

Frequently Asked Questions

What is the difference between a refugee and an asylum-seeker?

Refugees and asylum-seekers are people seeking protection in the United States because they fear persecution in their homeland. A refugee applies for protection from outside the United States. An asylum-seeker comes to the United States and, once here, applies for protection. The film *Well-Founded Fear* is about asylum-seekers.

Refugees generally apply from refugee camps or designated processing sites outside their home countries. Some refugees may apply for protection within their home countries, such as in the former Soviet Union, Cuba and Vietnam (*National Immigration Forum*). People fleeing poverty and the lack of economic opportunity are not considered refugees (*The Uprooted*).

How does someone become an asylum seeker?

Like a refugee, an applicant for asylum also must prove that she or he has a “well-founded fear of persecution” based on her or his race, religion, nationality, membership in a particular social group or political opinion. Once granted asylum, the person is called an “asylee.”

Individuals may apply for asylum in one of two ways: 1) The application may be submitted “**affirmatively**” when it is done directly through one of the eight U.S. asylum offices. A specially trained asylum officer reviews the case and interviews the applicant. 2) When deportation proceedings have already begun, an asylum-seeker files a “**defensive**” application in order to prevent deportation. In defensive cases, an immigration judge decides on the application.

In either instance, the asylum-seeker must apply within one year of entering the United States or she or he becomes automatically ineligible. The INS does allow exceptions to this deadline for extraordinary circumstances. Late filers may receive a related protection called “withholding of removal,” but they must show a somewhat higher risk of persecution, and the resulting status is not as comprehensive as asylee status.

Individuals who apply for asylum as they arrive at a U.S. airport or other port of entry are subject to the recently created **expedited removal system** (also called “summary exclusion”). Asylum-seekers who arrive with false documents or no documents must assert a fear of persecution at an on-the-spot interview before an immigration officer, or face immediate deportation. Those who mention a fear of persecution will be transferred to a detention center, where they will be interviewed by an asylum officer a few days later to see if their claims meets a low-qualifying threshold: a “credible fear.” If the individual meets the credible fear test, her or his case is heard by an immigration judge, just as in other defensive claim cases. Immigration officials have the discretion to release the applicant from detention. If the individual doesn’t meet the credible fear test, an immigration judge may review a negative decision within seven days (*National Immigration Forum*). Many asylum applicants who are suspected of being terrorists also are subject to detention.

What is persecution? What is a “well-founded fear of persecution”?

Persecution is defined generally as a threat to life, safety or physical freedom that is inflicted offensively or illegitimately. Severe discrimination that threatens a person’s survival may also be considered persecution.

For refugees and asylum-seekers, the persecution must be greater than what everyone in the applicants’ home country experiences. In addition, the persecution must be aimed specifically at the person applying for refugee or asylum status on the basis of one of the five protected grounds, which include persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion. For instance, those fleeing a country because they belong to a discriminated-against ethnic group cannot claim refugee status without proof that they have personally suffered from that discrimination (*The Uprooted*).

What happens to applicants who are denied political asylum?

Applicants who are denied by the Asylum Office are referred to an immigration judge, and those who apply defensively must appear in the immigration court before an immigration judge. If an immigration judge denies their claim, they may appeal to the Board of Immigration Appeals (in Virginia). If the Board of Immigration Appeals denies the claim, the person is asked to leave the United States. If the person refuses, she or he is deported (technically referred to as a “removal”). These applicants also may appeal to the federal courts if the Board of Immigration Appeals denies their cases.

Can an asylee become a citizen?

Both asylees and refugees may apply to become Lawful Permanent Residents (LPRs) after one year. After five years, an LPR may apply for citizenship through the process called naturalization. LPRs receive green cards, enabling them to live and work in the United States without fear of deportation unless they commit serious criminal offenses or live outside the country for extended periods. A naturalized citizen has all the rights of native-born citizens except they may not run for president.

Sources: *National Immigration Forum*, “Facts on Refugees and Asylees” and “The A,B,Cs of U.S. Immigration” on its web site: www.immigrationforum.org.

The Uprooted: Refugees and the United States, David M. Donahue and Nancy Flowers with the Amnesty International Human Rights Education Steering Committee, 1995.

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