

## GUIDELINES FOR WRITING A CLIENT'S DECLARATION

### PURPOSE OF THE DECLARATION

The primary goal of the declaration is to *humanize your client and allow her to tell her story to an adjudicator in her own words*. An interview is not a part of the application process for nearly all VAWA, U visa and T visa petitioners. Therefore, a written statement is the most personal and direct way for an adjudicator to understand who your client really is, what she has endured, and why she merits relief. For an asylum applicant who will ultimately be examined by either an Asylum Officer or Immigration Judge, the declaration may be the first (and possibly only) time for her to tell her story in its entirety and completely control the way the facts of her case are communicated.

Because the declaration is likely the only chance for your client to “speak” to the adjudicator, it is extremely important that the statement *capture the client's voice*. It should not simply be a recitation of the facts of her case, but instead a living, breathing document that allows the reader to truly get a sense of the woman your client is and the effect the abuse or persecution she suffered has had on her life.

### LOGISTICS AND PARTICULARS

- Tahirih recommends the following length guidelines be followed for client statements:
  - U visa declaration – 10 to 15 pages
  - T visa declaration – 10 to 15 pages
  - VAWA declaration – 10 to 15 pages
  - Asylum declaration – 15 to 20 pages

Of course, as the specific facts of each case are different, please keep in mind that longer or shorter statements may be required.

- Make sure the declaration addresses all elements of the particular relief that your client is seeking. For example, a statement written for a VAWA Self-Petition should address not just the abuse the client suffered, but also good faith marriage, shared residence, and good moral character.
- Organization of the declaration can be a very important strategic decision. Most attorneys will choose to tell the client's story chronologically. However, if, for example, your client's case centers around one particularly egregious incident or if the facts of the case otherwise suggest that chronological is not the best organizational method, do not be afraid to utilize an alternative organizational scheme.
- *Make use of headings*. Section headings are a great way to provide structure to your client's story, break up pages of text, and reinforce and highlight your legal arguments. Don't just title a section “Abuse.” A heading entitled “My Husband Subjects me to Years of Manipulation, Emotional Abuse, and Physical Violence that Leads to my Hospitalization on Two Occasions” is much more informative

**Baltimore**  
201 N. Charles St.  
Suite 920  
Baltimore, MD 21201  
Tel: 410-999-1900  
Fax: 410-630-7539  
baltimore@tahirih.org

**Greater DC | National**  
6402 Arlington Blvd.  
Suite 300  
Tel: 571-282-6161  
Fax: 571-282-6162  
TTY: 711  
Falls Church, VA 22042  
greaterdc@tahirih.org  
justice@tahirih.org

**Houston**  
1717 St. James Place  
Suite 450  
Houston, TX 77056  
Tel: 713-496-0100  
Fax: 713-481-1793  
houston@tahirih.org

www.tahirih.org

and evocative. If an adjudicator simply scans or skims the declaration, you want your main points to really stand out.

- The completed declaration should be reviewed by your client for accuracy before it is filed. She should sign and date at the end of the last page after the statement “Signed under the pains and penalties of perjury.” If this statement is included, the document does not need to be notarized.
- If the declaration is not reviewed in English, the following certificate of translation should be included at the end of the document and signed by the translator/interpreter:

I, \_\_\_[translator/interpreter name]\_\_\_ do hereby certify that I am competent in both the English and \_\_\_\_\_ languages and that I have translated the foregoing document from the original English into the Spanish language to \_\_\_[client name]\_\_\_ who has confirmed that she understands the content of this document and believes it to be true and correct to the best of her knowledge, information, and belief.

### **DECLARATION WRITING TIPS**

- Always remember that the purpose of the declaration is to create a document - in the client’s voice - that has feeling and emotion. To that end ...
  - After every sentence in the document, ask the question “*how did that make you feel?*” This can serve as a guidepost to ensure that you are not simply making a factual assertion (e.g., “he called me stupid”) but are incorporating your client’s feelings into the document and demonstrating the impact of certain actions on the her (e.g., “he called me stupid, which made me feel small and worthless”).
  - *Details are incredibly important.* Your goal is to have the declaration paint a picture or create a photograph that the adjudicator can see. You should therefore make sure to include details such as smells, colors, sounds, and temperature when describing events or individuals. Do not be afraid to ask the client to use similes or analogies (e.g., “when he punched me, it felt like shards of glass piercing through my face”).
  - *Try to avoid generic or broad statements.* If your client tells you that her father called her “bad names” when she refused to marry the man he chose for her, ask her to give you some examples of the names he used and include them in the statement. If your client tells you that her abuser hit her, ask her for details – Where did he hit you? With what - his hand (back or front or fist?) An object? There is a difference between hitting and punching and slapping – make sure you understand which occurred. If your client’s abuser kicked her, was he wearing shoes? If so, what kind?
  - Adjudicators are very wary of declarations that appear over-lawyered, so unless your client is an attorney or has an advanced understanding of the U.S. legal system, her *declaration should not contain legalese*. Few clients understand the nuances of criminal pleadings or immigration entry requirements, therefore, legal statements such as “I was duly inspected by a Customs and Border Protection Immigration Officer” should instead simply read “the officer at the border asked me for my papers” if that is how the client described the incident.
  - *Keep your client’s age and level of education in mind* when drafting the statement. For example, if you are working with a client who is twelve years old, it is likely more appropriate for the declaration to say “when I was in court, I learned that my father would be going to jail for

several years” as opposed to “at the conclusion of the proceedings, on or about July 2, 2008, my father was convicted and sentenced to a period of incarceration of twenty years, with ten years suspended.”

