



The  
CENTER for  
VICTIMS of  
TORTURE

*Submitted via Federal eRulemaking Portal*

May 19, 2021

Samantha Deshommnes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
5900 Capital Gateway Drive  
Camp Springs, MD 20746

**RE: RIN 1615-ZB87, USCIS-2021-0004: Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits and Services; Request for Public Input**

Dear Ms. Deshommnes:

The Center for Victims of Torture (CVT) respectfully submits this comment regarding your request for public input in identifying barriers that prevent individuals from accessing benefits and services provided by USCIS, Docket No. USCIS 2021-0004 published on April 19, 2021.

We thank the administration for giving advocates an opportunity to provide input on how to improve the lives and wellbeing of torture survivors—who comprise a shocking percentage of the U.S. refugee and asylum-seeking populations. As the comments and recommendations that follow make clear, there are several steps USCIS must take to ensure that asylum seekers can gain meaningful access to asylum, work authorizations, and the benefits that come along with these. Were USCIS to implement promptly the following recommendations, CVT's clients will be better able to heal and thrive in their communities.

We urge USCIS to implement these recommendations as soon as possible to safeguard individuals fleeing persecution, including torture.

Thank you for the opportunity to submit comments on this request for input. Please do not hesitate to contact us with any questions or for further information.

Andrea Carcamo /s/  
Senior Policy Counsel  
[acarcamo@cvt.org](mailto:acarcamo@cvt.org)

Scott Roehm /s/  
Washington Director  
[sroehm@cvt.org](mailto:sroehm@cvt.org)

## **DETAILED COMMENTS to Provide Input on RIN 1615-ZB87, USCIS-2021-0004: Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits and Services.**

The Center for Victims of Torture (CVT) welcomes the opportunity to comment on the proposed rule titled “Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits and Services; Request for Public Input,” Docket No. USCIS 2021-0004 (“the Proposed Rule,” or “the Rule”).

Founded in 1985 as an independent non-governmental organization, CVT is the oldest and largest torture survivor rehabilitation center in the United States and one of the two largest in the world. Through programs operating in the U.S., the Middle East, and Africa—involving psychologists, social workers, physical therapists, physicians, psychiatrists, and nurses—CVT annually rebuilds the lives and restores the hope of more than 25,000 primary and secondary survivors of torture, other gross human rights violations, and severe war-related trauma. The vast majority of CVT’s clients in the United States are asylum seekers.

CVT also conducts research, training and advocacy, with each of those programs rooted in CVT’s healing services. The organization’s policy advocacy leverages the expertise of five stakeholder groups: survivors, clinicians, human rights lawyers, operational/humanitarian aid providers, and foreign policy experts. CVT helps organize a network of torture treatment programs focused on rebuilding the lives of survivors of torture across the nation. These programs serve primarily asylum seekers, asylees, and refugees.

### **I. Background**

United States Citizenship and Immigration Services (USCIS) has historically been the component within the Department of Homeland Security (DHS) designed to process and welcome immigrants into the country through the adjudication of various requests for relief. USCIS’ homepage used to highlight the connection between USCIS and Ellis Island. Under the changes directed by the Trump White House, USCIS has morphed from a service-oriented agency to one of enforcement. For example, in a June, 2018 memo the Trump administration directed the agency to begin issuing charging documents to individuals whose applications were denied, a move that discourages qualifying applicants from seeking relief for fear they will end up in removal proceedings. Numerous additional changes in policy and procedure have made immigration benefits harder to obtain and have added to the character transformation of USCIS. Regardless, even before the Trump Administration carried out this transformation, some policies and practices at the agency have posed barriers to asylum seekers, refugees, and other vulnerable populations’ ability to obtain adequate benefits and relief for decades.

### **II. The Affirmative Asylum Backlog is a Barrier to Obtaining Asylum, Ability to Petition Family Members and Access to Much Needed Benefits for Asylees**

Thousands of asylum seekers face years-long delays in a backlog—the largest among the applications USCIS adjudicates—of 394,101 applications yet to be processed as of the 1st quarter of FY2021. In January 2018, the agency began implementation of the last-in, first-out (LIFO) policy to adjudicate affirmative asylum applications. Although this policy has allowed

for many recently filed cases to be adjudicated in a timely manner, asylum seekers who had already been waiting for years now must wait even longer to have an opportunity to present their case. Some cases have been pending since before Trump was president, as far back as 2015. These delays have substantially increased the time asylum seekers remain separated from their families, as they cannot petition for them until they obtain asylum. This causes considerable stress that can lead to re-traumatization and hinder the healing of asylum seekers who have survived traumatic experiences.

At CVT, between 2018 and May 1, 2021 the average length of time between arrival to the U.S. and establishing asylee status for our clients was 42.9 months, or more than three years. Of those served, 91% were separated from their families at the time of intake into CVT programs. Thus, one of the effects of the backlog is that it keeps families separated. This is inexcusable as those who remain behind are still in places where they face danger and persecution, and the inability to bring them hinders the healing of those already in the US. To emphasize this point, CVT Case Manager Miriam Hauser, MSW, LICSW states:

*I have a client who has been waiting for an interview since 2016. Since coming to the United States, two of her children have gone missing in her country of origin, which may not have happened had she been able to complete the asylum process promptly and apply for reunification. Her case has also been impacted by COVID – she was finally scheduled for an interview for May 2020, but it was cancelled due to COVID and has not been rescheduled. The ongoing family separation due to these delays have exacerbated her worry and sadness and gotten in the way of her ability to heal.*

Miriam offers another example to highlight the effect being separated from family has on the mental health of our clients:

*Another one of my clients has been waiting seven years for an affirmative asylum interview. During this time her children have also experienced threats in her country of origin, resulting in a notable increase in suicidal ideation for the client.*

USCIS must prioritize addressing the affirmative asylum backlog.

#### Recommendations:

- The Biden Administration's FY2022 discretionary funding request allocates \$345 million for USCIS to address naturalization and asylum backlogs; it must be a priority to quickly and efficiently implement this funding to develop fairer adjudication processes for those in the backlog, fund and train additional Asylum Officers, modernize asylum office processes with electronic filings and a transparent interview scheduling system, and promote transparency by providing regular, public updates on Asylum Officer interview schedules.
- USCIS must create a three-track system that allocates priority and resources based on the types of new and pending cases at each asylum office. The first track must be for cases in the backlog, beginning with those pending for the longest; the second track would be a continuation of unaccompanied children as required under the Trafficking Victims

Protection Reauthorization Act (TVPRA); and the third track would be a continuation of the last-in, first-out (LIFO) policy currently in place while ensuring the applicant has the ability to easily request and obtain additional time when needed. Although LIFO has caused further and unfair delays for those who have already been waiting for an asylum interview for years, it is an example of how the system should eventually function.

