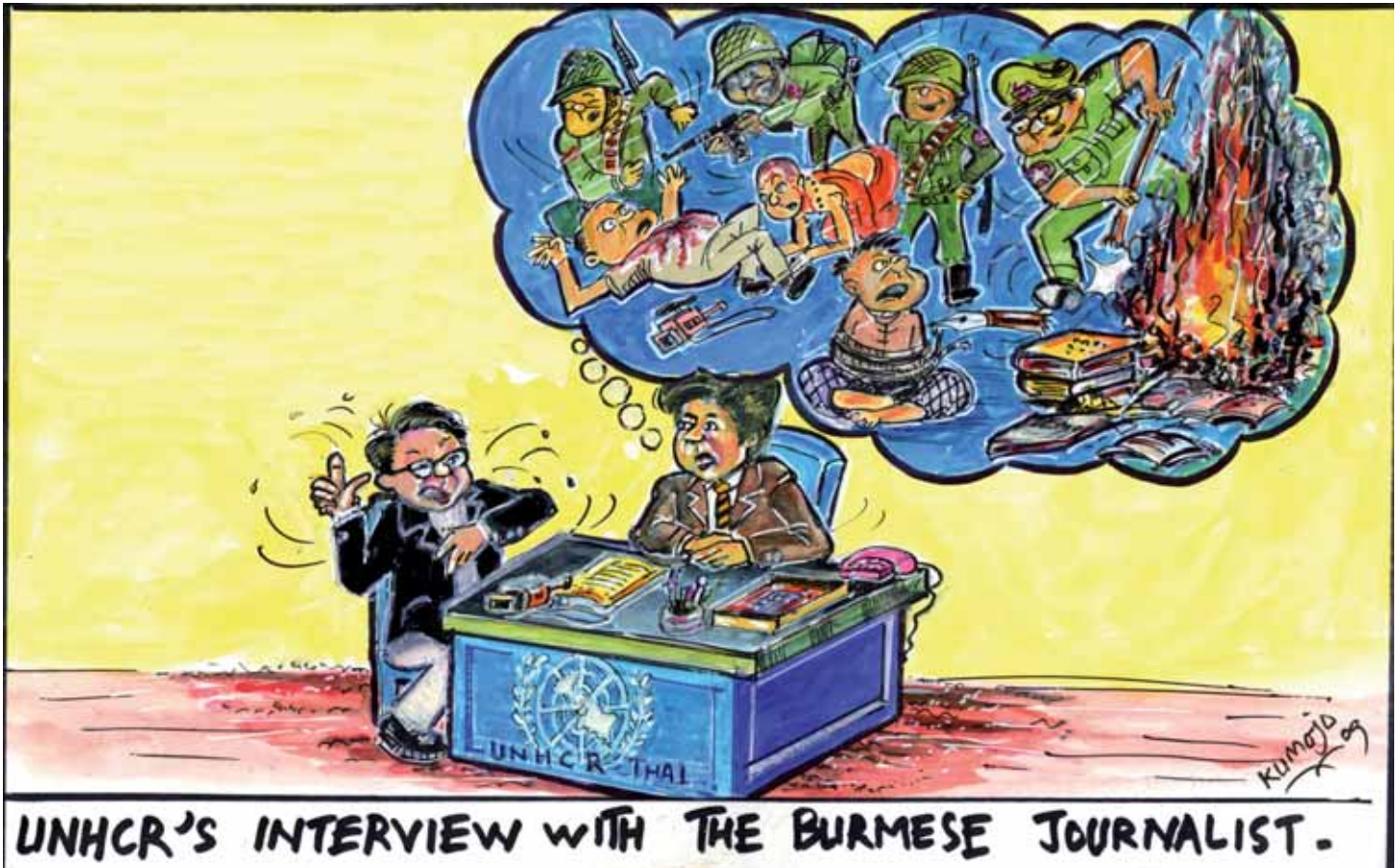
Most leave their country in haste in highly dangerous conditions, travelling at night, sometimes crossing borders on foot at night or concealed in makeshift vehicles. They often seek refuge in neighbouring countries in the, at times illusory, or protecting themselves from persecution. The country in which they arrive, their final stage, is rarely from choice. Refugee journalists are limited by their resources, the security situation and the legal apparatus of the country of refuge.

More than half of refugee journalists assisted by Reporters Without Borders try to make new lives in a safe country in which they have been able to apply for asylum, chiefly France, Sweden, Norway, Switzerland, the United Kingdom, Canada and the United States.

Many end up spending years in countries like Sudan, Yemen, and Turkey hoping to stabilise their situation and one day resume a normal life. It is rare for them to manage to integrate into these countries of refuge and most of them hope to go home or look for a welcome from a government in a safe country.

Some do go back to the country they fled. Even if their safety is not guaranteed in their own country, the threat of further imprisonment appears to them, during moments of despair, a fate less disagreeable than a life of rootlessness.

Reporters Without Borders is extremely concerned by the fact that many journalists risk their lives by using illegal immigration channels. This route can end in tragedy as in the case of an Eritrean journalist who died attempting to cross a desert and an Iranian blogger who ended up being imprisoned in a country in which he had hoped to find a safe haven. Eighty-two per cent of journalists arrive in Europe or North America illegally.



The procedure with the Office of the UN High Commissioner for Refugees

The Office of the UN High Commissioner for Refugees (UNHCR) has the task of leading and co-ordinating international action for the protection of refugees across the world. It tries to ensure that each person can gain the right of asylum in another country and seeks “lasting” solutions by helping refugees to return home or settle in another country.

It is vital to register with the UNHCR on arrival in another country because it puts the asylum-seeker under the agency’s protection and places obligations on the country of refuge. It is therefore essential that refugee journalists present themselves as soon as possible at the UNHCR offices to register and obtain information about the procedure to follow.

1. Procedure for refugee status determination (RSD):

The procedure varies from one UNHCR office to another, depending on the size of the protection operation, technical capacity, available resources and the number of asylum-seekers. Waiting times, getting interviews and meetings and the final decision also vary.

The main steps in the procedure are the following:

● Registration and procedure for seeking protection

This first step involves collecting general information about the identity of the applicant and their protection needs. There can be long delays at the reception of UNHCR because of the scale of the demands.

The staff responsible for registration will give the application a “RSD refugee status form” that has to be filled in completely, particularly those parts about reasons and circumstances of their flight.

● Registration interview

All personal documents and elements in support of the application for refugee status must be made available to the UNHCR at an individual and confidential registration interview. .

● Issue of the “UNHCR Asylum Seeker Certificate”

A “UNHCR Asylum Seeker Certificate” with a unique registration number is issued to the person registered. The certificate’s validity period varies according to the country but generally cannot be for more than one year. This is a vital document because it confirms the status of asylum seeker and protects them from being sent back to their country of origin.

Next the asylum seeker will be called for interview within a period that should not in principle be longer than six months.

● Interview with an UNHCR official

During the interview with the official and possibly with an interpreter, it is essential to describe in as full detail and as precisely as possible, preferably chronologically, the events that led to the request for asylum. At the end of the interview, the official will fix a date (usually within one or two months) when a decision will be given.

UNHCR staff are obliged to respect confidentiality and no information is sent back to the country of origin. Asylum seekers have access to impartial interpreters at every stage of the process and can, if they have any misgivings, explain the reasons for their doubts. In the same way, the asylum seekers can speak freely and in detail at all the different interviews without fear of any reprisals.

