



Advanced Adjudication Issues in Asylum Law: An Examination of  
the One-Year Bar and One Central Reason Standard  
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## One-Year Asylum Bar

- **What is the asylum bar?**
  - Aliens must apply for asylum within 1 year of arrival into the U.S.
    - INA § 208(a)(2)(B); 8 C.F.R. § 1208.4(a)(2).

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## One-Year Asylum Bar

- There are exceptions to 1-year filing deadline.
  - INA § 208(a)(2)(D); 8 C.F.R. § 1208.4(a)(4) and (5).

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## One-Year Asylum Bar

- Aliens who:
  - do not apply within 1 year, AND
  - do not establish an exception applies
- Are ineligible for asylum.

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## One-Year Asylum Bar

- Derivative asylum applicants without own primary I-589 not subject to 1-year filing deadline by bolstering his or her derivative claim with evidence that the he or she also faces persecution.
  - *Gatimi v. Holder*, 578 F.3d 611, 618 (7th Cir. 2009).

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## One-Year Asylum Bar

- Circuit split re whether the 1-year filing deadline applies to derivative applicant minors.
  - Compare *El Himri v. Ashcroft*, 378 F.3d 932 (9th Cir. 2004) with
  - *Bernal-Rendon v. Gonzales*, 419 F.3d 877, 880 (8th Cir. 2005).

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## One-Year Asylum Bar

- Asylum bar does not apply to:
- withholding of removal under the INA.
- protection under the Convention Against Torture.

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## One-Year Asylum Bar

- Untimely asylum application may be found to be frivolous under section 208(d)(6) of the Act.
  - *Matter of M-S-B-*, 26 I&N Dec. 872 (BIA 2016).

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## Calculating the 1-Year Period

- How to calculate the **start** of the 1-year period.

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## Calculating the 1-Year Period

- The 1-year period starts from the day after the date of alien's arrival in U.S.
  - *Minasyan v. Mukasey*, 553 F.3d. 1224, 1227-29 (9th Cir. 2009).

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## Calculating the 1-Year Period

- Date of entry or arrival on the NTA,
  - where undisputed, admitted, or conceded.
- See generally, *Hakopian v. Mukasey*, 551 F.3d 843 (9th Cir. 2008).
- See also *Gjyzi v. Ashcroft*, 386 F.3d 710, 714 (6th Cir. 2004).

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## Calculating the 1-Year Period

- Date of entry or arrival on the NTA not necessarily clear & convincing evidence
- but must be considered with other record evidence.
  - *Zheng v. Mukasey*, 552 F.3d 277, 286 (2d Cir. 2009).
  - See also *Gjyzi v. Ashcroft*, 386 F.3d 710, 714 (6th Cir. 2004).

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## Calculating the 1-Year Period

- Aliens who entered U.S. prior to April 1, 1997:
  - 1-year period calculated from April 1, 1997.
  - 8 C.F.R. § 1208.4(a)(2)(ii).
  - See also *Lumataw v. Holder*, 582 F.3d 78, 86 (1st Cir. 2009).

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## Calculating the 1-Year Period

- Error to require exact date of departure where other record evidence shows alien “necessarily” filed application within 1 year of arrival.
  - *Khunaverdians v. Mukasey*, 548 F.3d 760, 766 (9th Cir. 2008).

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## Calculating the 1-Year Period

- How to calculate the **end** of the 1-year period.

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## Calculating the 1-Year Period

- End date is calculated from the date I-589 filed whether:
  - affirmatively before an AO with DHS  
or
  - defensively before IJ.
    - *Matter of S-B-*, 24 I&N Dec. 42, 44 (BIA 2006).

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## Calculating the 1-Year Period

- If I-589 mailed to DHS:
  - the date of mailing rather than the date of receipt is used.
  - 8 C.F.R. § 1208.4(a)(2)(ii).
  - See also *Nakimbugwe v. Gonzales*, 475 F.3d 281, 284-85 (5th Cir. 2007).

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## Calculating the 1-Year Period

- When last day falls on weekend or holiday:
  - the 1-year period extended until end of the next day that is not a weekend or holiday.
  - 8 C.F.R. § 1208.4(a)(2)(ii).
  - See also *Jorgji v. Mukasey*, 514 F.3d 53, 55 (1st Cir. 2008).

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## Calculating the 1-Year Period

- What if alien has made more than one entry into the U.S.?