- The administration has authority to lead policy changes in agencies outside USCIS that will help shift resources from inhumane border practices—such as rapid adjudication of claims at the border—towards addressing the asylum backlog. Immigration and Custom Enforcement (ICE) and Custom and Border Protection (CBP) have discretion as to whether to place individuals seeking asylum in expedited removal. The discontinuation of expedited removal for asylum seekers would make moot the need for asylum officers to conduct fear interviews at the border thereby allowing USCIS to redirect asylum officers to working on cases on the backlog.
- Retention of staff is also important in decreasing the backlog. This can be attained by reducing vicarious trauma for those who serve vulnerable populations, as well as asylum officers who listen to details of trauma. Retention could also be improved by adequately staffing all funded USCIS Asylum Office positions to decrease caseloads and employee burnout. For instance, in FY 2020, USCIS was authorized to employ up to 1,296 asylum officers, but as of April 2020, had only 866 on staff.
- USCIS should also build incentives for Asylum Officers to prioritize backlogged cases. First, USCIS should consider authorizing overtime of Asylum Officers who volunteer to help clear the backlog of affirmative cases, as was done for Asylum Officers who volunteered to implement the Migrant Protection Protocols (MPP) under the Trump Administration. Second, USCIS should facilitate and streamline the re-hiring of Asylum Officers who have quit or moved to other U.S. government positions over the last four years. Third, USCIS should undertake restorative efforts for staff who left or were forced to leave their positions due to matters of conscience and burnout over the last four years, as recommended by the AFGE Local 1924 Asylum Officers’ union. Adjudicators need support from USCIS to maximize their well-being and ability to effectively decide cases involving matters of life or death.

### **III. The Lack of use of Trauma-Informed Practices and Policies Inhibit the Fair and Humane Adjudication of Asylum Seekers’ Claims**

Applying for humanitarian and survivor-based protections can be re-traumatizing, including for survivors of torture, persecution, human trafficking, sexual and domestic violence, and other trauma. Recounting intimate details of abuse—especially through an interpreter to a government official in a high-stakes setting—can trigger panic attacks, flashbacks, dissociative thinking, and other debilitating symptoms of Post-Traumatic Stress Disorder (PTSD). While re-traumatization is itself harmful, it can also prejudice survivors’ cases if it interferes with their ability to present critical information during an interview.

Many asylum seekers must share the most intimate details of their life in court, through a system that is adversarial. This approach often harms survivors' mental health and can lead to unjust outcomes in their cases. As the process of applying for asylum with USCIS is considerably less adversarial than immigration court proceedings, allowing asylum seekers' cases to remain with USCIS can help to prevent or mitigate re-traumatization during the application process. However, their ability to present their case before USCIS must be contiguous with their ability to be in a safe place physically and emotionally, which will never be the case if these adjudications take place while the asylum seeker is in custody at the border shortly after arriving in the United States.

CVT Senior Clinician for External Relations Alison Beckman, MSW, LICSW highlights how the environment and particular situation of survivors of torture and other trauma can affect their ability to share their story:

*Several factors can go into whether someone feels ready and safe to share their stories. These factors include whether they live in a safe and stable environment outside of danger, the impact the traumatic experience had on the individual, who they are they sharing their story with—is it a helping professional, in plain clothes with a stated goal of helping with healing or a government official, in uniformed, are they armed (the latter will be likely much more intimidating or scary for an asylum seeker.) If it is someone who experienced repeated traumatic events and /or has developed PTSD or Depression they may not be able to fully recount the details of their story even in a stable environment.*

*There is unfortunately no mathematical equation that can state how many sessions or time is needed, and the safety requirements that need to be in place as this is highly individualized. That being said, we have found that many survivors we have worked with in treatment, and with whom we are working to ensure they are safe and have access to basic needs, are able to recount their stories, particularly the central gist of their story with some variability with ability to recount peripheral details, while taking into consideration our knowledge on how traumatic memories are recalled.*

### Recommendations:

- Adjudicate all asylum claims through USCIS, including those of asylum seekers arriving at the border.
- Resolve jurisdictional issues in favor of keeping cases with USCIS where an NTA of asylum/withholding/CAT applicants has not been filed with EOIR by revoking the [Lafferty Memo of March 11, 2016](#). The administration must issue another memo in favor of affirmative adjudication of an application if an NTA has not yet been filed with EOIR.
- Carry out effective training for asylum officers on the following topics:
  - LGBTQ specific: As was the case in the past, adjudicators should be trained by a culturally competent entity on LGBTQ and HIV issues, including on proper terminology, understanding LGBTQ identity, and the specific dynamics of persecution against LGBTQ individuals (see, eg, the [RAIO training module](#), relevant [UNHCR guidelines](#)).

- Gender-based persecution: As reflected in the current [training module](#), training should provide in-depth information on the unique dynamics of gender-based persecution. For example, social stigmas/community and family ostracization, economic isolation, internalized shame, repeat victimization, economic abuse, etc., and how these dynamics impact fact-finding, evidence gathering, and presentation of testimony. Training should also ensure adjudicators understand how gender-based asylum claims comport with international law and guidance (e.g., [UNHCR gender guidelines](#), [guidelines on membership in a particular social group](#), [guidelines on human trafficking-asylum claims](#)).
- The impact of trauma and PTSD on evaluation of credibility: [Scientific information](#) on memory, how it is encoded, and how trauma interferes with the linear recall and recounting of information should be included in training. Cultural norms of interviewee presentation, internalized shame and stigmas, and the limits of subjective adjudicator perception of demeanor, candor, and responsiveness to assess credibility of trauma survivors should also be addressed.
- Follow trauma-informed interviewing techniques: E.g., how to open the interview to establish rapport, informing the applicant pre-emptively of what will happen in the interview and what happens next, allowing requests for an officer or interpreter of a particular gender without punishment such as stopping the EAD clock or being placed in a long backlog, allowing breaks, etc. Specific trauma-informed interviewing techniques can be found in Section III of the UNHCR Gender Guidelines, entitled “Procedural Issues.”