● Decision and possible appeals

If the decision is positive and refugee status is granted a “UNHCR refugee certificate” will be issued putting the refugee under the protection of the UN agency.

In the case of refusal, the asylum seeker will get a written explanation of the reasons for refusal and can decide to appeal within the timeframe communicated (more than 30 days). This appeal can be examined by another official. During the appeal process, the applicant can continue to benefit from the rights granted as asylum seeker.

2. Life in exile

Life in exile can be extremely hard. Many journalists have stressed to Reporters Without Borders that they live in makeshift lodgings, or share rooms with a large number of other people. Some work unofficially by doing small jobs because they are not generally permitted to work. Many refugee journalists in countries like Turkey, Mali, Senegal and Sudan report that their degrees and/or professional experience are not recognised and they have to accept irregular pieces of work or seek work in other sectors, such as building, agriculture and care-taking to survive.

It is impossible to give a length of time for this state of “transition” between the country they left behind and a satisfactory resolution of their situation. Some journalists wait several years for possible resettlement in a third country, others have been accepted after two to three years wait in an industrialised country and some manage to integrate in their country of refuge, that was initially temporary. Only one journalist was able to return to their country in 2008.

Reporters Without Borders advises journalists to be very wary in exile and to quickly make contact with the UNHCR and other local organisations that can help them. In some countries, “fugitives” can be at risk of arrest by local police or surveillance by government agents, infiltrated in the neighbouring country.

Non-governmental organisations (NGOs) such as the Red Cross, Red Crescent, and Amnesty International, can provide valuable help with protection and legal assistance, health, nutrition and education.

3. The outlook

Millions of refugees worldwide live with little hope of finding lasting solutions to their plight. UN High Commissioner Antonio Guterres constantly draws attention to this problem of exile. Figures produced by the UNHCR show that most refugees are still taken care of in their original region and not in the industrialised west.

This guide cannot provide the answer to when the UNHCR procedure will be completed. That depends on the individual case, cooperation with governments and humanitarian and development organisations. Many accounts by journalists refer to the length of the process. Like thousands of refugees worldwide, they languish in countries like Yemen, Sudan, Syria, Turkey and Thailand, trapped in prolonged exile without hope of either returning to their country of origin or of integrating in their country of exile. Almost one third of refugee journalists supported by Reporters Without Borders find themselves in this situation.

The UNHCR provides three solutions which are repatriation, integration where they are or resettlement in a third country which is neither the country of origin, or the country to which they fled.

UNHCR voluntary **repatriation** and reintegration is only applied to people who can find physical safety and social, legal and material means to stay alive, provide for themselves and maintain their dignity.

Resettlement allows refugees to leave countries in which they sought exile to go to another country which is prepared to welcome them. Refugees in this case are generally granted asylum or another form of long term residence. This applies to people who are able to prove they are in danger in their country of origin as well as

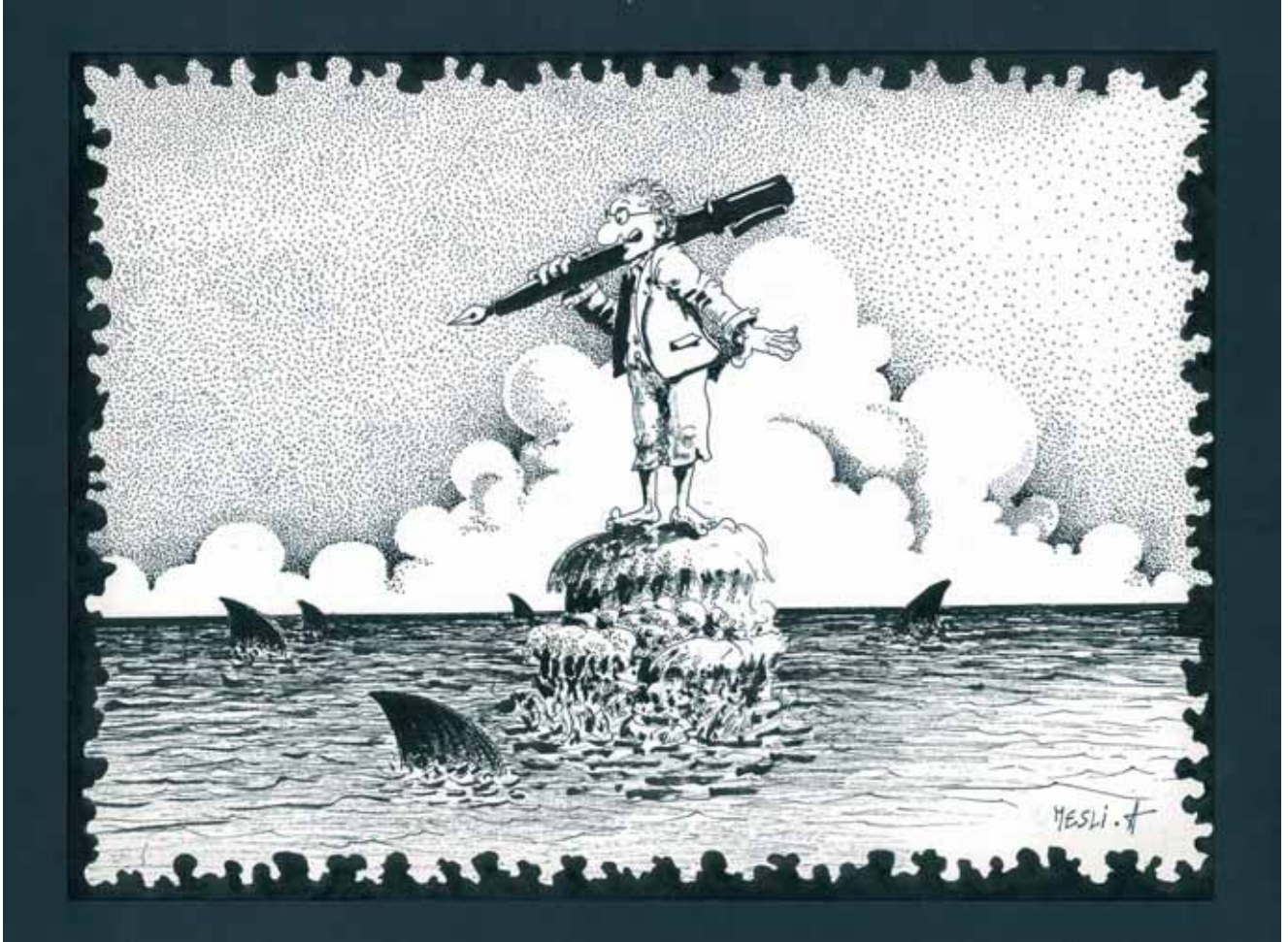
in their host country. Worldwide, 99,000 people were resettled in 2007. Some 73,500 refugees were admitted to countries such as the United States (48,300), Canada (11,200), Australia (9,600), Sweden (1,800) Norway (1,100) and New Zealand (740). This represents less than one per cent of the world's refugees and the UNHCR is trying to establish ways of resettling refugees more efficiently and each year concludes agreements with countries likely to take in such arrivals.

Different criteria such as safety in the country of origin and the host country as well as the vulnerability of the asylum seeker are taken into account to determine those who can benefit from the programme.

Since the start of 2007, eight journalists and their families have been resettled in third countries (the United States, Canada, France, Netherlands and Norway). In cases where there is armed conflict or civil war in a country, it is more difficult to secure resettlement since the number of asylum seekers and the distress of the population are heightened. Because of this, only a minority of Iraqi journalists supported by the organisation, who are living in exile in Syria or Jordan have been able to benefit from resettlement.