- While it is important for the declaration to be in the client’s own words, you are not tied to her exact words. You should *feel free to edit for grammar and consistency*.
  - *Do not cite to evidence* in the declaration. Your client likely does not refer to exhibits when she tells you her story, so save the citations for your cover letter or letter brief.
- Although incorporating detail into the declaration is important, it should not be obtained at the expense of re-traumatizing your client:
    - *For a domestic violence based case*, especially one in which the abuse occurred over the period of many years, it is not necessary to include every single incident of abuse in the declaration. Attempting to do so will undoubtedly frustrate and/or unduly upset your client. Moreover, listing a litany of incidents will not make for a “good read” for the adjudicator. In fact, it may achieve the opposite of your desired effect by desensitizing him/her to the abuse your client suffered. Therefore, in cases where the client has suffered many years of domestic violence, you should highlight some particularly significant or serious incidents and then briefly describe the other forms of abuse that may have taken place on a daily or weekly basis, explaining that such mistreatment took place over the course of [X] years.
    - *For cases based on sexual abuse* – especially if the victim is a minor – the declaration only needs to include details sufficient to establish your case. Consider what additional evidence you already have that proves the elements of the case (i.e., descriptions of the incident in police reports, medical records, or second-hand accounts). If the incident is described in detail in those accounts, you may not need to include a description of the rape in the declaration; instead, you only need to state what happened before and after the sexual assault occurred.
- Use short sentences and paragraphs when discussing the most critical, significant, or important incident and/or information. Doing so forces the reader to slow down and focus on what s/he is reading and will help this crucial information sink in and really make an impact.
  - If you address something in the declaration, you should include corroborating evidence of that fact or incident with your application. For instance, if your client states in her declaration that she went to the hospital, called the police, or went to a friend’s house immediately after an incident of abuse, you should include hospital records, police reports, or an affidavit from that friend as part of your application packet. If you cannot obtain such evidence, explain in the declaration why you are not submitting it. You do not have to do this directly; if you cannot obtain an affidavit, you can simply note somewhere in the declaration that as a means of abuse, your client was cut off from all of her friends and family. That way, if you receive an RFE that questions the lack of supporting affidavits, you will have already laid the groundwork for your rebuttal.
  - Do not shy away from addressing any potentially negative or damaging aspects of the case in the declaration. In fact, you should view the declaration as an opportunity for your client to clarify and explain any adverse factors in a way that will allow her to be seen in the most sympathetic light. For example, an adjudicator will likely be much more understanding about a domestic violence conviction incurred by your client if s/he understands the circumstances surrounding it and can see for him/herself that your client was acting in self-defense. The inclusion of negative information is one of the most challenging and nuanced aspects of drafting a declaration, so do not hesitate to consult with your Tahiri mentor attorney for assistance in navigating this tricky area.

## MISCELLANEOUS QUESTIONS AND ISSUES

- *Can the Client Write her Own Declaration?*

It depends. Remember that the goal of the declaration is to capture the client's voice, so self-drafted statements can be incredibly powerful and "real." Clients should not be expected to write their own declarations, but if your client expresses a desire to write her own story, she can certainly provide you with a first draft from which to work. If your client is having difficulty opening up or remembering things during your in-person meetings, you may also find it helpful to ask her to put something in writing ahead of time, or even to keep a notepad in her purse where she can jot down notes. Please keep in mind that when asking this of your client, you should consider her level of education and comfort level.

It is important to remember that a client's self-drafted declaration can often be a great starting point, but it should be reviewed fully before submission to ensure it meets all the requirements listed above. You should never submit a client-drafted declaration without first reviewing and editing it to make sure that it addresses all the required elements, includes an appropriate amount of detail, is easily readable, and is consistent with all the other evidence included.

- *Special Considerations When Submitting Multiple Declarations in One Case*

It is often beneficial to submit statements from friends or family members to corroborate your client's story. However, when doing so, there are certain considerations to keep in mind. First, it is absolutely essential that the all the declarations that are submitted are consistent with respect to details such as dates, times, etc. For example, if your client's declaration states that she was circumcised during the spring of a particular year, make sure that all supporting affidavits comport with this timeframe. Inconsistencies can seriously damage your client's credibility and may lead to the denial of her application. Moreover, in order to keep the declarations from appearing contrived, each statement should have its own "voice." Avoid using the same phrases or describing incidents in exactly the same way in different statements, as an adjudicator would reasonably expect that different people would not have actually seen or subjectively viewed the same incident in the same way. Declarations are best if they complement each other, that is, if they offer different but consistent views or perspectives of an incident or story.

This document was produced by the Tahirih Justice Center in March 2011. All rights reserved. This document is intended to provide practical information to attorneys working with Tahirih's client population. The contents of this document are by no means exhaustive and are subject to change at any time without notice. This document is not to serve as a substitute for obtaining particularized legal advice on an individual case.