#### **IV. Certain Policies, Regulations, and Practices in Obtaining Employment Authorization Documents (EADs) set Barriers to Asylum Seekers’ Ability to Work to Earn a Livelihood**

The prior administration issued two rules through the notice and comment process that substantially altered employment authorization eligibility and I-765 application processing for asylum seekers.<sup>1</sup> These rules repealed the 30-day timeline for USCIS to process initial (c)(8) EAD applications by asylum seekers; more than doubled the wait period to apply for (c)(8) EADs from at least 150 to at least 365 days after filing an asylum application; erected new bars prohibiting various classes of asylum seekers from receiving (c)(8) EADs altogether; created new automatic termination provisions for (c)(8) EADs; made (c)(8) EAD applications more expensive; barred most asylum seekers on parole from receiving (c)(11) EADs; and made other harmful changes to asylum case processing.

These changes have proven disastrous for asylum seekers, who are vulnerable by definition after experiencing persecution and fleeing their countries of origin, and who are ineligible for federal

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<sup>1</sup> See Asylum Application, Interview, and Employment Authorization for Applicants, 85 Fed. Reg. 38,532 (June 26, 2020) (effective Aug. 25, 2020); Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applicants, 85 Fed. Reg. 37,502 (June 22, 2020) (effective Aug. 21, 2020).

financial assistance. By delaying, denying, or complicating asylum seekers' ability to work, the rules have negatively impacted asylum applicants' independence, physical and mental well-being, and safety; in doing so, the rules have left asylum seekers even more vulnerable to exploitation, rendered it harder for them to extricate themselves from dangerous living situations, and forced some into the shadow economy. In addition, the rules have made it more difficult for asylum applicants to find and hire counsel (or even simply survive in the United States) so they can pursue their immigration cases. Beyond asylum seekers themselves, the rules have also harmed their families and communities, including legal service organizations and community support providers whose resources have been stretched thin. USCIS should rescind or otherwise revoke these rules in their entirety, either through a new notice and comment process, or through some other mechanism prior to initiating new rulemaking.<sup>2</sup>

Clinicians providing mental health and rehabilitative service to survivors of torture at CVT are too familiar with the effect any delay in obtaining a work permit has on clients:

Andrea Northwood, former Director of Client Services at CVT states:

*For torture survivors who have fled for their lives into exile, the period of time between arriving in a country of refuge and obtaining asylum is one of extreme psychological vulnerability and fragility. This is when survivors are most at risk, most distraught by recent trauma and losses, and least supported: they lack adequate food, clothing, shelter, health care, social support, employment authorization, legal support and legal assistance. They usually have medical and psychological wounds from their torture that have not received any treatment. This often puts their lives literally at risk: they can present at our doors with life-threatening physical conditions and life-threatening psychological symptoms, including suicidality and torture-related flashbacks that result in dangerous activities such as walking into traffic or leaving shelter at night in a semi-conscious state.*

*Just a delay in the grant of a work authorization will deliberately increase this period of extreme risk, which is both immoral and inhumane. This will have a direct and immediate harmful effect on the lives of our asylum-seeking clients . . . We believe such an inhumane measure is also a fundamental violation of human rights, which include the right to seek asylum and the right to be free from torture. It punishes those who have come forward with honesty and presented their cases lawfully, making no distinction between cases with merit (in our case, this can include forensic evidence such as medical documentation of scars from torture) and the so-called frivolous claims the policy purports to address.*

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<sup>2</sup> In addition to the eligibility barriers, fees, and other issues discussed in subsequent questions, this includes rescissions of the remaining rule changes, including but not limited to the automatic EAD termination provisions, elimination of recommended approvals and the "deemed complete" rule, the fourteen-day evidence rule, the provision rendering asylum seekers ineligible to apply for work authorization after an Immigration Judge denial, and others.

*In addition to the basic necessity of income in order to survive and support a family in danger back home, sitting around all day with nothing to do is described as a major stressor (at best) and even a cause of insanity (“going crazy”) by our asylum-seeking trauma survivors, as they use “keeping busy” and meaningful activity to distract themselves from involuntary, disturbing traumatic memories as well as profound sadness and loss. One of the first priorities of rehabilitation at CVT is to rebuild meaningful activity into the lives of asylum seekers by helping them with employment-readiness activities until their work permit arrives and, as soon as it does, employment itself. This is because this change alone produces a reduction in emotional distress and calms people down.*

Emily Manaen, CVT psychotherapist MSW, LICSW helps illustrate the scenario presented by Andrea Northwood:

*I think about my client who has had an extended wait for his work permit. This has definitely delayed his healing. He took pride in his work in his country of origin and in being able to provide for his family. Not being able to financially support his family has been so painful and difficult for him. He struggles to sleep, wakes up restless throughout the night with worry about his family. I suspect he will make remarkable progress once he gets permission to work.*

#### **A. Date of “Filing of an Asylum Application”**

8 U.S.C. §1158(d)(2) states: “An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum.” USCIS currently interprets “the date of filing of the application for asylum” to be the date that an asylum applicant files their Form I-589. The Form I-589 is involved and non-user-friendly, only available in English, and often requires significant detail (months or years in advance of any hearing). In addition, many asylum seekers have been unable to file I-589s for months or years after passing credible fear interviews, whether because they have not been permitted to do so, they are not timely informed about the form, or they are unable to complete it without assistance; in these circumstances, the 180-day (~6 months) statutory period cannot even begin for months or years.

The average length of time between arrival to the U.S. and receiving work authorization for CVT clients between 2018 and May, 2021 was 17.5 months, or almost one year and a half. This means that during this period, survivors of torture are placed in extremely vulnerable situations, as they are forced to work in the underground economy, hardly able to support themselves and others, and unable to heal due to their precarious employment circumstances.

Jill Davidson, Case Manager MSW, LSW helps illustrate the urgent need for asylum seekers to work:

*Clients awaiting work permits are under significant stress because they were previously financial providers to many people in their family and community and now they are fully dependent for everything from food to clothing to transportation and have no way to earn money to support themselves or their family members who depend on them. They also*

*struggle with unstructured time and the inability to be productive/contribute/have distraction of work, which disrupts their healing process.*

Recommendation:

For purposes of work authorization, in addition to the submission of a complete Form I-589, USCIS should develop an alternative means to meet the “filing of the application for asylum” requirement more quickly. For example, USCIS (in collaboration with EOIR) might consider these or other events to both meet the “filing” requirement and satisfy the one-year filing deadline:

- The filing of a simplified version of Form I-589;
- The filing of a simplified “declaration of intent to seek asylum” form; or
- The “lodging” of a Form I-589 with basic information completed on page 1 and a signature on page 9—similar to the practice formerly used in immigration courts.

