

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
NEWARK, NEW JERSEY

NOTICE FOR ALL ASYLUM/WITHHOLDING/CAT APPLICANTS

The Attorney General has recently issued *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018), which likely impacts the issues relating to the respondent(s)'s applications in this case. Parties are urged to submit Pre-Hearing Briefs, along with any available evidence, to address the following:

- If the claim is based on membership in a particular social group, the proposed particular social group in this case must be clearly delineated for the court, and may not be defined in a circular fashion -the Respondent was not persecuted BECAUSE he/she was persecuted...- *Matter of W-Y-C- & H-O-B-*, 27 I&N Dec. 189 (BIA 2018).
- With regard to any/each proposed particular social group, the brief should include arguments (along with any available evidence) regarding the following:
 - Immutability
 - Particularity
 - Social distinction (along with evidence to support such arguments)
- The brief should make clear if the alleged persecutor is a governmental actor or a private actor, and available evidence regarding the following should be provided:
 - Government actor – evidence regarding the persecutor(s)'s identity and position and evidence showing he/she/they was/were acting in an official capacity
 - Private actor – evidence of the persecutor(s)'s identity and/or connection to the respondent (e.g. if a domestic relationship is alleged, evidence to establish cohabitation and/or a common child should be presented) [letters]
- Nexus** - Arguments should be provided regarding whether the alleged persecution was/would be "on account of" the proposed ground, and any available supporting evidence regarding the alleged persecutor's motivation should be submitted. [
- Government "unable or unwilling"** – if the persecutor(s) is/would be a private actor, the brief should include arguments (along with any available evidence) to establish that the government was/would be unable or unwilling to control the persecutor(s). [Country conditions + expert testimony]
- Internal Relocation** – See *Matter of M-Z-M-R-*, 26 I&N Dec. 28 (BIA 2012)
- CAT claim** – if the fear of future torture relates to a private actor(s), arguments should be provided (along with any available evidence) to show that a government official(s) would acquiesce in (or be willfully blind to) torture.

Please note that this is a checklist only and not meant to be exhaustive or limit issues in dispute.

Shifra Rubin

Immigration Judge

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- If the claim is based on membership in a particular social group, the proposed particular social group in this case must be clearly delineated for the court, and may not be defined in a circular fashion. *Matter of W-Y-C- & H-O-B-*, 27 I&N Dec. 189 (BIA 2018).
- With regard to any/each proposed particular social group, the brief should include arguments (along with any available evidence) regarding the following:
 - Immutability
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This checklist is intended only as general guidance and is not to be regarded as limiting or exhaustive. To the extent there is applicable Third Circuit precedential caselaw regarding any of the pertinent issues, that should also be cited and discussed.

Elise Manuel

Elise Manuel
Immigration Judge