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## Calculating the 1-Year Period

- Date calculated from:
  - date of last arrival in U.S. or
  - April 1, 1997
- whichever is later.
  - 8 C.F.R. 1208.4(A)(2)(ii).

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## Calculating the 1-Year Period

- “last arrival” means the applicant’s most recent arrival in the U.S.
  - *Matter of F-P-R-*, 24 I&N Dec. 681, 683-84 (BIA 2008).

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## Calculating the 1-Year Period

- **What if an alien has filed more than one asylum application?**

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## Calculating the 1-Year Period

- If later I-589 found to be a “new” application:
- filing date of the subsequent “new” application controls.
  - *Matter of M-A-F-*, 26 I&N Dec. 651 (BIA 2015).

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## Calculating the 1-Year Period

- A “new” application is not the same as:
  - a renewed,
  - amended, or
  - updated application.

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## Calculating the 1-Year Period

- Where an initial I-589 filed under “a false predicate” and later I-589 filed after alien placed in removal proceedings:
  - filing date of the second I-589 applies.
    - *Matter of M-A-F-*, 26 I&N Dec. 651, 656 (BIA 2015).

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## Burden of Proof

- **Who has the burden of proof?**

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## Burden of Proof

- Applicant has burden
- to show by clear and convincing evidence
- that I-589 filed within 1 year of arrival.
  - Section 208(a)(2)(B) of the Act, 8 C.F.R. § 1208.4(a)(2)(i)(A).

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## Burden of Proof

- Alien not required to provide corroborating evidence regarding whether I-589 filed within the 1-year period.
  - *Singh v. Holder*, 649 F.3d 1161, 1168-69 (9th Cir. 2011).

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## Exceptions to the 1-year deadline

- **Are there any exceptions to the 1-year time limit?**

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## Exceptions to the 1-year deadline

- There are two exceptions:
  - Changed circumstances which materially affect the applicant's eligibility for asylum; OR

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## Exceptions to the 1-year deadline

- Extraordinary circumstances relating to the delay in filing an application within the 1-year period.

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## Exceptions to the 1-year deadline

- Extraordinary circumstances exception not a “toll” of the 1-year filing deadline.
  - *Husyev v. Mukasey*, 528 F.3d 1172, 1181-82 (9th Cir. 2008).

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## Exceptions to the 1-year deadline

- Requires filing of asylum application within a reasonable time of those circumstances.
  - *Husyev v. Mukasey*, 528 F.3d 1172, 1181-82 (9th Cir. 2008).

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## Exceptions to the 1-year deadline

- The alien has the burden of establishing that an exception to the filing deadline applies.
  - Section 208(a)(2)(D) of the Act; 8 C.F.R § 1208.4(a)(2)(i)(B).

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## Exceptions to the 1-year deadline

- The burden is met to “the satisfaction of”:
  - The asylum officer
  - The Immigration Judge
  - The Board of Immigration Appeals
- Section 208(a)(2)(D) of the Act; 8 C.F.R § 1208.4(a)(2)(i)(B).

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## Changed Circumstances Exception

- **What constitutes the changed circumstances exception?**

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## Changed Circumstances Exception

- Examples of changed circumstances:
  - Changed country conditions in the alien's home country or, if stateless, country of last habitual residence.
    - 8 C.F.R. § 1208.4(a)(4)(A).

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## Changed Circumstances Exception

- Changes in the alien's circumstances that materially affect alien's eligibility for asylum.
  - 8 C.F.R. § 1208.4(a)(4)(B).

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## Changed Circumstances Exception

- Such changes in alien's circumstances include:
  - Changes in U.S. law;
  - Activities alien becomes involved in outside of country of feared persecution.
- 8 C.F.R. § 1208.4(a)(4)(B).

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## Changed Circumstances Exception

- Derivative beneficiaries included in an I-589
- who lose the relationship to the principal applicant
- through marriage, divorced, death, or attainment of 21 years of age.
- 8 C.F.R. § 1208.4(a)(4)(C).

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## Changed Circumstances Exception

- Regulatory list of examples is non-inclusive.
  - *Matter of C-W-L-*, 24 I&N Dec. 346, 349 (BIA 2007).

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## Changed Circumstances Exception

- “New facts that provide additional support for a pre-existing asylum claim can constitute a changed circumstance.”
  - *Zambrano v. Sessions*, 878 F.3d 84, 88 (4th Cir. 2017).