**B. Processing Time for Asylum Seeker EADs**

Asylum seekers have an urgent need to work to support themselves and their families, given that they have fled their countries of origin due to persecution and are generally not eligible for benefits in the United States prior to winning asylum. However, many are forced to wait to seek employment due to delays in EAD processing. As detailed in recent filings in the Rosario litigation, USCIS has chronically failed to comply with the 30-day processing deadline for initial EADs in category (c)(8). The rule effective August 21, 2020 did away with the 30-day deadline, but under the preliminary injunction in *CASA v. Mayorkas*, the 30-day rule still applies to members of *CASA* and *ASAP*. Litigants are seeking to have the court broaden the injunction so that it applies to all people who have filed for asylum.

For asylum seekers who wish to renew a (c)(8) EAD, there is no processing deadline. Those renewals typically take several months. Sometimes, they are delayed more than the six months of automatic extension afforded the prior EAD, causing asylum seekers to lose employment. Moreover, employers often do not understand or accept the automatic extension; the same is true for state agencies, e.g., those that issue drivers’ licenses.

Recommendations:

*Initial Applications*

- For initial applications in category (c)(8), USCIS should maintain a 30-day processing standard as a matter of agency policy, regardless of the outcome of pending litigation.
- For initial (c)(8) applications which are approvable, USCIS should make it agency policy to issue an EAD within 30 days, rather than just committing to adjudicate the application within that time.
- Regardless of the processing standard the agency chooses, it should adjust its timeline for accepting initial (c)(8) applications accordingly, such that applications are processed by

the 180-day mark. (For example, if the agency decides on a 40-day processing standard, it should accept (c)(8) applications beginning 140 days after the filing of Form I-589 or an equivalent “triggering” event.)

### *Renewal Applications*

- If USCIS declines to obviate (c)(8) renewals by extending the validity period for initial (c)(8) EADs to the full duration of the pendency of an asylum application, as recommended below, USCIS should at least impose an internal deadline of 30 days for adjudicating (c)(8) renewals.
- If USCIS cannot commit to adjudicating (c)(8) renewal applications within 30 days, it should at least pursue the following recommendations to ensure automatic extensions adequately protect renewal applicants’ ability to work.
  - For applicants eligible for automatic extensions, USCIS should make each extension last until the renewal application is adjudicated, rather than expiring after 180 days.
  - Alternatively, if the notice of extension has a 180-day limit, and an application has been pending 120 days after expiration of the prior card,<sup>13</sup> USCIS should issue a notice of extension for an additional 90 days beyond the original 180 (as long as the renewal application is pending). For renewals pending 240 days and beyond, additional extension notices should be issued every three months in the same manner.
  - For purposes of qualifying for automatic extension of employment authorization, an EAD renewal application received up to 90 days after expiration of a prior EAD should be deemed as timely filed. This is particularly necessary given ongoing issues with improper “received dates,” as discussed below.
  - For eligible EAD renewal applicants, in the same envelope with a receipt notice, USCIS should provide a separate “notice of automatic extension of employment authorization” that the applicant can present to employers and state agencies. This notice should clearly state, in accessible language and an easily readable font, that it—or the accompanying receipt—serves to extend the validity of the applicant’s current EAD. This should be implemented for EAD holders in all the relevant categories, not just category (c)(8).

### **C. Adding Adjudication Time Limits for Additional I-765 Applicant Categories**

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<sup>3</sup> If this “additional extension” notice were issued closer to the termination of the 180-day limit, many people would not receive it until shortly before—or, given delays, even after—the 180-day period was finished. This would cause confusion and uncertainty among both employers and employees as the deadline approached, similar to the confusion and uncertainty that currently exists.

As most asylum seekers qualify for few or no state benefits, and even those granted relief are blocked from certain benefits, obtaining EADs is critical in enabling them to be financially stable. Financial stability, in turn, leads to better mental health, which is key for individuals seeking fear-based relief from removal who have suffered considerable trauma. However, EADs under categories relevant to those expressing a fear of return (specifically (c)(11), (c)(8), (a)(10), and (a)(5)) often last for limited periods of time, and it generally takes USCIS several months to adjudicate these applications. This considerably decreases the period during which the EAD is valid and leaves vulnerable individuals without options to earn a livelihood.

#### Recommendations:

- As discussed above, USCIS should return to the 30-day adjudication deadline for the (c)(8) EAD category (as under the pre-2020 rules) by rescinding the rule that repealed this timeline.<sup>4</sup>
- USCIS should also impose a 30-day processing time limit for adjudicating EADs under the (c)(11), (a)(10), and (a)(5) categories.

#### **D. Elimination of Application and Biometrics Fees for Asylum Seeker EAD Applicants and Extending Duration of EADs**

Asylum seekers often lack the resources to pay the \$410 application fee and \$85 biometrics fee. Applicants for initial (c)(8) EADs are not yet allowed to work, so paying even the \$85 fee can prove burdensome. Many asylum seekers are forced to work without authorization in order to afford the filing fees. Having to pay the government fees every two years results in a high total cost for asylum applicants, whose asylum applications may remain pending due to no fault of their own. EADs are critical for asylum seekers, who often have few resources or connections in the United States. Sometimes, asylum seekers cannot even rely on families and friends for support, and indeed, in the LGBTQ context, families and friends of asylum seekers are often their persecutors. Not having an EAD forces already vulnerable asylum seekers into the shadow economy, where they are more likely to be further exploited.

While fee waivers are available for (c)(8) EAD applicants, the standard of proof to get a fee waiver approved via approval of form I-912 is high. USCIS also does not follow its own instructions when adjudicating I-912 fee waiver applications, often denying such applications on the basis that no affidavit detailing financial hardship was provided, when all the information requested was provided on the form and all supporting evidence (including proof of income and expenses) was submitted. When an applicant does not have proof of income, and provides an affidavit to that effect, USCIS often rejects the fee waiver application for lack of proof of income.

Finally, as to category (c)(11) EADs, applicants who enter the country on humanitarian parole often also do not have the resources to pay the I-765 filing fees for this category (totaling \$495). People who are granted parole are, by definition, allowed to enter the United States for urgent

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<sup>4</sup> Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applicants, 85 Fed. Reg. 37,502 (June 22, 2020).

humanitarian reasons or for significant public benefit, and should not be made more vulnerable by being deprived of the opportunity to work.