The UN refugee agency also promotes **integration in-country**. This complex and progressive process favoured by the agency's external offices, is done on a case by case basis. This solution depends on political, legal and socio-cultural conditions in the country of refuge. A Chadian journalist was able for example to settle down permanently in Benin after several months living in exile there.

Website :
www.unhcr.org



Seeking asylum, general advice

Exiled journalists who find themselves in a country with rules about protection of refugees, as in Europe and North America, must request asylum immediately on arrival in the country.

Although rules and procedures vary from one country to another (this is covered in chapters 4 and 5), the following essential advice applies in every situation:

- Only trust yourself and competent individuals.

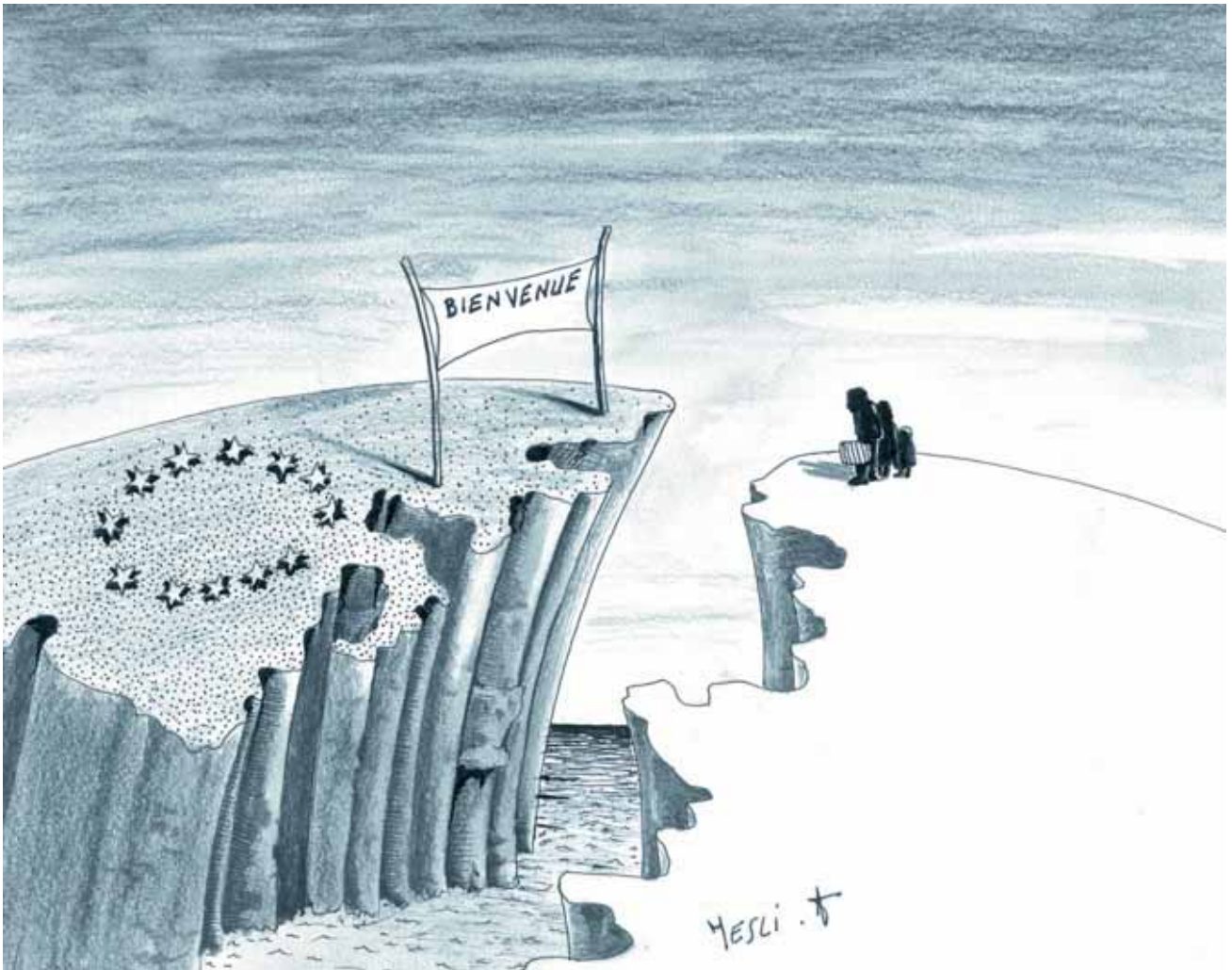
Always consult specialised organisations and lawyers to get assistance during the asylum procedure. Many other people, who are more or less well intentioned, offer their help or give advice in situations in which they are not competent. Information of this sort should always be checked out. Taking bad advice can result in rejection of an asylum application or in wasting a lot of time.

- Give your account in a detailed, precise and coherent manner.

Consideration of an asylum application is always based on the applicant's oral or written account, which must always be personal and individual. Do not hide anything. Since the officials are bound to observe confidentiality, asylum seekers can put themselves in their hands without risk. Your account must be clear, coherent and chronological. The least contradiction can discredit your explanation. Never in any case add claims about imprisonment or assaults that did not happen.

- Produce as many pieces of evidence as possible.

It is vital to produce evidence, particularly those that are easy to obtain, without taking any serious risk. This should include press cards, articles, and copies of reports and so on.



Seeking asylum in Europe

Asylum seekers in Europe cannot choose their country of reception!