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## Changed Circumstances Exception

- See also *Weinong Lin v. Holder*, 763 F.3d, 244, 247 (2d Cir. 2014);
- *Mandebvu v. Holder*, 755 F.3d 417, 426 (6th Cir. 2014);
- *Vahora v. Holder*, 641 F.3d 1038, 1044 (9th Cir. 2011);
- *Fakhry v. Mukasey*, 524 F.3d 1057, 1064 (9th Cir. 2008)

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## Changed Circumstances Exception

- **What constitutes changed country conditions for purposes of the changed circumstances exception?**

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## Changed Circumstances Exception

- Changed country conditions for the changed circumstances exception is distinct from the changed country conditions requirement in the motions to reopen context.
  - Compare 8 C.F.R. §1208.4(a) with 8 C.F.R. § 1003.2(c)(3)(ii).
  - See also *Matter of C-W-L-*, 24 I&N Dec. 346 (BIA 2007); *Yuen Jin v. Mukasey*, 538 F.3d 143 (2d Cir. 2008).

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## Changed Circumstances Exception

- **How is the “activities that the applicant becomes involved in outside of the country of feared persecution” phrase interpreted for purposes of the changed circumstances exception?**

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## Changed Circumstances Exception

- I.J. and Board must consider an alien's activities for, not just enrollment in, a political party when evaluating whether the applicant has established changed circumstances.
  - *Shi Jie Ge v. Holder*, 588 F.3d 90, 95 (2d Cir. 2009).

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## Extraordinary Circumstances Exception

- **What constitutes the extraordinary circumstances exception?**

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## Extraordinary Circumstances Exception

- Extraordinary circumstances must refer to events or factors directly related to the failure to meet the 1-year filing deadline in order for that exception to apply.
  - 8 C.F.R. § 1208.4(a)(5).

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## Extraordinary Circumstances Exception

- Examples include:
  - “Serious illness or mental or physical disability, including any effects of persecution or violent harm suffered in the past, during the 1-year period after arrival.”
    - 8 C.F.R. § 1208.4(a)(5)(i).

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## Extraordinary Circumstances Exception

- “Legal disability (e.g., the applicant was an unaccompanied minor or suffered from a mental impairment) during the 1-year period after arrival.”
  - 8 C.F.R. § 1208.4(a)(5)(ii); *Matter of Y-C-*, 23 I&N Dec. 286 (BIA 2002).

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## Extraordinary Circumstances Exception

- Ineffective assistance of counsel.
  - 8 C.F.R. § 1208.4(a)(5)(iii).

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## Extraordinary Circumstances Exception

- Alien “maintained Temporary Protected Status, lawful immigrant or nonimmigrant status, or was given parole, until a reasonable period before the filing of the asylum application.”
  - 8 C.F.R. § 1208.4(a)(5)(iv).

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## Extraordinary Circumstances Exception

- Alien filed I-589 prior to the expiration of 1-year filing deadline but application rejected by DHS as not properly filed, returned for corrections, and re-filed within a reasonable period.
  - 8 C.F.R. § 1208.4(a)(5)(v).

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## Extraordinary Circumstances Exception

- Death or serious illness or incapacity of applicant's legal representative or member of the alien's immediate family.
  - 8 C.F.R. § 1208.4(a)(5)(vi).

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## Filing Time Limits if Exception Applies

- **How much time does an applicant have to file an asylum application if either exception to the 1-year filing deadline applies?**

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## Filing Time Limits if Exception Applies

- Alien does not have an automatic 1 year extension in which to apply for asylum.
  - *Matter of T-M-H- & S-W-C-*, 25 I&N Dec. 193 (BIA 2010).

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## Filing Time Limits if Exception Applies

- By regulation, alien has “a reasonable time” to file for asylum after the changed circumstances.
  - 8 C.F.R. §§ 1208.4(a)(4)(ii) (re changed circumstances) and (5) (re extraordinary circumstances).
  - *See also Matter of T-M-H- & S-W-C-*, 25 I&N Dec. 193 (BIA 2010).

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## Filing Time Limits if Exception Applies

- The particular changed circumstances of each case must be examined to determine whether I-589 filed within a reasonable time.
  - *Matter of T-M-H- & S-W-C-*, 25 I&N Dec. 193 (BIA 2010).

