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**Family Reunification Basics**

**Asylum and Family Reunification Film Screening & CLE**

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Under the Immigration and Nationality Act **(INA) § 208(b)(3)**, certain immediate family members of an asylee (a person who has been granted asylum) can attain derivative asylum status.

**REMEMBER**: An asylee can also seek legal status for certain immediate family members once the asylee has adjusted his or her status, by filing an **I-130** family petition.

**WHO QUALIFIES AS “FAMILY” FOR PURPOSES OF A REFUGEE/ASYLEE RELATIVE PETITION?**

For the purposes of derivative asylee status, family is defined as either a “spouse” or an “unmarried child” under 21 years of age.

**Definition of a “Spouse”** under **INA § 101(b)**: Must be legally married at the time the application is approved.

**Definition of a “Child”** under **INA § 101(b)**: (1) Child must be under 21; (2) Child must be unmarried; (3) Child must be either the applicant’s a biological child, stepchild, or adopted child (with certain caveats).

**REMEMBER**: Cultural definitions of “child” may conflict with the legal definition. It is important to determine whether the children in question are the applicant’s or whether they are children the applicant has informally adopted from other family members.

**REMEMBER**: A child who is 19 when the application is filed but turns 21 before it is approved is still considered a “child” under the Child Status Protection Act.

**WHAT EVIDENCE OF RELATIONSHIP MUST ASYLEE/REFUGEE PROVIDE?**

***Asylees and refugees must prove the family relationship by a “preponderance of the evidence.”***

Applicant’s biological child: (1) A birth certificate listing the applicant as the mother or father; (2) Secondary evidence of the parent-child relationship if birth certificate is unavailable

Applicant’s step-child: (1) The child was under the age of 18 when the marriage that created the step-child relationship occurred; (2) a marriage certificate and evidence of legal termination of prior marriages; (3) a birth certificate, showing the relationship between the child and spouse.

Applicant’s adopted child: (1) The adoption was legally executed (informal caretaking agreements will not qualify); (2) the adoption occurred while the child was under 16; (3) the child has been in the legal custody of and residing with the adopted parent for at least two years.

**APPLICATION PROCEDURES**

Once asylum is granted or the individual enters the US as a refugee, the asylee/refugee can file an **I-730** on behalf of the qualified family member, with the Citizenship & Immigration Services (CIS).

**Timeline:** Once asylum has been granted, an asylee has two years from the date of the asylum grant to file for family members overseas.Currently, the CIS processing time is estimated at one year. However, one can request expedited processing when there is good cause.

**What to include:** One must include basic information about the asylee, e.g. asylum grant date and current address in addition to basic information about the family member e.g. address, birthdate, date of marriage.

**Documentation**:One will need to include (1) one photo of each family member applied for; (2) copies of documents proving relationship; and (3) a copy of **I-94** or letter showing asylum was granted.

**Approval:** Once the application has been approved, the applicant will receive an approval notice, and the application is forwarded to the consulate for processing.

**REMEMBER**: The embassy or consulate can request additional information or proof of relationship including DNA blood tests (the costs of which are the responsibility of the applicants).

**VISA**: Once the **I-730** is approved, the Consulate will contact the family member(s) for an appointment.

**REMEMBER**: **I-730** approvals are valid for an indefinite amount of time. However, visas are issued for a limited travel time. Only ONE VISA will be issued in connection with an **I-730** approval.

**RESOURCES**

* Copies of forms, including the I-730 Refugee/ Asylee Relative Petition are available online at the CIS website: <http://www.uscis.gov>
* Department of State, *Reciprocity and Civil Documents by Country,* https://travel.state.gov/content/visas/en/fees/reciprocity-by-country.html/
* U.S. Citizenship and Immigration Services, *Procedures for Filing a Derivative Petition (Form I-730) for a Spouse and Unmarried Children of a Refugee/Asylee,* available at https://www.uscis.gov/ilink/docView/FR/HTML/FR/0-0-0-1/0-0-0-42380/0-0-0-51326/0-0-0-52015.html
* Heather Scavone, Esq., *Evidentiary Challenges to Refugee/Asylee Relative Petitions: A Practitioner’s Resource,* available from The Advocates for Human Rights upon request