SAMPLE TEMPLATE FOR CLOSING STATEMENT FOR ASYLUM CLAIM

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| **Law** | **Application/Facts:** |
| **Summary:**  CLIENT is eligible for and deserving of asylum based on past persecution she has suffered on account of GROUNDS in addition to her well-founded fear of future persecution on the same bases. |  |
| **Persecution:**  Case law has defined persecution as a “threat to the life or freedom of, or the infliction of suffering or harm upon, those who differ in a way regarded as offensive,” or to overcome a characteristic of the victim. *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985); *Matter of Kasinga,* 21 I&N Dec. 357, 365 (BIA 1996).  INCLUDE RELEVANT ADDITIONAL CASE LAW, E.G.:  One severe beating is sufficient to establish persecution. *See Bracic v. Holder*, 603 F.3d 1027, 1035-36 (8th Cir. 2010) (overturning an IJ’s holding that past persecution was not present, holding that any reasonable fact finder would find persecution had occurred where an asylum applicant was beaten until he lost consciousness on one occasion).  Factors to consider in determining whether detention rises to the level of persecution include: the length of persecution; the legitimacy of the government action; any mistreatment of the applicant during detention and; whether the applicant was ever accorded any due process rights, such as access to counsel, a trial before a judge, and others. AOBTC Workbook, pt. I, at 26-27. Harm to a third party done with the intent to cause emotional or psychological harm to the applicant can constitute direct persecution of the applicant him or herself. *See Matter of A-K-,* 24 I&N Dec. 275 (BIA 2007). | FACTS DETAILING PERSECUTION OF CLIENT’S RELATIVE.  FACTS DETAILING CLIENT’S HUSBAND’s PERSECUTION AND NEXUS BETWEEN THAT PERSECUTION AND PROTECTED GROUNDS, CONNECTING THAT HARM TO PERSECUTION OF APPLICANT.  FACTS DETAILING PHYSICAL, PSCHOLOGICAL AND SPIRITUAL PERSECUTION OF APPLICANT. |
| **GROUNDS:** Religious beliefs (e.g.)  RELEVANT CITES | FACTS DETAILING THE CLIENT’S POSSESSION OF PROTECTED GROUND, E.G.:  CLIENT openly and publically expressed her Christian faith while residing in COUNTRY. Consequently, the COUNTRY government had numerous opportunities to learn of her religious beliefs.  CLIENT was interrogated by GOVERNMENT after church she helped to build was discovered |
| **GROUNDS:** Imputed political opinion (e.g.)  *Matter of S-P-,* 21 I&N Dec. 486 (BIA 1996)  ***DeBrenner v. Ashcroft***, **388 F.3d 629 (8th Cir. 2004)**(Court found persecution due to political opinions imputed to petitioner by the guerillas and the government where Peruvian Shining Path guerillas expressly named petitioner as a member and supporter of APRA (political party), accused her family of supporting the government, and mistakenly singled her out as an actual worker for the APR | FACTS DETAILING THE CLIENT’S POSSESSION OF PROTECTED GROUND |
| **GROUNDS:** Family Relationship (e.g.)  *Matter of LEA,* 27 I&N Dec. 40 (BIA 2017) | FACTS DETAILING THE CLIENT’S POSSESSION OF PROTECTED GROUND, |
| **Nexus**  INA Section 208(b)(1)(B): “one central reason”  *Matter of S-P-,* 21 I&N Dec. 486, 486 (BIA 1996)  In situations involving general civil unrest, the motive for harm should be determined by considering the statements or actions of the perpetrators; abuse or punishment out of proportion to nonpolitical ends; treatment of others similarly situated. | FACTS DETAILING THE NEXUS/CONNECTION BETWEEN CLIENT’S PROTECTED GROUNDS AND THE HARM THE CLIENT SUFFERED. |
| **Government Unable/Unwilling to Protect** | Cite both the facts in your record (expert declaration and other country conditions documentation) and clients testimony re: specific facts in their case to show that the government is unable or unwilling to control the persecutor in particular case. |
| **One Year Deadline Exception (and other arguments re: potential bars)**  An applicant may demonstrate, to the satisfaction of the Attorney General that he qualifies for an exception to the one-year deadline. 8 C.F.R § 208.4(a)(2)(B). The evidentiary standard “to the satisfaction of the A.G.” is lower than that of clear and convincing evidence. *Matter of Bufalino*, 12 I&N Dec. 277, 282 (BIA 1967).  Other relevant law you want to cite in closing. | FACTS INDICATING CLIENT SHOULD BE AFFORDED AN EXCEPTION TO THE ONE YEAR DEADLINE OR OTHER BAR EXCEPTION |