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## Filing Time Limits if Exception Applies

- Example:
  - *Taslimi v. Holder*, 590 F.3d 981, 988 (9th Cir. 2010) (7-month period found reasonable by court).

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## Filing Time Limits if Exception Applies

- Gathering supporting documents for application not *per se* invalid reason for delay.
  - *Wakkary v. Holder*, 558 F.3d 1049, 1058 (9th Cir. 2009).

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## Filing Time Limits if Exception Applies

- The reasons for delay and amount of time that the filing was delayed must be examined on an individualized basis.
  - *Wakkary v. Holder*, 558 F.3d 1049, 1058 (9th Cir. 2009).

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## Filing Time Limits if Exception Applies

- For the extraordinary circumstances exception, there must be an individualized analysis of the facts of each case.
  - *Matter of Y-C-*, 23 I&N Dec. 286, 287-88 (BIA 2002).

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## Mixed Up over Mixed Motives?

### A Reason v. One Central Reason and Other Standards Explained

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## Mixed Motive Asylum Claims

- What is a mixed motive claim?
  - An asylum claim premised on two or more different bases.
  - At least one of the bases is a protected ground.

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## Mixed Motive Asylum Claims

- Origins of mixed motive term:
  - *Matter of S-P-*, 21 I&N Dec. 486, 492 (BIA 1996) (discussing adjudication of “mixed motive” cases).
  - *Matter of Fuentes*, 19 I&N Dec. 658, 662 (BIA 1988) (recognizing multiple motives).

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## Mixed Motive Asylum Claims

- Examples of mixed motive claims:
  - Law enforcement activities
    - *Acharya v. Holder*, 761 F.3d 289 (2d Cir. 2014).
    - *(Kulvier) Singh v. Gonzales*, 406 F.3d 191, 193 (3d Cir. 2005).
    - *Mengheshha v. Gonzales*, 450 F.3d 142 (4th Cir. 2006).
    - *Dinu v. Ashcroft*, 372 F.3d 1041 (9th Cir. 2004).

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## Mixed Motive Asylum Claims

- Examples of mixed motive claims:
  - Personal dispute
    - *Amanfi v. Ashcroft*, 328 F.3d 719 (3d Cir. 2003).
    - *(Yan Xia) Zhu v. Mukasey*, 537 F.3d 1034 (9th Cir. 2008).

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## Mixed Motive Asylum Claims

- Examples of mixed motive claims:
  - Land dispute
    - *Ndayshimiye v. Attorney Gen. of U.S.*, 557 F.3d 124 (3d Cir. 2009).
    - *Ontunez-Tursios v. Ashcroft*, 303 F.3d 341 (5th Cir. 2002).

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## Mixed Motive Asylum Claims

- Examples of mixed motive claims:
  - Corruption/ whistleblowing
    - *Antonyan v. Holder*, 642 F.3d 1250 (9th Cir. 2011).

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## Mixed Motive Asylum Claims

- Context is important in evaluating a mixed motive claim.
  - *Garcia-Martinez v. Ashcroft*, 317 F.3d 1066 (9th Cir. 2004).

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## Mixed Motive Asylum Claims

- Alien must provide some evidence that the persecution relates to a protected ground.
  - *Girma v. I.N.S.*, 283 F.3d 664 (5th Cir. 2002) (direct or circumstantial evidence required).
  - *Sugiarto v. Holder*, 586 F.3d 90 (1st Cir. 2009) (some credible evidence of persecutors' motives required).
  - *Rivera v. U.S. Att'y Gen.*, 487 F.3d 815 (11th Cir. 2007) (insufficient evidence provided).

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## Mixed Motive Asylum Claims

- Standard for analysis of mixed motive claims:
- Depends upon date asylum application filed.
  - Key date – May 11, 2005.
  - Date of enactment of the REAL ID Act.

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## Mixed Motive Asylum Claims

- Standard for applications filed **before** May 11, 2005:
- It is reasonable to believe that harm motivated in part by actual or imputed protected ground.
  - *Matter of S-P-*, 21 I&N Dec. 486 (BIA 1996).

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## Mixed Motive Asylum Claims

- Was persecution due, in part, to a protected ground?
  - See e.g., *Girma v. I.N.S.*, 283 F.3d 664 (5th Cir. 2002) (only one of persecutor's motives need be related to a protected ground).

