

AMERICAN BAR ASSOCIATION Asylum

Refugees and asylum seekers flee persecution in their home countries, typically under extreme circumstances. They are often forced into flight without personal documents, leaving family members behind. They may suffer severe trauma, having survived torture or seen members of their family tortured or killed. As a result, refugees and asylum seekers face particular challenges when navigating our legal system, in addition to cultural and linguistic barriers. Recognizing these challenges, the American Bar Association (ABA) supports the establishment of laws, policies, and practices that ensure optimum access to legal protection and due process for refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge.

- **The ABA supports improved access to our asylum system for refugees and asylum seekers including:**
 - Prompt identification of asylum seekers at the border or in expedited removal proceedings
 - Fair screening procedures and appropriate identification of refugees who are intercepted or interdicted
 - Creation of a refugee visa and improved screening processes for refugees overseas
 - Allowing asylum officers to grant asylum after an initial “credible fear” interview
 - Eliminating unduly restrictive limitations, including the one-year deadline to initiate claims
 - A due process right to counsel for asylum seekers (and all others) in removal proceedings
 - Availability of legal rights presentations for asylum seekers (and all others) in removal proceedings
 - Appointed counsel for indigent asylum seekers (and others) who are screened for eligibility for relief
 - Appointed counsel and guardians ad litem for unaccompanied children, and the mentally ill and disabled who are seeking asylum and other forms of relief

- **The ABA supports full administrative and judicial review of removal decisions, and opposes expedited removal**
 - The consequences of removal are severe, returning asylum seekers to their persecutors
 - Expedited removal deprives individuals of the right to counsel and judicial review, and does not ensure sufficient access to the asylum process for asylum seekers
 - Only impartial adjudicators should have the authority to enter removal orders, which should be subject to administrative and judicial review

- **The ABA opposes detaining asylum seekers except in extraordinary circumstances, such as a threat to national security**
 - The ABA supports alternatives to detention including bond and supervised release, for those who would otherwise be detained

- **The ABA supports safeguards for detained asylum seekers and others, including:**
 - Full, meaningful access to legal representatives, and access to accurate lists of legal service providers
 - Accurate interpretation of immigration court proceedings, including all testimony
 - If unrepresented, the ability to apply for asylum in a language other than English
 - Permission for counsel to enter limited appearances for bond and custody proceedings
 - Prohibitions on detainee transfers that would impede an attorney-client relationship

- **The ABA opposes criminalization of civil violations of immigration law**
 - Criminalization of undocumented presence or entry subjects asylum seekers to criminal penalties in violation of international law

- **The ABA supports recognizing gender-based persecution as a ground for asylum**

- **The ABA supports temporary U.S. protection for persons who may not qualify for asylum but who would be endangered if forced to leave**