| **Well-Founded Future Fear**  A well-founded fear may be established by as little as a one-in-ten probability. *See INS v. Cardoza-Fonesca*, 480 U.S. 421, 430-31 (1987).  Other relevant law you want to cite in closing. | FACTS INDICATING CLIENT CAN SEPARATELY ESTABLISH A WFF OF FUTURE PERSECUTION IN ADDITION TO ESTABLISHING WFF BASED ON ESTABLISHING A PRESUMPTION BASED ON PAST PERSECUTION (IF APPLICABLE) |
| **No Change in Conditions**  Relevant law you want to cite in closing. | FACTS INDICATING THAT COUNTRY CONDITIONS HAVE **NOT** CHANGED SUCH THAT THE CLIENT NO LONGER CAN SHOW A WELL FOUNDED FEAR OF FUTURE PERSECUTION-CITE TO THE RECORD AND YOUR CLIENT’S TESTIMONY. |
| **Relocation not reasonable under the circumstances:** **emphasize that this is a *totality of the circumstances* determination.**  *Reasonableness of internal relocation.*For purposes of determinations under paragraphs (b)(1)(i), (b)(1)(ii), and (b)(2) of this section, adjudicators should consider, but are not limited to considering, whether the applicant would face other serious harm in the place of suggested relocation; any ongoing civil strife within the country; administrative, economic, or judicial infrastructure; geographical limitations; and social and cultural constraints, such as age, gender, health, and social and familial ties. Those factors may, or may not, be re levant, depending on all the circumstances of the case, and are not necessarily determinative of whether it would be reasonable for the applicant to relocate.  Other relevant law you want to cite in closing. | FACTS INDICATING THAT COUNTRY CONDITIONS HAVE **NOT** CHANGED SUCH THAT THE CLIENT NO LONGER CAN SHOW A WELL FOUNDED FEAR OF FUTURE PERSECUTION-CITE TO THE RECORD AND YOUR CLIENT’S TESTIMONY. |
| **Humanitarian Asylum:**  Severity of Past Persecution:  In *Matter of Chen*, 20 IN Dec. 16 (B.I.A. 1996)  ), the Board of Immigration Appeals found that where the applicant was fearful of being returned, anxious, and suicidal at the thought of being forced to return to China due to the traumatic physical abuse he endured as a child, and because human rights in the country were still being abused, and because the basic government in China had not changed since he experienced persecution, the Board of Immigration Appeals granted the applicant’s claim of humanitarian asylum.  *See also Matter of B-*, 21 I&N Dec. 66, 72 (BIA 1995)  Other Serious Harm:  *See Matter of L-S-,* 25 I&N Dec. 705 (BIA 2012)  An asylum applicant who has established past persecution but no longer has a well-founded fear of persecution may nevertheless warrant a discretionary grant of humanitarian asylum based not only on compelling reasons arising out of the severity of the past persecution, but also on a “reasonable possibility that he or she may suffer other serious harm” upon removal to his or her country under 8 C.F.R. § 1208.13(b)(1)(iii)(B) (2011). (2) “Other serious harm” may be wholly unrelated to the applicant’s past harm and need not be inflicted on account of race, religion, nationality, membership in a particular social group, or political opinion, but the harm must be so serious that it equals the severity of persecution. (3) In determining whether an applicant has established a “reasonable possibility” of “other serious harm,” adjudicators should focus on current conditions that could severely affect the applicant, such as civil strife and extreme economic deprivation, as well as on the potential for new physical or psychological harm that the applicant might suffer. | TIE THE CLIENT’S FACTS INDICATING THAT ASYLUM IS MERITED BASED ON SEVERITY OF PAST PERSECUTION.  CITE ALL CIRCUMSTANCES SUPPORTED BY CLIENT’S TESTIMONY (WRITTEN AND ORAL) AND RECORD EVIDENCE INDICATING THAT HUMANITARIAN ASYLUM IS AVAILABLE BASED ON OTHER SERIOUS HARM SUFFERED. |
| **Applicant’s Testimony is Credible in all respects**  *See* INA Section 208(b)(1)(B)   * Refers to specific facts * Consistency between written and oral statements * Internal Consistency of each statement * Consistency w/ other evidence in the record * Demeanor, candor, responsiveness of applicant | FACTS INDICATING CLIENT’S TESTIMONY WAS CREDIBLE, ADDRESS AND EXPLAIN ANY PERCEIVED INCONSISTENCIES YOU CAN BY CITING TO RECORD EVIDENCE (E.G.: PSYCH EVAL DISCUSSING SYMPTOMS OF TRAUMA AND HOW THEY MAY IMPACT TESTIMONY) |