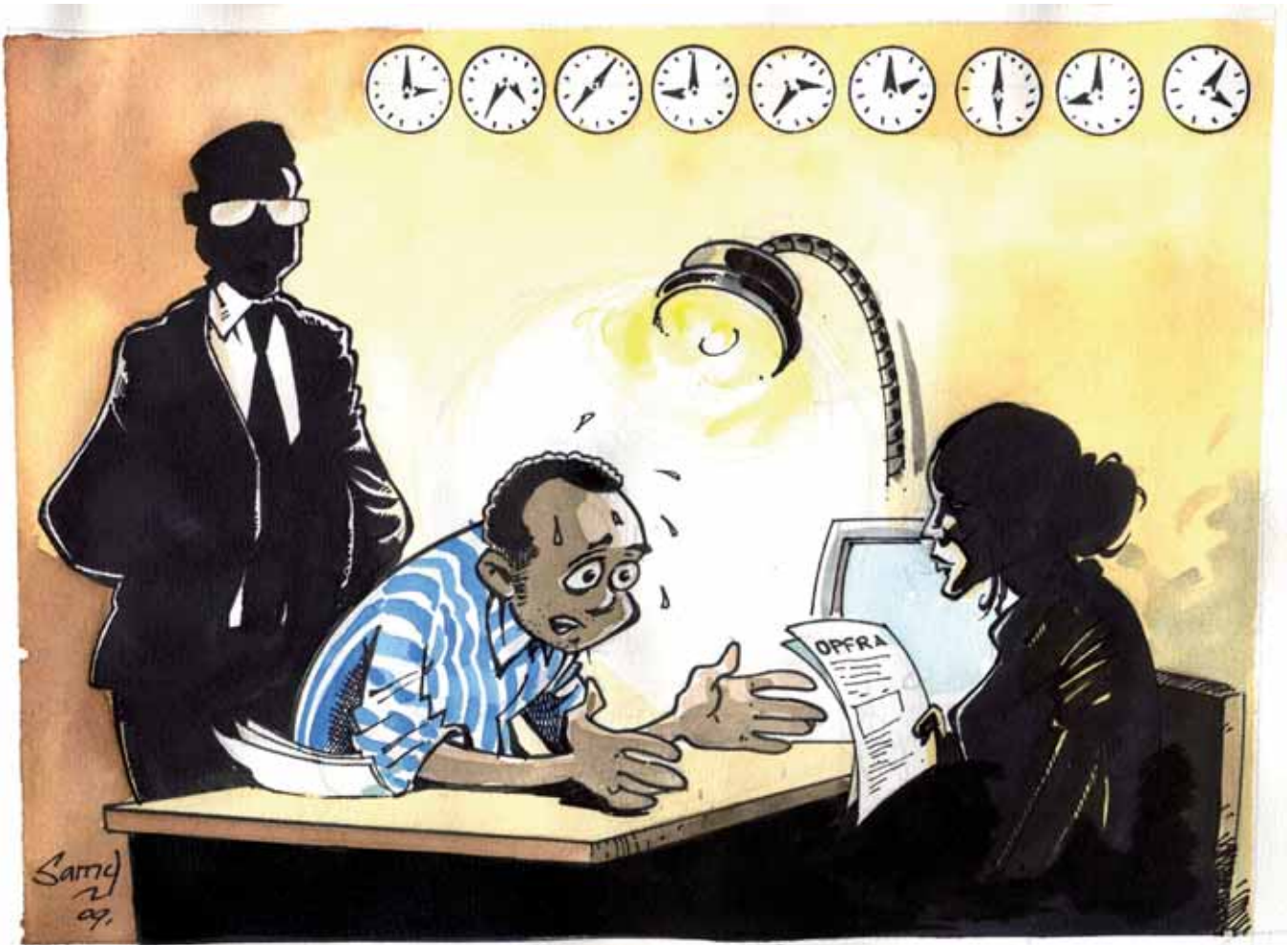
Each European country has its own rules for granting refugee status and European rules only cover minimum standards. The conditions of reception, the quality of asylum procedures and decisions taken vary considerably from one country to another. Some European countries, where journalists do not have the right to stay or to lodging, cannot offer genuine protection. For a given nationality (Iraqi, Somali or Sri Lankan), the recognition rate can vary from zero to almost 100% according to the country involved, according to UNHCR figures.

Europe does not have a common immigration policy but has centralised the management of external borders.

The "Dublin Rules" established a mechanism determining in which country an asylum application should be made. It forces refugees to apply in the country that gave them a visa, or in the case of illegal entry, in the first country entered. Registration of asylum seekers on a centralised data base with Eurodac keeps governments informed of countries giving visas and the place of entry into European territory. Any minimum customs or police check allows refugees to be identified from their fingerprints. Moreover, if an application is refused in one European Union country, it is not possible to seek asylum in another.

Journalist asylum seekers have to apply in the country that gave them a visa, in the case of legal entry, and failing that, in the first country they arrive in. Family and professional ties are not enough to overturn the strict regulations and exceptions to the Dublin Rules are very rare.

People have been seeking exile arrive in huge numbers on the Greek Aegean coast or on the Italian islands, like Lampedusa. Governments which have been overwhelmed by the influx routinely refuse asylum applications and living conditions are harsh. Some journalists, particularly in Greece live in appalling conditions. Very often clandestine arrivals, mostly from Iraq, cross different European countries dodging police checks in an attempt to settle in more welcoming countries such as Germany or Sweden. This journeys can turn to be risky as one young Iraqi journalist found, who after months of drifting around different European countries like Germany, Belgium and the Netherlands, was sent back to his starting point in France, the country he first arrived in.



Seeking asylum in France

1. criteria for recognition and protection

The French Office for the Protection of Refugees and Stateless Persons (l'Office français de protection des réfugiés et apatrides OFPRA) can initially provide a number of different kinds of protection, as does the National Court for Asylum Rights (Cour nationale du droit d'asile CNDA), in the case of an appeal, depending on the foreigner's situation.

- *refugee status (le statut de réfugié)*, based on the Geneva Convention of 28 July 1951.
- *constitutional asylum (l'asile constitutionnel)*, based on paragraph 4 of the preamble to the 1946 French Constitution.
- *subsidiary protection (la protection subsidiaire)*, based on Articles L.712-1 to L712-3 of the Code for Entry and Residence of Foreigners and the Right of Asylum (CESEDA).

Asylum seekers do not have the choice of different forms of protection, which are decided by the relevant authorities in accordance with each case.

2. procedure for seeking asylum

● Application to the prefecture for right of residence

Before making an application for protection, it is essential to go to the local prefecture and apply for the right to reside on French territory as an asylum seeker. The prefecture will give the applicant a notice of asylum (**notice d'asile**) form.

Asylum seekers stopped at the border can be placed in a waiting area if they do not have the necessary documents to enter France. They must show at interview that their request for asylum is not demonstrably unfounded.

If under the Dublin Rules (see above), France is not the right country to receive the asylum request, the procedure is suspended while waiting for a reply from the responsible country. The determination of which state is responsible should not take more than five months and a transfer accomplished within six months of acceptance by the state responsible. During this period, which can therefore take several months, the asylum seeker cannot claim any financial assistance or housing. .

A receipt confirming that an asylum application has been made, a yellow document valid for three months, allows residency in France while the application is being considered. This does not permit the applicant to work.

● The OFPRA procedure: initial authority

The asylum seeker's file which must be obtained from the prefecture at the time of the asylum application includes an explanatory note (**notice explicative**).

The file must be completed in French and documents in a foreign language must be accompanied by a translation into French by a "certified translator". It must be sent with an 'account of what happened' (récit de vie), a description of any persecution with all items relating to persecution and the applicant's fears. It is important to include press cards, articles, and any copies of newspaper which the refugee journalist might have in their possession, to strengthen the credibility of their case. It is vital to back up an application and to provide precise justification of persecution fears.

The completed file should be sent to OFPRA within three weeks. It is essential to meet this deadline, because otherwise the asylum application is inadmissible. It is advisable to keep a copy of the case file and all attached documents.

The file can be added to at any time, including after the interview, until the decision is notified.

Before making a decision, OFPRA will summon the asylum seeker to an interview at which point they will be interviewed by an OFPRA official who will ask questions, if necessary with the help of an interpreter. It is not compulsory for a lawyer to be present during this stage of the procedure, when it is possible to ask for help from organisations which supports asylum seekers. The wait for a summons can be several months.

Next, OFPRA will give its decision:

- If it is positive, the applicant will be notified by registered letter.
- If OFPRA refuses the application, notification is also sent through the post. Reasons must be given for a negative response.

● Appeal before the National Court for Asylum Rights (CNDA)

If an asylum application is rejected, an appeal against the decision by OFPRA can be made to the CNDA. At this point it is strongly recommended to have a lawyer.

The appeal application must reach the CNDA within 30 days of reception of the OFPRA refusal.

The appeal must outline:

- The asylum seeker's reasons for contesting the OFPRA decision, a reply to the arguments that led to OFPRA's rejection;
- The reasons the asylum seeker left their country of origin, the persecution they suffered or feared, justifying asylum claim.

The CNDA hearings are usually heard in public and the asylum seeker can speak in support of their case, be assisted by an adviser and an interpreter and be accompanied by people who are able to speak in support of the application.

Appeals which "do not present any serious element to challenge the reasons for the decision" by OFPRA to refuse the application can be rejected by a ruling, and thus without a hearing. Therefore it is best to send CNDA a more detailed and personalised argument than provided to OFPRA and also to try to bring in new elements.