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## Mixed Motive Asylum Claims

- The mixed motive standard applies equally to asylum and statutory withholding.

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## The REAL ID Act of 2005

- Mixed motive analysis changed with enactment of the REAL ID Act.

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## The REAL ID Act of 2005

- The REAL ID Act added a burden of proof section to the asylum portion of the INA.
- Burden of proof remains on the alien.

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## The REAL ID Act of 2005

- REAL ID Act requires asylum applicants to show that one of the protected grounds “was or will be at least one central reason” for the persecution.
  - Section 208(b)(1)(BI) of the Act.

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## The REAL ID Act of 2005

- Changes apply to asylum applications filed on or after the effective date of the REAL ID Act.
  - Effective date is May 11, 2005.

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## The REAL ID Act of 2005

- Standard for applications filed **on or after** May 11, 2005:
- A protected ground was or will be **at least** one central reason for claimed persecution.
  - *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208 (BIA 2007), *aff'd with reservations Ndayshimiye v. Att'y Gen.*, 557 F.3d 124 (3d Cir. 2009).

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## The One Central Reason Standard

- What is required to show that a protected ground is “at least one central reason” for the alleged persecution?

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## The One Central Reason Standard

- Board standard:
  - Alien must provide direct or circumstantial evidence of motive of alleged persecutors.
    - *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 214 (BIA 2007), *aff'd with reservations Ndayshimiye v. Att'y Gen.*, 557 F.3d 124 (3d Cir. 2009).

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## The One Central Reason Standard

- Motivation cannot be incidental, tangential, superficial, or subordinate to another reason for harm.
  - *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 214 (BIA 2007), *aff'd with reservations Ndayshimiye v. Att'y Gen.*, 557 F.3d 124 (3d Cir. 2009).

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## The One Central Reason Standard

- The protected ground cannot play a minor role but must be a central reason for the alleged persecution.
  - *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 214 (BIA 2007), *aff'd with reservations Ndayshimiye v. Att'y Gen.*, 557 F.3d 124 (3d Cir. 2009).

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## The One Central Reason Standard

- Six Circuit courts **agree** with Board:
  - First Circuit
  - Fourth Circuit
  - Fifth Circuit
  - Eighth Circuit
  - Ninth Circuit
  - Tenth Circuit

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## The One Central Reason Standard

- *(Bagh) Singh v. Mukasey*, 543 F.3d 1, 5 (1st Cir. 2008).
- *Quinteros-Mendoza v. Holder*, 556 F.3d 159, 164 (4th Cir. 2009).

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## The One Central Reason Standard

- *Shaikh v. Holder*, 588 F.3d 861, 864 (5th Cir. 2009).
- *Shaikh v. Holder*, 702 F.3d 897, 902 (7th Cir. 2012).

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## The One Central Reason Standard

- *Garcia-Moctezuma v. Sessions*, 879 F.3d 863, 868 (8th Cir. 2018).
- *Parussimova V. Mukasey*, 533 F.3d 1128, 1134 (9th Cir. 2008), *amended and superseded on denial of reh'g by* 555 F.3d 734 (9th Cir. 2009).
- *Dallokoti v. Holder*, 619 F.3d 1264, 1268 (10th Cir. 2010).

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## The One Central Reason Standard

- Only one Circuit court has **disagreed**, with Board and then only in part.
  - Third Circuit.
    - *Ndayshimiye v. Att'y Gen.*, 557 F.3d 124, 129 (3d Cir. 2009).

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## The One Central Reason Standard

- Third Circuit found Board only erred by requiring the reason to not be subordinate to an unprotected reason.
- Persecutors may have more than one central motive.
  - *Ndayshimiye v. Att’y Gen.*, 557 F.3d 124, 129 (3d Cir. 2009).

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## The One Central Reason Standard

- It agreed with the Board that to be “central” meant that the reason must be “of primary importance,” “essential,” or “principal.”
  - *Ndayshimiye v. Att’y Gen.*, 557 F.3d 124, 130 (3d Cir. 2009).

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## The One Central Reason Standard

- Three Circuit courts have not yet ruled on the Board's interpretation in a published decision:
  - Second Circuit
  - Sixth Circuit
  - Eleventh Circuit

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## The One Central Reason Standard

- Must be a central reason or at least one central reason for the alleged persecution.
- Error to say it must be **the** central reason.
  - *See e.g., Acharya v. Holder*, 761 F.3d 289 (2d Cir. 2014).
  - *Ndayshimiye v. Att'y Gen.*, 557 F.3d 124, 129 (3d Cir. 2009).