The precarious financial situation of asylum seekers is better described by CVT Senior Clinician for External Relations, Alison Beckman, MSW, LICSW:

*Most of our clients have pro bono attorneys, most have no money. Our social workers brainstorm ways for clients to pay for \$3 prescription co-pays. They help clients figure out how to access food shelves and get donated winter clothing.*

### Recommendations:

#### *Elimination of Biometrics Fees and Requirements*

- USCIS should return to the prior rules by eliminating biometrics fees and appointments for all (c)(8) EAD applicants.
- If USCIS determines that it wishes to collect biometrics for (c)(8) EADs, it should reuse biometrics that are already taken when an applicant files an I-589 (if affirmative) or after the applicant complies with the “Instructions for Submitting Certain Applications in Immigration Court and for Providing Biometric and Biographic Information to U.S. Citizenship and Immigration Services” (if defensive). Eliminating the need for a biometrics appointment would substantially reduce the burden on USCIS, especially in terms of resources it currently takes to schedule appointments and go over information that USCIS already possesses. It would also improve processing times as USCIS would no longer have to wait for an applicant to appear at a biometrics appointment in order to continue processing an application.

#### *Extending the Validity of (c)(8) EADs*

- USCIS should issue (c)(8) EADs that are valid throughout the pendency of an applicant’s asylum claim. Such a rule would not only reduce the financial burden on asylum applicants, but would also reduce the financial and administrative burdens on USCIS, and it would enable USCIS to process such applications in a timely manner. Additionally, given that only an asylum officer or an immigration judge can make a final determination on whether or not an applicant is eligible for asylum, it is unnecessary for asylum applicants to keep applying for EADs every one to two years. Should an employer or government agency wish to verify that the applicant’s claim for asylum is indeed pending, they can use the Systematic Alien Verification (SAVE) and I-9 verification systems already in place.
- If USCIS declines to grant EADs for the duration of the pendency of the asylum application, USCIS should increase the number of years for which a (c)(8) EAD is valid, and automatically grant every EAD for the maximum amount of time possible.
- If USCIS declines to grant EADs for the duration of the pendency of the asylum application, USCIS should also remove the application fees for renewal EADs. As long as an application for asylum is pending, asylum applicants need authorization to work in

the United States. USCIS should not charge application fees for an application that it must grant as long as the application for asylum is pending.

#### *Elimination of Application Fees for (c)(11) EADs*

- USCIS should eliminate the application fees for (c)(11) parole EADs. Removing filing fees for (c)(11) EADs would serve the humanitarian interests of the United States.

#### **E. EAD Application Category for Withholding and CAT-only Applicants**

While asylum seekers qualify for EADs, those who are only able to apply for relief under withholding or relief under the Convention Against Torture (CAT) are not currently eligible for EADs during the pendency of their application. However, the needs of these individuals and their families are the same as the needs of those seeking asylum and their families. Like asylum seekers, withholding and CAT-only applicants and their families need food, housing, and peace of mind, all of which can be facilitated through the provision of work permits.

#### Recommendation:

- USCIS should, consistent with the EAD rules for asylum seekers, extend the opportunity to apply for EADs to individuals who qualify only for protection under the withholding and/or CAT provisions of the INA.

#### **V. Barriers to Adjudication of Follow-to-Join (FTJ) Applications Must be Addressed and Prioritized to Prevent Further Delay in Family Reunification**

The significant backlog of FTJ cases involves reportedly more than [380,000 immigrant visa applicants](#), as of December 31, 2020, who were awaiting a consular interview. The processing time for FTJ cases. Ongoing separation from family members due to unexplainable administrative and bureaucratic delays and concerns for their safety and security in unstable situations are the biggest factors contributing to the overall negative mental health outcomes and self-sufficiency goals of our refugee and asylee anchors. When family member(s) arrive through the P-3/AOR and Form I-730/Visa 92/Visa 93 programs, they are able to integrate and become self-sufficient faster, as they are joining existing households.

We remain frustrated that there appears to be no clear chain of responsibility for the processing of I-730s and they continue to be processed as an afterthought, especially at embassy locations. We are aware of the continuing obstacles to schedule circuit rides and camp access, and we urge the administration to consider alternative solutions to allow processing, especially for those who are beneficiaries of these petitions. Further, pre-screening interviews are conducted via circuit ride, which has meant that several locations have gone years without a circuit ride, whether due to smaller overall caseload, country conditions making travel inaccessible, or other reasons.

At most Embassies and Consulates, it is Foreign Service Consular Officers who are responsible for interviewing Form I-730 beneficiaries. However, Posts are inconsistent in their exposure to refugee/asylee issues. Many locations that frequently process Form I-730 cases have dedicated staff members involved in these programs. However, other locations where the volume of Form I-730 cases is smaller are forced to pull staff who regularly work on Form I-130 processing to

interview refugee/asylee beneficiaries. This has resulted in misapplication of the burden of proof (I-730s are adjudicated by a “preponderance of the evidence” not the higher “clear and convincing” standard), and Consular Officers returning cases to USCIS based on doubt of the relationship’s veracity. Of the cases returned by the Consulate to USCIS, many recommend re-adjudication (and for some offices, every single case involves a Consular Officer mis-applying the applicable statutes or regulations).

We hear regular distress from family members whose cases are not moving, while we are unable to provide concrete answers as to why their family member(s) are not here, after months, and often years of case processing delays. It is important to note that this is one of the biggest sources of vicarious trauma for advocates in our line of work. These cases weigh heavily when both the advocate and the client feel that the system is not fair, efficient, nor credible.