An appeal to CNDA is "suspensive", meaning that the asylum seeker can continue to reside legally in France until the CNDA has ruled on the appeal. The sending of an acknowledgement of receipt allows the asylum seeker to get their receipt renewed at the prefecture, unless the applicant comes from a country that is considered to be safe ([liste des pays considérés sûrs](#)).

The CNDA decision:

- If the asylum seeker's application is accepted, the foreigner will receive a residency document bearing the stamp "recognised as a refugee" (reconnu réfugié).
- If the appeal is rejected, the applicant is no longer considered to be an asylum seeker. The receipt is withdrawn and they will be notified of denial of residency, along with an invitation to leave the country voluntarily within one month or by an obligation to leave in the same period of time.

CNDA decisions are rarely challenged, although a case can be taken to appeal before the state council (Conseil d'Etat). However, this jurisdiction cannot re-examine the reasons for the asylum application, but limits itself to checking the legality of the CNDA decision. It is possible to ask for a re-examination of the application by OFPRA and possibly by the CNDA, but there must be new facts that have become known after the date of final refusal.

3. The rights of asylum seekers and refugees

● During the asylum procedure:

- The asylum seeker has the right to a one-month provisional residency permit (Autorisation Provisoire de Séjour APS), then three-monthly receipts (récépissés de trois mois) until the end of the procedure.
- Asylum seekers are not allowed to work. Even if they find an employer it is very rare to get permission to work.
- The asylum seeker can receive state assistance during the wait for determination of an application in the form of lodging, or in the form of a monthly benefit (**allocation temporaire d'attente** (ATA))
- **La Maison des journalistes** in Paris provides free lodgings for six months to journalist asylum seekers.
- There are organisations which help asylum seekers, including providing them with French lessons.

● Once refugee status is obtained:

Those with refugee status have the same rights as French nationals.

They can get French language courses from the National Agency for the Reception of Foreigners and Migration (l'Agence Nationale d'Accueil des Etrangers et des Migrations (**ANAEM**)). Learning French is vital to integration in the country and for finding work.

Reporters Without Borders has found that, although some refugee journalists manage to remain in the profession, the vast majority of them retrain or find a job in a different sector.

4. Essential contacts:

● Institutional contacts:

Office français de protection des réfugiés et apatrides : <http://www.ofpra.gouv.fr/>
Cours nationales du droit d'asile : <http://www.commission-refugies.fr/>

● Organisations providing assistance to asylum seekers:

Legal assistance:

Amnesty International : <http://www.amnesty.fr/index.php/amnesty>
L'Anafé, National Association for Border Assistance to Foreigners (waiting area) : <http://www.anafe.org/index.php>
La Cimade (NGO working with refugees): <http://www.cimade.org/>
Le Gisti (information and support group specialising in law): <http://www.gisti.org/index.php>
Human Rights League : <http://www.ldh-france.org/-Etrangers->

Domiciliation and integration:

Forum Réfugiés (Refugees Forum) : <http://www.forumrefugies.org/>
- Livret d'accueil du demandeur d'asile en sept langues (welcome pack for asylum seekers in seven languages)
- Guide du demandeur d'asile (versions française, anglaise et russe) (asylum seekers guide in French, English and Russian)
- Fiches techniques apportant des informations sociales (practical information on social issues)

France Terre d'Asile (NGO working with asylum seekers and refugees): <http://www.france-terre-asile.org/>
La Maison des journalistes (The House of journalists shelters journalists for six months) : <http://www.maison-desjournalistes.org/>



Seeking asylum in other European countries (contacts)

Members of the European Council on Refugees and Exiles (ECRE) a network of organisations which aim to promote the protection and assistance to refugees in Europe, can provide assistance to asylum seekers: www.ecre.org

● Germany

Institutional contact:

– Federal Office for Migration and Refugees: www.bamf.de

Organisations providing assistance to asylum seekers:

– Pro Asyl: www.proasyl.de
– Refugee Council: www.fluechtlingsrat-berlin.de

● Belgium

Institutional contact:

– Office for foreigners in Belgium: <http://www.dofi.fgov.be/fr/1024/frame.htm>

Organisation assisting asylum seekers:

– Coordination and Initiatives for Refugees and Foreigners (CIRE) : <http://www.cire.irisnet.be/>
CIRE practical guide: <http://www.cire.irisnet.be/ressources/guides.html>

● Spain

Institutional contact:

– Office of Asylum and Refugees (OAR): http://www.mir.es/SGACAVT/extranje/asilo_refugio/

Organisations assisting asylum seekers:

– Spanish Committee for the Aid of Refugees (CEAR) : <http://www.cear.es/index.php>
– Accem (Spanish Catholic Commission on Migration): <http://www.accem.es/>

● Great Britain

Institutional contact:

– UK Border Agency (UKBA): <http://www.ukba.homeoffice.gov.uk/asylum/>

Organisations assisting asylum seekers:

– Refugee Council: <http://www.refugeecouncil.org.uk/>
Guide in several languages: <http://languages.refugeecouncil.org.uk/>
– Refugee Action: <http://www.refugee-action.org.uk/>
Guide to applying for asylum 1: http://www.refugee-action.org.uk/RAP/asylum_application1.aspx
Guide to applying for asylum 2: http://www.refugee-action.org.uk/RAP/asylum_application2.aspx

Organisation assisting exiled journalists:

– Exiled Journalists' Network (EJN): <http://www.exiledjournalists.net/>

● Italy

Institutional contacts:

– Territorial Commission for the Recognition of Refugee Status: <http://www.interno.it/mininterno/export/sites/default/it/temi/asilo/>
– Central Service for Protection of Refugees: <http://www.serviziocentrale.it>.

Organisations assisting asylum seekers:

– Italian Council for Refugees: www.cir-onlus.org
– Caritas : <http://www.caritas.it/templates/0/Benvenuti.asp>

● Sweden

Institutional contact:

– Migrationsverket: www.migrationsverket.se/

Organisations assisting asylum seekers:

– Caritas: <http://www.caritas.se/>
– Network of Asylum and Refugee Support Groups (FARR) : <http://www.farr.se/>

● Switzerland

Institutional contact:

– Federal Office for Migration: <http://www.bfm.admin.ch/bfm/fr/home.html>

Organisations assisting asylum seekers:

– Swiss organisation for assisting refugees (OSAR): http://www.fluechtlingshilfe.ch/?set_language=fr
Guide for asylum seekers: <http://www.fluechtlingshilfe.ch/aide/refugies>



Seeking asylum in North America

Canada and the United States have signed a “Safe Third Country agreement”, under a person seeking asylum who arrives in the United States before reaching Canada, is obliged to seek asylum in the United States and vice versa.

1. Seeking asylum in Canada

Under the Canada’s Immigration and Refugee Protection Act (“IRPA”) a person seeking asylum in Canada can claim protection as a refugee and/or person in need of protection.

A Convention Refugee is a person who is outside of their country of nationality(ies) and who has a well founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion. The person must also be unable, or because of their fear unwilling to get protection in the country or countries of his/her nationality(ies). If the person does not have a country of nationality, the person must be outside of their country of habitual residence.

A “particular social group” includes groups that are defined by an innate or unchangeable characteristic, groups that associate for reasons fundamental to human dignity or groups associated by a former voluntary status, which is unchangeable for historical reasons. Gay men or women, human rights activists, abused women, union members are examples of social groups.

