

Immigration Newsletter



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August 2014
Volume 8

Last month we discussed the complicated asylum application process. This month, we finish our discussion of asylum law with a newsletter that takes a look at recent developments in asylum law as well as the Convention Against Torture.

THE CONVENTION AGAINST TORTURE ("CAT")

- The CAT is a separate form of protection than asylum, and it has different requirements
- Under CAT, there is no requirement that the people who want to harm you be motivated by any particular reason
- But CAT requires that government officials in your home country would "torture" you or would consent to you being tortured
- "Torture" is the intentional infliction of severe physical or mental pain or suffering
- Protection under the CAT may only be granted by an Immigration Judge in removal proceedings*

DEFERRED ACTION REMINDER!

**YOU SHOULD BEGIN THE
PROCESS TO RENEW
YOUR DEFERRED ACTION
4 MONTHS BEFORE IT
EXPIRES!**

ASYLUM LAW: CURRENT ISSUES

REVIEW: Asylum is an immigration status that may be granted to people who are here in the U.S. and do not want to return to their home country either because they have already suffered persecution there, or because they have a fear that they will suffer persecution if they return there because of their race, religion, national origin, political opinions, or membership in a particular social group.

RECENT DEVELOPMENT: ASYLUM CASES BASED ON FEAR OF CRIMINAL ORGANIZATIONS

As stated above, in order to qualify for asylum the person who wants to harm you must be motivated by:

- Your race
- Your religion
- Your nationality
- Your political opinion, or
- Your membership in a particular social group.

This requirement makes it very difficult for people fleeing gang and drug violence in Mexico and Central America to be granted asylum. Most of the time, the criminal organizations are not motivated to harm a person for one of these reasons. Instead they threaten to harm people because they want to extort money or want people to work for them.

Although most of these types asylum cases have recently been denied by the courts, there are a few circumstances in which people afraid of gangs or cartels have been able to

gain asylum. For example, if the criminal group has targeted your entire family, it may be possible to show that you qualify for asylum because of your membership in a "particular social group," i.e. your immediate family. These cases are difficult, but some have been granted by the courts.

Other circumstances that may qualify are if you have been targeted for speaking out against a criminal organization or for working against government corruption in your country.*

RECENT DEVELOPMENT: ASYLUM CASES BASED ON FEAR OF DOMESTIC VIOLENCE

Women who have come to the United States because they were suffering domestic violence in their home country may also qualify for asylum.

Some courts have found that these women meet the requirements for asylum because women who live in

societies in which their rights are not respected, where they are seen as inferior to and subject to men, qualify as a "particular social group." Other courts have found that this is not a particular social group and therefore women who fear domestic violence do not qualify for asylum. This is an issue that is currently being litigated in the courts, and we will continue to fight for our clients.

If you fear going back to your home country because your ex-husband or ex-partner has harmed you before and would harm you again, you may qualify for asylum.*

*** Asylum based on fear of criminal organizations or domestic violence and claims under the Convention Against Torture are very complex areas of law.**

Every case is unique and the likelihood of success will depend on the particular facts of that case. Please consult with an attorney to determine if you are eligible before applying.