This is illustrated in the experiences of CVT clients. Psychotherapist Molly Drew, MSW, LICSW states:

*I have a client who after an arduous journey to the US received asylum as a victim of political torture in July 2020. She immediately sought family reunification for her four children who remain in Cameroon, including one child who has significant disabilities. My client worries every day about her children’s safety as there is continuing violence in Cameroon near their home. My client has been highly anxious waiting for family reunification and states that the uncertainty of if/when this might happen is incredibly difficult for her. Although the client attends therapy regularly, her mental health symptoms do not show signs of improving as a direct impact of this uncertainty and stress. Being granted family reunification quickly and receiving regular communication about her case would likely greatly reduce her symptoms.*

The inability for asylees to swiftly re-unify can also lead to the death of those who are eagerly waiting in the country of persecution of the asylee. Jill Davidson, MSW, LSW a Case Manager at CVT describes:

*My client is separated from 3 teenage children living alone in Nairobi. Client received asylum a few years ago, reunification is taking a very long time, delayed due to COVID-19 because Embassy is not conducting interviews. Children have suffered multiple violent attacks, sexual assault, kicked out of the home where they stayed, power turned off. They have experienced extreme violence, which has resulted in permanent physical and psychological damage to the children. My client is in despair, unable to celebrate Eid, unable to progress in her healing due to the safety concerns for her children. They’ve been separated 5 years. The children have no caregivers, they’ve been living unaccompanied for 5 years. Why wouldn’t we have a humane reunification timeline for minors who are separated from their parents? It’s unthinkable. Why not let those minors join their mother as soon as she immigrated? Or at least as soon as she received asylum? The immense suffering of the children and the mother is unmeasurable. Those children will probably need intensive mental health services for the long-term once they finally arrive here.*

## Recommendations:

- Refugee/Asylee Family Reunification programs (both P-3/AOR and Form I-730/Visa 92/Visa 93) merit prioritization in processing *over* referrals that do not already have a U.S. tie. These cases *should* be easier to process, as there are fewer documentary requirements and additional staff support from resettlement offices to assist in providing information and communication.
- The administration should commit to accountability and transparency for these applicants. Resettlement Support Center (RSC) and Embassy staff should provide responses to inquiries for information in good faith, without resorting to opaque form responses. We request that the administration create a tracking system with processing timelines that anchors/petitioners could check for consular processing.
- The administration should produce regular reports for all resettlement agencies that provide AOR processing statistics, such as: the number of active P-3 cases compared to arrivals; duration of cases without movement; number of Refugee I-730 cases forwarded to Embassy since the previous reporting period; the number of Refugee I-730 cases resettled.
- The administration should consider opportunities to facilitate regular pre-screening interviews, to address a lack of circuit rides (including number of staff joining and duration of the circuit rides). For example, the administration should consider training local staff to conduct pre-screening interviews, or otherwise transporting the beneficiaries to a second location for interviewing.
- The administration should resolve significant delays in Form I-730 processing as a result of lengthy state case transfers and confusion as to which office/agency is responsible for adjudicating the Form I-730 stateside. For some cases, we have received as many as three or more separate case transfer notices for petition, spanning several years without any officer actually reviewing the merits of the case. The current security check requirements seem to be particularly redundant and illogical. We are particularly concerned about the “Administrative processing” section of review that appears interminable.
- The administration should address significant adjudication issues, such as with Requests for Evidence (RFEs) from USCIS, which frequently ask for documents that are needed in I-130 cases but are not statutorily required for Refugee/Asylee I-730s. Much of our time in responding to RFEs is spent outlining the applicable statutes and regulation for Form I-730 processing.
- The administration should improve and strengthen its training of Foreign Service Consular Officers on Form I-730 processing.

## **VI. Barriers Specific to LGBTQ Asylum Seekers**

### **A. Gender Markers and Proof of Gender**

Generally, USCIS only uses “male” and “female” gender markers. These gender markers are not accurate for many people, including those who are non-binary. Similarly, many transgender people are issued EADs with incorrect gender designations because of burdensome and unnecessary requirements to establish or change gender markers. Forcing individuals to use documentation with incorrect gender designations can traumatize them, especially those who have faced persecution on account of their gender identity.

For some immigrants, EADs and other USCIS documents are the only forms of identification that can reflect the immigrant’s true gender identity. Thus, it is critically important that individuals have access to ID documents that correctly reflect gender to ensure access to benefits and to avoid discrimination.

### Recommendations:

USCIS should immediately change its policy and update all application forms to include more accurate gender designations. Specifically, USCIS should add an “other” option under gender. This will allow all applicants to answer the question regarding gender more accurately. USCIS already uses an “other” option in the Applicant Information Worksheet that applicants are required to fill out when they attend their ASC biometrics appointments. USCIS should expand this practice to all immigration forms where gender information is required.

For example, in the EAD context, for people who select “other,” USCIS should issue EAD cards with an “X” gender marker. Additionally, USCIS should update the instructions for Form I-765 to make clear that:

- an individual who identifies as male and wants an “M” marker on their EAD card, should select “Male”;
- an individual who identifies as female and wants an “F” marker on their EAD card, should select “Female”; and
- an individual who identifies as neither and wants an “X” marker on their EAD card should select “Other” and may write in their gender (e.g., non-binary, agender, etc.).

Please note that some transgender people may identify specifically as transgender, while others may identify as male, female, or in another way. This change in policy along with clear instructions will ensure that documents issued to transgender people are accurate.

With respect to *changing* gender markers, USCIS currently requires either a letter from a licensed healthcare professional or a court order in order to effect a change. Both of these options can prove burdensome for applicants who do not have access to medical professionals or may not have the resources to pursue a court order. Moreover, individuals with inaccurate gender designations on IDs are often subjected to negative treatment, including discrimination, harassment, denial of services, and even physical violence.

USCIS should change the burdensome evidentiary requirements currently in place by allowing applicants to self-identify their gender identity as applicants are in the best position to report

their own gender. Indeed, USCIS should follow the lead of 20 states and the District of Columbia, which only require a self-attestation to change gender markers on driver's licenses.<sup>5</sup>

## **VII. USCIS's Responses to COVID-19 Continue the Unnecessary Delays in the Adjudication of Asylum and Refugee Applications**

As COVID-19 has led to asylum office closures and reductions in the volume of asylum interviews conducted after asylum offices re-opened, asylum seekers' waits continue to grow along with the backlog of unadjudicated affirmative asylum applications. We recognize the need and applaud the efforts of the agency to keep USCIS staff and asylum seekers safe during the pandemic. But as the agency continues to adjust to COVID-19, the administration must deploy creative and flexible responses to continue providing services and return to previous practices once the pandemic is over.

During the COVID-19 pandemic, USCIS circuit rides and overseas interviews have been severely limited. Tens of thousands of refugees who have completed an initial USCIS interview have been halted in the process due to case information that requires clarification. As a result of fewer circuit rides, refugees requiring follow-up have been unable to move forward with their application and progress to travel. To help address this backlog USCIS must enable remote USCIS interviewing to overcome circuit ride scarcity. Expanding the use of virtual interviews is a necessary prerequisite to a functioning USRAP in this pandemic era. The strategic use of virtual interviewing would also save limited travel resources, decrease the application backlog, and allow refugees to progress to travel.