A person in need of protection is a person in Canada whose removal from Canada would subject them to torture or to a risk to their life or to a risk of cruel and unusual treatment or punishment if:

- The person is unable or unwilling because of fear to get protection in their country of nationality(ies)
- The risk would be faced by the person in every part of their country and is not a risk generally faced by other people from that country
- The risk is not due to lawful sanctions (ex. Imprisonment, fine etc), unless those sanctions contradict international standards,
- The risk is not caused by the inability of the country of nationality to provide adequate health or medical care.

A person who is found to be a Convention Refugee and/or a Person in need of protection can later apply in Canada for Permanent Residence, and eventually for Canadian citizenship.

1.1 - How do you make a claim for refugee protection?

To claim refugee protection, it is necessary to appear before an immigration officer at any port of entry to Canada (a border crossing, an airport or a seaport), at a Canada Immigration Centre (in Canada) or at a **Canada Border Services Agency** (CBSA) office. Any person, who is not a Canadian citizen and has fear to return to their country, can claim refugee protection. The officer will interview the claimant, as the **refugee claimant**, and unless the officer determines that the claim is not eligible (cases when potential claimant has serious criminality), otherwise he or she will send it to the **Refugee Protection Division** of the IRB. If the officer does not make a decision within three working days, the claim will be automatically sent to the IRB for consideration.

The refugee claimant must show that his or her claim meets the conditions for being referred to the IRB - in other words, that he or she is eligible for refugee protection. For this purpose the claimant attends an “eligibility” interview, briefly he explains the grounds of his claim. The majority of the cases are found “eligible”, unless claimant has found to claim otherwise, or found to be a risk because of past serious cases of criminality or genocide.

If the claim is eligible and it is referred to the IRB, information is given about the hearing process. This information will include a **Personal Information Form** (PIF) that must be completed within 28 days. The PIF must be filled out in full, stating the facts of your claim accurately and truthfully.

The following chart illustrates the refugee determination process:

The PIF (Personal Information Form) is a crucial document. The first parts cover biographical data from the claimant. The second part of the PIF, particularly question 31 address the reasons of the claim or “personal narrative”. This is the heart of the application, if this form is not accurate or does not cover all the important aspects of the claim; the ending could be negative.

After the PIF is submitted this is 28 days after the eligibility interview, there is a period of approximately 8 to 14 months to schedule the refugee hearing. During this period claimant has the opportunity to gather all the relevant evidence to support his claim. He has until 20 days before the hearing to submit these evidence in English or French. Only evidence that is presented in any of this language could be considered.

Regularly after the eligibility interview claimants are give the status of refugee claimants, and are cover under federal interim health coverage for the time approved in their document. Claimants are eligible for a work permit after prove of medical check done and as well as prove of PIF submission.

Once the refugee hearing is held, the board member who is the deciding officer, can deliver a positive or negative decision after the conclusion of the proceedings. The board member could also send a written decision after the hearing within one to three months after the hearing was held.

1.2 - Some useful information, tips and pointers

Credibility is a central issue in refugee claims. Some factors that can negatively affect credibility are:

- Discrepancies in the information that a refugee claimant provides to the Canadian government at different stages of the refugee process;
- Delay in claiming refugee status after arrival in Canada;
- Returning to the country of nationality, even briefly, despite the alleged danger
- Failure to claim refugee status in safe countries that the claimant has previously travelled to or has been in on his or her way to Canada (Note: Canada has a “Safe Third Country Agreement” with the US. This means that, with some exceptions, if a person seeking asylum first arrives in the US before coming to Canada, that person is expected to claim in the US)
- Lack of evidence that a person should reasonably have been able to obtain without endangering their life or the lives of others
- If the claimant has not look for any form of “official protection” such as police or human rights organizations in his or her country unless there is a very good reason of why not.
- If he has not approached other “informal protection” like NGO’s at local or international level.

To avoid or help mitigate some common credibility problems it is important to be conscious of the above factors.

Furthermore be careful to:

Fill out forms and answer questions from immigration officials as accurately as possible. For example if you’re asked when you travelled to a particular country actually double check the date stamped in your passport, rather than make a guess that you may not be sure of. No one’s memory is perfect. If you are not sure of a date write or say “Approximately _____”.

Be thorough. When you’re filling out forms or giving oral information omitting important facts of your case can cause you credibility problems later on.

Before you leave your home country try to get as much evidence to help your case as possible. The ideal is to be able to support everything you say in your refugee claim with evidence. It is understood that it may be too risky to get some evidence, but do your best to get safely-obtainable evidence. Original documents are best. Examples of important evidence include: medical reports, newspaper articles, photos, police reports showing any attempts you've made to get protection in your home country, identity documents, membership documents (ex: professional certification documents, educational certificates, letters from employers etc.), originals of articles that you've written. If you are providing letters from friends, family members, colleagues etc. in support of your claim, it's best to have those letters notarized and to have a copy of the letter writer's identity document (ex. passport identity page) attached to the letter.

Other tips

- As reporter, gather all the evidence related to your job as journalist, articles published, photographs, information of the media you work with.
- If not in danger, inform trusted organizations and request their help. Reporters Without Borders, international human rights organizations.
- Keep track of menacing events such as threats, calls, letters sent to you or the media.
- Seek professional legal assistance prior to or when you arrive in Canada. A legal professional will help you to maximize the strengths of your case and minimize the weaknesses.
- Do not rely on advice from unqualified people. Many friends, members of cultural communities etc. are often just trying to help when they give recommendations. However, relying on these recommendations without confirming advice with a professional can be risky.
- Listen to your intuition. If you find someone's advice, even if they're a legal professional, questionable or unethical, get a second opinion. If you find that a legal professional is not devoting a reasonable amount of time to your case, you may want to retain the services of a different person.
- Make sure you understand and that you're being understood. No one knows your situation better than you do. Clarify inaccuracies and ask questions when you have doubts.
- Don't withhold information from your lawyer or immigration consultant. It may be difficult to talk about certain things, you may be embarrassed or ashamed of certain information, however it's important that your lawyer or consultant have as much information as possible in order to best further your interests.
- Take advantage of community support systems. There are many people and services in Canada who are here to help you.

1.3 - During the Process:

During the process of applying as a refugee claimant there is a short period (2-4 weeks) that the claimant does not have official status. Claimant goes to the office and declares he wants to make a claim.

Once claimant has a valid document stating that he is a refugee claimant, then the claimant and family are allowed to request social assistance if they needed. Claimant is not allow to work until they submit the PIF, and after they request a work permit. The work permit could still take up to 3 more months after the PIF is submitted. During this time however social assistance is provided if the claimant do not have resources of his own. Social assistance or welfare would barely provide enough money to pay a rent and to pay for food. It is given considering the number of family members. Single person received more or less 600 to 700 hundred dollars

to pay for his basis expenses. There are several organizations in Canada that provided additional resources for refugees. In Vancouver, Inland provides furniture, clothing, food. There are other that provide medical care and settlement services.

There are also free English classes for refugee claimants. If claimant wants to study he or she needs to apply for a study permit.

There is legal aid available for claimants to pay for a lawyer to represent them in their cases. Also some money for translations and interpretations. However due to budget constraints, Legal Aid in BC will be only available for exceptional cases. After this cuts, around the beginning of February a lot of people were told that there was not funding for their legal expenses.

Now most of refugees need to retain privately a lawyer or a consultant to present their cases before the IRB.

1.4 - After the process is done:

An accepted refugee claimant would also receive free English classes to a basic level, and if is still in need will continue to receive social assistance. Organizations will provide settlement services, job finding skills.

