

## **MY CLIENT'S ASYLUM APPLICATION HAS BEEN GRANTED BY THE COURT... NOW WHAT?**

Congratulations on obtaining asylum for your client! Now that the application has been approved, you and your client likely have many questions about the benefits that asylum confers and the rights and responsibilities of an asylee. The following is a brief overview of issues that may arise:

### **DOCUMENTATION**

Your client will receive a number of different documents once her application is approved:

- You should receive a copy of the order of the Immigration Judge (“IJ”) granting asylum at the final merits hearing. In the event that the IJ chooses to issue a written decision, he/she will have the order mailed to your client’s last address on file with the courts.
- In cases where an IJ’s decision granting asylum was appealed to the Board of Immigration Appeals (“BIA”) and the BIA has upheld the IJ’s decision, you will receive notice of the BIA’s decision via mail. The IJ’s opinion granting asylum then becomes a final order and should be treated as such.
- Once you have a copy of the final order granting asylum, you should schedule an INFOPASS appointment for your client so that she may obtain her Arrival/Departure Record (I-94). INFOPASS appointments may be scheduled online at: <http://infopass.uscis.gov/>. Once obtained, the I-94 should be stapled into your client’s passport.
- If she does not already have employment authorization, your client may also apply for an Employment Authorization Document (EAD) by submitting the form I-765 at the same INFOPASS appointment<sup>1</sup>. Her EAD will then be sent to her most recent address on file with USCIS. It is therefore important to make sure that not only the court is informed of any changes in her address, but that USCIS is similarly informed through use of the form AR-11 available on the USCIS website ([www.uscis.gov](http://www.uscis.gov)).

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<sup>1</sup> After this initial EAD, asylees must apply for a renewal, replacement, or extension by submitting a Form I-765, Application for Employment Authorization Document, to the Nebraska Service Center and paying the applicable fee.

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## DERIVATIVES IN THE UNITED STATES

If an asylee's spouse or unmarried child under the age of 21<sup>2</sup> is already in the United States and was listed on the asylee's I-589 application, they should be automatically granted asylee status and included on the asylum approval.

## DERIVATIVES OVERSEAS

If your client's derivatives are overseas, she can petition on behalf of her spouse and her unmarried children under 21<sup>3</sup> to join her in the United States. In order to do so, the relationship between her and the derivative(s) must have existed before she was granted asylum. She must also file her relative petition within 2 years after she was granted asylum (unless it is determined that the filing period should be extended for humanitarian reasons), and that status must not have been terminated. To use this process, file a Refugee/Asylee Relative petition (Form I-730). If your client marries after she is granted asylum or doesn't file her petition in time and the period is not extended, she will have to wait until she is a permanent resident to sponsor her husband or children. The instructions to the I-730 petition explain how to file, and the process, in greater detail. You can print the form and instructions from the USCIS website at [www.uscis.gov](http://www.uscis.gov). Please be aware that there is a several hundred dollar fee associated with the application. As with all applications, your client may request the fee be waived based on her financial resources and USCIS may approve such waiver at its discretion. The United States Consulate in your clients' country of origin is responsible for issuing the travel document that will allow your client's derivatives to enter the United States.

## PUBLIC BENEFITS

### *Eligibility for Benefits:*

Once asylum is granted, your client is eligible for a range of public benefits for a period of 8 months (and in some instances shorter) that starts running from the day that asylum is granted. Your client may be eligible for other benefits after that 8 months, but forgoes the benefits given during that 8 months if she does not enroll during that time. For more information regarding the state and private agencies in your area which administer these benefits, please contact your Tahirih mentor attorney.

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<sup>2</sup> She may apply for derivative asylum for a stepchild if, prior to being granted asylum, the marriage between the client and the child's parent took place before the child's 18th birthday. She may also apply for derivative asylum for an adopted child if, prior to her being granted asylum, the adoption took place before the child's 16th birthday and the child has been in her legal custody for at least two years.

<sup>3</sup> See footnote 2 above for the requirements for applying for derivative status of stepchildren and adopted children.

#### *Obtaining a Social Security Card:*

Asylees are also eligible (and advised to) obtain social security cards. Your client can obtain a social security card by showing her EAD and another form of identification at her social security office (the office locations can be found via: [www.socialsecurity.gov/locator](http://www.socialsecurity.gov/locator)).

## **WORK AUTHORIZATION**

While asylees are not required to have an EAD to establish eligibility to be employed in the United States, we strongly recommend getting one because practically speaking it may be difficult to obtain documents without one and can be a useful form of identification. An asylee can show alternate documents to an employer to verify eligibility to work in the United States on the Form I-9, including an unrestricted Social Security card, which can be obtained by an asylee or refugee, along with a photo identity document, such as a driver's license, passport, etc.

## **TRAVEL**

Since your client has been granted asylum, **she should NOT use or obtain a passport from her country of origin.** Doing so could potentially jeopardize her asylum status because it may indicate that she now seeks protection from her country of origin. Until she becomes a U.S. citizen, she must apply to USCIS for a special travel document called a Refugee Travel Document. This document can substitute for a passport for travel purposes. She should apply for this document before she leaves the United States. The application is Form I-131, Application for Travel Document and is available at the USCIS website ([www.uscis.gov](http://www.uscis.gov)). The fee associated with this application is \$360 as of the time of writing this document; however, you should check current filing fees on the USCIS website prior to submitting any applications.

**Tahirih STRONGLY recommends that your client NOT travel back to her home country.** If she does travel back to her home country, USCIS could determine that she is no longer eligible for asylum due to a fundamental change in circumstances and begin the asylum termination process.

## **ADJUSTMENT TO PERMANENT RESIDENT STATUS**

In order to adjust status, an asylee must demonstrate that she has been physically present in the United States for at least one year after her grant of asylum. Form I-485 is used for the adjustment application and the form and its instructions can be found at the USCIS website ([www.uscis.gov](http://www.uscis.gov)). While she is not required to adjust to permanent resident status Tahirih encourages our clients to do so as early as possible.

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