One example of a delay and its impact is illustrated in a statement—also provided above—by CVT Case Manager Miriam Houser, MSW, LICSW:

*I have a client who has been waiting for an [asylum] interview since 2016. . . Her case has also been impacted by COVID – she was finally scheduled for an interview for May 2020, but it was cancelled due to COVID and has not been rescheduled. The ongoing family separation due to these delays have exacerbated her worry and sadness and gotten in the way of her ability to heal.*

### **Recommendations:**

- Pursuant to President Biden's Executive Order 14013 Sec.4(c)(ii), DHS, in consultation with DOS, should expand the use of virtual interviews at a minimum for low complexity cases, for follow-up interviews, and for hard-to-reach populations. It is important to allow for remote interviews with the consent of applicants and, where applicable, counsel while complying with the following guardrails:
  - Ensure that remote interviewing is limited to the COVID-19 emergency and return to normal in-person interviewing as soon as it is feasible.

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<sup>5</sup> Movement Advancement Project. "Equality Maps: Identity Document Laws and Policies." <https://www.lgbtmap.org/equality-maps/identity-document-laws> (last visited May 7, 2021).

- Facilitate the participation of interpreters and counsel by providing the appropriate software and/or lines.
- Consider factors that might interfere with adjudications as a result of conducting remote interviews while avoiding the referral or denial of an application for reasons that may be attributable to the remote setting.
- DHS should issue a report on the status of remote interviews, including how many interviews were conducted remotely or by video; what infrastructure was created to do so; and what the Department needs to overcome any challenges in implementation.
- As long as satellite sites and circuit rides are inactive, allow asylum seekers the option to attend the interview remotely or going to the main regional office.
- Consider video interviews for refugees with less complicated cases who are difficult to reach through in-person circuit rides while practicable.
- Allow applicants the option to use their own interpreter or use an interpreter provided by USCIS.
- Waive biometrics requirements for asylees and refugees applying for adjustment of status to avoid unnecessary outings while still allowing them to apply for this benefit.

### **VIII. Barriers Impeding Asylees from Accessing Benefits**

Those seeking asylum status must demonstrate to the government that they meet the definition of a refugee found within 8 USC 1101(a)(42). This is the same definition that refugees arriving through the U.S. Refugee Admissions Program (USRAP) must meet. Asylees, however, often do not receive the support that resettled refugees are granted despite being eligible for many of the same benefits.<sup>6</sup> Though nearly every person who arrives through USRAP accesses the benefits and services funded by the Office of Refugee Resettlement, just 10-15% of asylees do.<sup>7</sup> Various factors underlie this low access rate, including a lack of awareness by asylees and attorneys of the support that is available, and a failure to automatically issue electronic forms to newly granted asylees. In addition, there is tremendous variation in how asylees are linked to services: some states fund asylee outreach coordinators to connect asylees to integration support, while

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<sup>6</sup> Asylees meet the immigration eligibility requirements for ORR benefits and services to the same extent as resettled refugees. Asylees are also eligible for federal public benefits including Medicaid, Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), and Supplemental Security Income to the same extent as resettled refugees. Asylees are not eligible for the initial reception and placement assistance that the State Department provides to refugees arriving through USRAP.

<sup>7</sup> This 10-15% rate is based on a fraction: the numerator represents the number of asylees who newly access ORR-funded benefits in a given fiscal year, and the denominator represents the number of people who received asylum status in that fiscal year. ORR Dear Colleague Letters related to funding allocations provide the data for this numerator, and DHS' Annual Flow Reports indicate the denominator. In FY 2019, for example, more than 50,000 people received asylum status (including follow-to-join cases), but fewer than 6,000 asylees accessed ORR-funded services. See [https://www.acf.hhs.gov/sites/default/files/documents/orr/dcl\\_20\\_06\\_fy20\\_rss\\_allocations.pdf](https://www.acf.hhs.gov/sites/default/files/documents/orr/dcl_20_06_fy20_rss_allocations.pdf); [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2019/refugee\\_and\\_asylee\\_2019.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2019/refugee_and_asylee_2019.pdf).

other states do little to no outreach to asylees; some USCIS Asylum Offices host benefits orientations for new asylees, while some do not. Asylees are also not eligible for an automatic fee waiver for naturalization benefits.

Access to refugee services can greatly assist asylees building their lives in the United States.

#### **A. USCIS Should Collaborate with ORR and EOIR to Improve Asylees' Awareness of Available Benefits**

A lack of accessible, actionable information about the benefits and services available to asylees is a major factor underlying the low rate of asylee benefit access. No centralized resource exists with information about asylee benefits or how to access them. Moreover, the nation's asylum offices and immigration courts do not effectively communicate to grantees the benefits available to them. When asylum is granted in immigration court proceedings, there is no requirement that grants of asylum issued by immigration judges mention benefits. When asylum is granted by Asylum Officers working for USCIS, USCIS issues Asylum Approval Letters that, while mentioning the existence of possible benefits, are still inadequate. The letters are exclusively available in English and make only cursory mention of the support asylees can receive before referring readers to an ORR website to learn more information and locate a service provider. That website is similarly available only in English and is outdated. For example, it contains contact information for service providers that shuttered years ago. USCIS has supplemented the information on benefits given to asylees with a brochure titled *USCIS Welcomes Refugees and Asylees* (M-1186 11/19), but the effort remains ultimately insufficient: the brochure does not meet the needs of individuals who do not read English fluently, does not address concerns related to the Public Charge rule,<sup>8</sup> and necessitates that asylees are digitally literate to fully make use of the information provided in the brochure.

As a result, many asylees are unaware of the benefits available to them.

#### **Recommendations:**

- USCIS should collaborate with ORR and EOIR to ensure every person who receives asylum also receives information about the benefits and services available to them and is aware of their rights and responsibilities. The goal of this collaboration should be to give every asylee the same information on benefits regardless of the agency granting asylum.
- USCIS should begin issuing copies of its Asylum Approval Letter in multiple languages.
- In consultation with ORR, USCIS should update and improve the *USCIS Welcomes Refugees and Asylees* brochure: make it accessible for asylees with different literacy levels, translate it into various languages, and work with EOIR to ensure that every individual who receives asylum in an immigration court receives this brochure.
- USCIS should develop and coordinate a support services referral system among USCIS, ORR, and EOIR. A support services referral system would ideally create a process to

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<sup>8</sup> Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (Aug. 4, 2019); Although asylees were not subject to the Public Charge rule, and although the rule is no longer in effect, many asylees continue to be wary of the possibility of repercussions from receiving public support.

automatically notify all relevant stakeholders when a person becomes eligible for an asylee benefit, in particular ensuring that the asylee is notified.