Refugee still needs to apply as a permanent resident, and this process will take from 6-12 months to process. Before that happen, refugee needs to continue obtaining work or study permit.

As a worker once they hold a work permit they are cover with the same rights as any worker in Canada. This includes workers compensation if they are injured or unemployment insurance if they are laid off after certain time of working. If they are working they can apply for provincial medical coverage.

1.5 - Links and contacts:

Canadian Council for Refugees:

<http://www.ccrweb.ca/eng/engfront/frontpage.htm>

NGOs' that help refugees:

Vancouver area

Immigrant Services Society of BC (ISS)
530 Drake Street
Vancouver, BC V6B 2H3
Phone: (604) 684-7498
E-mail: settlemt@issbc.org

Inland Refugee Society of BC (Inland)

101 – 225 East 17th Avenue
Vancouver, BC V5V 1A6
Phone: (604) 873-6660
E-mail: irsbc@telus.net

Mennonite Central Committee (MCC)

660 East 51st Avenue
Vancouver, BC V5X 1C9
Phone: (604) 325-5524
E-mail: admin@mccbc.com

MOSAIC

(Multilingual Orientation Services Association
for Immigration Communities)
1720 Grant Street, 2nd floor
Vancouver, BC V5L 2Y7
Phone: (604) 254-9626

OPTIONS

Multilingual Help Line
100 – 6846 King George Highway
Surrey, BC V3W 4Z9
Phone: (604) 572-4060

Storefront Orientation Services (SOS)

360 Jackson Avenue
Vancouver, BC V6A 3B4
Phone: (604) 255-4611 (Spanish) or
(604) 253-8859 (Chinese)
E-mail: director@sosrefugee.org

SUCCESS

(United Chinese Community Enrichment
Services)
Phone: (604) 684-1628 (Downtown Vancouver
office)
(604) 468-6100 (Tri-city office)
(604) 270-0077 (Airport Reception Centre)

Surrey-Delta Immigrant Services Society

1107 – 7330 137th Street
Surrey, BC V3W 1A3
Phone: (604) 597-0205

**Vancouver Association for Survivors of
Torture (VAST)**

2618 East Hastings Street
Vancouver, BC V5K 1Z6
Phone: (604) 299-3539
E-mail: care@vast-vancouver.ca

2. Seeking asylum in the United States

Through grants of asylum, the United States seeks to protect those who face persecution in their home country on account of race, religion, nationality, membership in a particular social group or political opinion. There is no guarantee of success, however, and achieving a grant of asylum can be substantively and procedurally difficult. In 2007, a total of 25,270 people were granted asylum in America (less than the 26,207 individuals who were granted asylum in 2006 and far lower than the 39,026 successful petitions in 2001). Petitioners from China, Columbia, Haiti and Venezuela were among the top source countries.

Below is an overview of the procedure if you intend to seek asylum in America if you fear persecution in your home country.

2.1 - The basics and criteria

- **Asylum** is designed for individuals who are already in the U.S. or at a port of entry and have a “**well-founded fear of persecution**” in their home countries on account of **race, religion, nationality, membership in a particular social group, or political opinion**.

- Journalists who apply for asylum usually fall under the “membership in a particular social group” and the “political opinion” categories.

- A person does not need to be in America legally to apply for asylum through the “**affirmative**” asylum process (which is less adversarial than the “**defensive**” asylum process).

- Even if a person’s visa has expired, or he or she does not have valid status in the U.S., he or she can apply **within one year of arrival in America**.

- An asylum-seeker can bring his or her family (spouse and minor children) and gain legal status for them should he or she be granted asylum.

- Two U.S. departments, the **Department of Homeland Security** (DHS) and the **Department of Justice** (DOJ), oversee different aspects of asylum procedure, which can make the process confusing. DHS provides answers to **Frequently Asked Questions** (FAQ), and DOJ offers this **Fact Sheet**.

- The basic criterion for the asylum-seeker is a “well-founded fear of persecution” in his or her native country based on his or her membership in one of the five designated categories (race, religion, nationality, membership in a particular social group, or political opinion).

- Asylum is **not available** to individuals who have persecuted other people who fall into the five designated categories; have committed serious, nonpolitical crimes; pose a danger to the U.S.; or were “firmly resettled” in another country before coming to America. (DHS conducts extensive background and security checks on all asylum applicants to ensure no connections to serious crimes or terrorism.)

- The difference between an asylee and a refugee is that asylum-seekers are already in the U.S. (legally or illegally), or they’re at a port of entry. **Refugees apply from outside the U.S.** by reaching out to the United Nations or the U.S. Embassy or consulate. When the U.S. decides to allow a refugee into America, he or she is **placed within a pre-determined community in America and given housing and job placement assistance**. The remainder of this document focuses on the asylum, not the refugee, process.

2.2 - The process : Affirmative Asylum

- A person has **one year** from arrival in the U.S. to apply for asylum. After this year has passed, the government requires **extraordinary or changed circumstances** relating to the delay in order to grant asylum.

- The primary application is the Form I-589. The instructions are currently 11 pages, and the application itself is 12 pages.
- If possible, an asylum-seeker should work with a lawyer to guide him or her through the entire process, from application through to a decision. Because the process is confusing and most people do not have another opportunity to apply after a final denial and deportation, having a qualified and reputable lawyer is strongly encouraged. (At the bottom of this document are some places to begin when searching for a lawyer.)
- Once an asylum applicant submits form I-589 to *U.S. Citizen and Immigration Services* (USCIS), the agency will schedule an interview with an asylum officer, generally within 43 days, although this is often longer.
- The interview with the asylum officer generally lasts about 1-2 hours. The interview focuses primarily on the information provided in, and the supporting materials to, the Form I-589. The asylum officer will look to establish a credible basis for the grant of asylum and will focus on any inconsistencies in the submitted materials.
- A lawyer may be present at the interview, and if the asylum-seeker is not proficient in English, he or she must provide a qualified interpreter.
- The goal of asylum officers is to reach a decision within 14 days of the interview.
- If the officer does not grant asylum, the process diverges slightly for asylum-seekers who have legal status to be in America and those who do not.

1. For the applicant legally in the country, he or she will receive a Notice of Intent to Deny and then have an opportunity to rebut the findings by the officer that led to the decision to deny. If this is unsuccessful, he or she cannot apply again without demonstrating changed circumstances in the native country.
2. For the applicant not in the country legally, the case will be automatically referred to Immigration Court for a “second look.”
3. Either of these processes can take approximately six months.

– Immigration Court hearings are automatic — every affirmative asylum applicant who is not granted asylum by the officer is referred to Immigration Court. Unlike the interview with the asylum officer, these hearings are adversarial: there is a lawyer for the government arguing against granting asylum. **Asylum-seekers are strongly advised to secure a qualified and reputable lawyer to represent them in Immigration Court.**

Note: In 2007, the Immigration Courts received 54,957 petitions for asylum. Of these, 12,807 were granted and 14,850 were denied. (The rest were withdrawn or abandoned.)

– Whoever loses in Immigration Court—the asylum-seeker or the government—has a right to appeal to the Board of Immigration Appeals (BIA), which reviews the decisions of the Immigration Court. The appeal to the BIA must be filed within 30 days of the decision of the Immigration Court. If the decision by the BIA is unfavorable, the asylum-seeker can appeal to federal court within 30 days.

