

Week 7 Study Guide

7.1 Refugees & Persecution

- The INA defines refugees as individuals who are
 - unwilling or unable to return to their country of nationality and
 - unwilling and unable to receive protection because from the government in their country of nationality and
 - were persecuted in the past or fear persecution in the future and
 - the persecution was for at least one of five specific reasons (see lesson 7.2)
- Unwilling or unable to return includes those who chose to leave and those who were forced to leave.
- Unwilling and unable to receive government protection means the government or a group the government is unable or unwilling to control was the persecutor.
- Physical, emotional, and economic harm can be persecution if it is severe enough.
 - Whether or not harm is persecution will depend on the specific circumstances of each case.
- Establishing past persecution is sufficient to show a well-founded fear of future persecution.

7.2 The Nexus Requirement

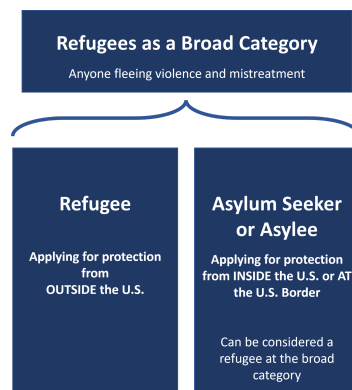
- Being persecuted by the government or a group that the government cannot or will not control does **not** guarantee the person will be legally considered a refugee. Persecution must be on account of one or more of five protected grounds defined by the INA.
 - AKA the “nexus” requirement because there must be a nexus, or link, between the persecution and one of the five grounds, which are:
 - Race
 - Religion
 - Nationality
 - Membership in a particular group
 - Political opinion

7.3 Particular Social Groups

- A Particular Social Group (PSG) must be:
 - Made up of people who have a common immutable characteristic.
 - They share an attribute that they cannot or should not be required to change.
 - Defined with particularity.
 - It is clear who makes up the group; the description is specific.
 - Socially distinct and recognizable.
 - Others in the community recognize the group as distinct.

7.4 Asylum and Refuge

- Difference between Asylum seekers and Refugees
 - Refugee as a broad category refers to anyone fleeing violence or mistreatment. Within that category are Refugees and Asylum Seekers
 - The INA requires an asylum seeker to qualify as a “refugee” in order to seek asylum.
 - The only difference between refugees and asylum seekers,” is that refugees are outside of the U.S. when they apply for protection and asylum seekers are inside the U.S. or at the U.S. border when they apply for protection.



- Bars to asylum include
 - Firm resettlement in a safe country or dual citizenship in a safe country.
 - One-year deadline
 - The INA states that individuals must apply for asylum within one year of entering the United States.
 - If the individual did not file within one year, they must show that there were changed or extraordinary circumstances.

- This provision does not apply to some children who are seeking asylum.
- Previous denial
 - Once an individual has been denied asylum, he or she cannot reapply.
 - There is an exception for individuals in “changed” circumstances.

7.5 Burden of Proof and Work Permits

- Asylum seekers are responsible to prove that they qualify for asylum (they have the burden of proof).
 - They are not required to include evidence of persecution, but it creates a stronger case.
- Legal arguments, approved by a lawyer, accompany the USCIS Form I-589 to help establish the claim that the asylum seeker qualifies.
- Asylum seekers can apply for work permits
- The current wait time for a work permit is 150 days after the asylum application is submitted.

Resources and References

- [The USCIS Form I-589: Application for Asylum](#)
- [The USCIS Form I-765: Application for Employment Authorization](#)
- [More information about work permits and asylum seekers](#)

7.6 Notice to Appear

- Removal proceedings are hearings held before an immigration judge to determine whether an individual may remain in the United States.
- Removal proceedings begin when a Notice to Appear (NTA) form is filed with an immigration court.
- An Notice to Appear (NTA) is a document that instructs individuals to appear before an immigration judge.
- What an NTA means for clients at NOMAS
 - The individual will need to go to immigration court in response to the NTA.
 - Partially accredited representatives can't represent individuals in immigration court.
 - Therefore, NOMAS doesn't represent individuals that have received an NTA and NOMAS will refer a client to other lawyers if they are served an NTA.

Resources and References

- [DHS Form I-862: Notice to Appear](#)