## **B. USCIS Should Improve Upon Existing Asylee Benefits Orientations**

To provide information on the rights and responsibilities following an asylum grant, a refugee resettlement agency in the San Francisco Bay Area began partnering with the San Francisco Asylum Office in 2008 to offer orientations to asylees.<sup>9</sup> In the years since, Asylum Offices across the country have begun to offer similar orientations, and the orientations act as a bridge for asylees to learn about available services. Because of the autonomy afforded to each Asylum Office, the different Asylum Offices have taken very different approaches to these orientations. Certain offices do not offer them; others offer them monthly.

### Recommendations:

- USCIS should mandate that all Asylum Offices offer these orientations on at least a bi-monthly basis (i.e. every other month).
- During the COVID-19 pandemic, several Asylum Offices have transitioned to virtual orientations. For the time being, USCIS should continue to offer virtual orientations.
- USCIS should offer both digital and in-person orientation options after the pandemic.
- USCIS should begin hosting a recorded version of a national orientation on its website. Doing so will help meet the needs of asylees who are unable to attend an in-person orientation (e.g. they have work, they don't have access to transportation, they live prohibitively far from an Asylum Office, etc.). This national orientation should include dubbing and subtitles in multiple languages.
- USCIS should ensure that all asylees receive information regarding these orientations. Over the years, Asylum Offices have had limited success in approaching local immigration courts to distribute information regarding these orientations. USCIS should contact EOIR to request that information regarding these orientations be included with all asylum grants.

## **C. USCIS Should Automatically Issue Electronic Form I-94s to all New Asylees**

With certain exceptions, CBP tracks and provides proof of the arrival of individuals who are not U.S. citizens or lawful permanent residents by means of the Form I-94 Departure/Arrival Record (Form I-94). Upon the arrival of a resettled refugee to the United States through the USRAP

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<sup>9</sup> See Lindsay M. Harris, *From Surviving to Thriving? An Investigation of Asylee Integration in the United States*, 40 New York Univ. Review of Law & Soc. Change 29 (2016), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2585209](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2585209); The SF Refugee , Asylee, and New Immigrant Forum, New Asylee Orientation (2021), <http://sf-cairs.org/asylum-orientation/>.

process, CBP automatically creates an electronic Form I-94.<sup>10</sup> Thereafter, refugees may access their Form I-94 anytime through the CBP website.

In contrast, the government does not automatically create a Form I-94 for individuals when they receive asylum status, nor does the government issue asylees electronic Form I-94s. Instead, for asylees granted status through the USCIS asylum offices, the asylees receive a paper I-94 with the letter informing them of their asylum grant. For asylees who receive status from an immigration court, the asylee generally must make an appointment with their local USCIS Field Office through the InfoPass system to request a paper Form I-94 in person. Not all asylees are aware of the need to make this appointment, and even those asylees who are aware may not know how to do so. Asylees also often need to take off work and pay for transportation to obtain this document. As such, many asylees never apply for or receive the form.

During the COVID-19 pandemic, even asylees who knew how to navigate the InfoPass system struggled to obtain the Form I-94. USCIS representatives often failed to call back asylees seeking to obtain a Form I-94. Furthermore, USCIS representatives repeatedly told callers asylees can only obtain a Form I-94 if they are able to produce documentation showing either a pending job offer or denial from federal benefits.

Without a Form I-94, asylees generally cannot update their Social Security cards, which in turn causes a host of issues related to both accessing federal benefits, such as Medicaid, and demonstrating work authorization (for individuals without work permits). It also makes obtaining employment more expensive for an asylee than it should have to be. Without a Form I-94, and without an unrestricted Social Security card (which requires a Form I-94 to obtain), an asylee generally needs an EAD to demonstrate work authorization and complete a separate form, the Form I-9. An EAD costs \$495 to request.

#### Recommendation:

- USCIS should work with CBP and EOIR to create a system to automatically provide electronic Form I-94s to all newly granted asylees. This system should provide electronic Form I-94s to individuals who receive asylum in an Asylum Office as well as individuals who receive asylum in immigration court, once the grant of asylum is administratively final.<sup>11</sup>

#### **D. USCIS Should Issue Automatic Fee Waivers to All Asylees Seeking to Adjust Status**

In June 2007, USCIS published a final rule adjusting the fees for immigration benefit applications and petitions.<sup>12</sup> The agency opted to exempt refugees from filing fees for adjustment of status applications, but chose to continue to charge fees to asylees for adjustment of status

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<sup>10</sup> Definition of Form I-94 To Include Electronic Format. 8 Fed. Reg. 18457 (Mar. 27, 2013), *available at* <https://www.govinfo.gov/content/pkg/FR-2013-03-27/pdf/2013-06974.pdf>.

<sup>11</sup> In Immigration Court, if the Immigration Judge issues a grant of asylum but ICE appeals the judge's decision, the individual seeking asylum is not yet entitled to a Form I-94 showing their updated status until the decision is administratively final.

<sup>12</sup> 72 Fed. Reg. 29851 (May 30, 2007) (emphasis added).

applications. While we applaud and agree with USCIS' decision to exempt resettled refugees from fees for adjustment of status, asylees should be afforded the same treatment.

Asylees are eligible to request a waiver for the naturalization fee, but during the Trump Administration, fee waivers were rejected often without reason. Moving to a system of automatic fee waivers will help future asylees avoid this issue, and it will reduce the administrative burden of dealing with fee waiver applications.

The lack of a fee waiver for asylees also contravenes the 1951 Convention, which provides a framework for both the initial resettlement and the long-term integration of refugee populations. The 34<sup>th</sup> article of the Convention indicates “[c]ontracting States shall as far as possible facilitate the assimilation and naturalization of refugees,” going so far as to say that they must “reduce as far as possible the charges and costs of such . . . proceedings.”<sup>13</sup> Adjusting status is an integral part of the “assimilation and naturalization” process, and therefore the United States has an obligation to reduce the costs as much as possible.

Recommendation:

- USCIS should extend automatic fee waivers to asylees applying for adjustment of status.

**IX. Conclusion**

The USCIS must follow the recommendations provided herein efficiently and promptly to ensure asylum seekers, survivors of torture among them, have meaningful access to its benefits and services.

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<sup>13</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137, *available at* [www.refworld.org/docid/3be01b964.html](http://www.refworld.org/docid/3be01b964.html).