2.3 - The process : Defensive Asylum

- “Defensive” asylum occurs when an individual arrives at a port of entry without the proper paperwork for entry or is detained while in the U.S. illegally and then raises the need for asylum as a defense to deportation.
- When an asylum-seeker has arrived at a port of entry, or been detained within the U.S., he or she must explain that because of a fear of persecution, he or she is seeking asylum. The U.S. official will refer the asylum-seeker to an asylum officer for what is called a “credible fear” screening.
- In the “credible fear” screening, the asylum officer determines whether the asylum-seeker has a credible fear of persecution (based on the five categories) or torture in his or her native country.
- If the officer determines there is a credible fear, the officer refers the case to Immigration Court for an

adversarial, court-like hearing (where there is a lawyer arguing against granting asylum.) (This is the same Immigration Court that an asylum-seeker in the “affirmative” process may be referred to. The difference between the two processes is someone going through the “defensive” process does not have an initial non-adversarial interview with an asylum officer who is empowered to grant asylum but instead has the “credible fear” screening in which they are denied or referred to Immigration Court.)

– If the officer determines there is no credible fear, the asylum-seeker can request a review of that decision by the Immigration Judge.

– If the asylum-seeker does not request review by the Immigration Judge, or does and the Immigration Judge finds no credible fear of persecution or torture, removal (deportation) may then occur. This process is swifter than “affirmative” asylum and more adversarial, so having a qualified and reputable lawyer is even more essential.

– As with the affirmative process, an asylum-seeker in the defensive process can appeal the decision of the Immigration Judge to the BIA.

– During this entire process, the asylum-seeker is technically in deportation, or removal, proceedings. The asylum-seeker may or may not be placed in detention while during the appeals process.

2.4 - Advice and important information

– Each person’s circumstances are distinct. Before deciding whether to flee one’s country, a person should consider whether there is somewhere else within that country he or she can live safely. Asylum applicants may be denied if the officer or judge believes the applicant could escape persecution in another region of his or her own country.

– Gather evidence of the basis for feared persecution in advance and send it to a safe place. Many asylum-seekers flee their homelands with no proof of who they are or evidence of their persecution, so their application rests primarily on the believability of their own testimony and any other information they may be able to gather from the U.S. If at all possible, journalists seeking asylum should avoid putting themselves in this position. Some basic items a journalist should try to bring with him or her:

1. Birth certificate and official government identification/passport
2. Press identification
3. Copies of news articles or similar evidence of work as a journalist
4. Proof of employment at a news organization, such as a recent pay stub or other official employment records.
5. Any physical proof of persecution, such as :
 - Police reports,
 - Medical reports
 - Photos of physical injury suffered or pieces of evidence that cannot be brought.
 - Detailed written log of threats or other occurrences
6. Country condition reports from the U.S. State Department as well as reports from organizations such as Reporters Without Borders and Human Rights First that show the danger an asylum-seeker faces in his or her native country. (This is the kind of evidence that a lawyer can put together for an asylum applicant.)Photos des blessures

While there is no formal rule about the kind of evidence required, asylum officers will be skeptical if easily obtained evidence (such as employment records) cannot be produced

The asylum-seeker is responsible for **having non-English documents translated into English** by a certified interpreter before the interview so they can be considered by the asylum officer.

If an asylum-seeker is bringing his or her spouse or children, he or she should bring their birth certificates, the marriage license and recent, clear photos of the family members if available. They should be listed by name on the I-589 form and other applications. If they are present with the asylum-seeker in the United States and asylum is granted, the **spouse** and **children** are eligible to receive derivative asylum. If asylum is granted and they are outside the U.S., **they are eligible for visas through USCIS.**

Think carefully and clearly when completing the application form. Most individuals have just one opportunity to apply for asylum, so it is important that the information written on the form is as accurate and comprehensive as possible. Never guess on dates and other details if there is a way to verify. If you are unclear on exact dates or time periods, write "approximately." Be sure to include all the significant facts up front. Adding major details later can lead officers and judges to doubt your credibility.

If you have arrived at a port of entry or been detained, be clear from the beginning that you are seeking asylum because you fear persecution. Many people are reluctant to discuss the details of their fear with strangers and government officials. While this is absolutely understandable, these officials are quickly making a determination of whether you have a credible fear based on your story, so you should be candid and truthful.

Applicants for "affirmative" asylum must provide a local address when they complete the I-589 form. Officers or judges may require proof of that local address to ensure you are being seen in the correct jurisdiction. (There is concern that someone might pretend to live in another part of the U.S. to be seen by a particular court.)

Asylum applicants are not initially permitted to seek employment while their case is pending. Applicants must wait 150 days after submitting a complete asylum application to apply for work authorization. The \$340 filing fee is waived for asylum seekers. (If the asylum application is approved before 150 days, the new asylee can **apply for work authorization** immediately.)

Leaving the country while an asylum application is pending may prevent re-entry into the US. If an applicant must travel abroad, there is a **form** to fill out in advance, and asylum-seeker must receive approval before leaving the US.

While having legal representation does not of course guarantee success, asylum-seekers who have lawyers are far more likely to win asylum than those who do not. However, predatory lawyers exist, so seek advice from the organizations listed below.

2.5 - Resources:

Finding a lawyer :

American Immigration Lawyers' Association (AILA)

"Lawyer Search" by language and location:

<http://www.ailalawyer.com/>

1-800-954-0254

AILA's pro bono representation of asylum-seekers:

<http://www.aila.org/content/default.aspx?docid=22153>

U.S Dept. of Justice Exec. Office of Immigration Review Pro Bono Program

<http://www.usdoj.gov/eoir/probono/probono.htm>

State-by-state list of free or low-cost legal advice:

<http://www.usdoj.gov/eoir/probono/states.htm>

Human Rights First

<http://www.humanrightsfirst.org/asylum/probono/probono.htm>

Support, Advice & information

U.S. Depart. of Health and Human Services (HHS)

Office of Refugee Resettlement provides relocation assistance, job placement, language training and financial and medical support to refugees. Many of these same services are available to people who have been granted asylum. Asylees can call the hotline (1-800-354-0365) or visit the following sites:

<http://www.acf.hhs.gov/programs/orr/hotlines/asylee.htm>

<http://www.acf.hhs.gov/programs/orr/>

Heartland Alliance (Based in Chicago, Ill.)

<http://www.heartlandalliance.org/whatwedo/our-programs/legal-protections/>

<http://www.heartlandalliance.org/contactus.html>

CAIR Coalition (Pour les demandeurs domiciliés à Washington, D.C.)

<http://www.caircoalition.org/>

(202) 331-3320

ACLU Immigrants' Rights Project

<http://www.aclu.org/immigrants/gen/11663res20040806.html>

Guidelines elaborated by Reporters Without Borders.

Contact : Prisca Orsonneau, head of Assistance desk - assistance@rfsf.org

With the collaboration of:

- Eva Nancy Trigueros, Certified Immigration Consultant and Michelle Quigg, Barrister and Solicitor in British Columbia for the section on asylum procedure in Canada.
- Mara J. Gassmann, legal intern, Seth Redniss attorney, member of Reporters Without Borders USA advisory board for the section on asylum procedure in the United States
- Anne-Laure Cirilli, legal intern, for asylum procedure in France

Illustrations by exiled cartoonists and journalists :

- Kumojo
- Adjim Danngar (blog : <http://adjimdanngar.over-blog.net/>)
- Agil Khalil
- Ahmed Mesli (blog : <http://mesli-a.kazeo.com/>)
- Samy Daina (blog : <http://samydaina.over-blog.com/>)