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## What Standard Applies

- The statutory language in the INA for asylum and withholding is different.

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## The One Central Reason Standard

- The withholding statute does not include the “at least one central reason” language added by the REAL ID Act to asylum.
  - Section 241(b)(3) of the Act.

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## What Standard Applies

- Does the “at least one central reason” standard apply to both asylum and withholding?

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## The One Central Reason Standard

- Board held that “at least one central reason” standard applied to withholding claims.
- Board looked to context and overall statutory scheme.
  - *Matter of C-T-L-*, 25 I&N Dec. 341 (BIA 2010).

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## The One Central Reason Standard

- Third Circuit agreed with Board that “at least one central reason” standard applies to withholding.
  - *Gonzalez-Posadas v. Att’y Gen.*, 781 F.3d 677, 685 n.6 (3d Cir. 2014).

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## The One Central Reason Standard

- Second and Sixth Circuits have cited *Matter of C-T-L-*, in unpublished cases, re applicability of “at least one central reason” standard to withholding.
  - *Rocha v. Sessions*, \_\_\_ Fed. Appx. \_\_\_, 2018 WL 443483 (2d Cir. Jan. 17, 2018).
  - *Torres-Vaquerano v. Holder*, 529 Fed. Appx. 444, 447 (6th Cir. 2013).

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## What Standard Applies

- Ninth Circuit rejected the Board's interpretation of the "at least one central reason" standard to withholding of removal.
  - *Barajas-Romero v. Lynch*, 846 F.3d 351 (9th Cir. 2017).

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## The One Central Reason Standard

- The difference in statutory language meant different standards applied.
- Statutory language differences were unambiguous.

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## The One Central Reason Standard

- Withholding of removal standard requires protected ground only be “a reason” for alleged persecution.

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## The One Central Reason Standard

- The “a reason” standard is less demanding than the “at least one central reason” standard.

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## The One Central Reason Standard

- “Lighter standard for strength of nexus” is offset by “more demanding standard of proof.”
  - *Barajas-Romero v. Lynch*, 846 F.3d 351, 359 (9th Cir. 2017).

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## The One Central Reason Standard

- Not clear whether the “a reason” standard is the same as the pre-REAL ID Act standard of:
  - It is reasonable to believe that harm motivated in part by actual or imputed protected ground.

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## When does REAL ID Act Apply?

- Issues regarding when the REAL ID Act applies.

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## When does REAL ID Act Apply?

- I-589 filed prior to May 11, 2005.
- Does the REAL ID Act standard apply?

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## When does REAL ID Act Apply?

- I-589 filed prior to May 11, 2005.
- Does the REAL ID Act standard apply?
  - No. Pre-REAL ID Act standard applies.

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## When does REAL ID Act Apply?

- I-589 filed prior to May 11, 2005.
- Alien updates the application after that date.
- Does the REAL ID Act standard apply?

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## When does REAL ID Act Apply?

- I-589 filed prior to May 11, 2005.
- Alien updates the application after that date.
- Does the REAL ID Act standard apply?
  - Depends on whether I-589 considered an amended or new application.

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## When does REAL ID Act Apply?

- If alien raising previously unraised claim OR
- Claim based on substantially different or new factual basis then revised I-589 considered a new application.
  - *Matter of M-A-F-*, 26 I&N Dec. 651, 654 (BIA 2015)  
(discussing application of REAL ID Act in context of 1-year asylum bar).

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## When does REAL ID Act Apply?

- Key distinction is whether the application amends or supplements the original application
- OR whether it is essentially a new application.
  - *Matter of M-A-F-*, 26 I&N Dec. 651, 654 (BIA 2015) (discussing application of REAL ID Act in context of 1-year asylum bar).

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## SUMMARY

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## Summary

- Mixed motive claims require alien to provide:
  - Credible evidence that
  - At least one protected ground
  - Was motivation or reason for alleged persecution.

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## Summary

- Analytical standard depends on date asylum application filed
  - Including consideration of whether application has been updated, amended, revised or is a “new” application.

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## Summary

- Pre-REAL ID Act standard:
  - It is **reasonable to believe that harm motivated in part** by actual or imputed protected ground.
  - Applies to I-589s filed before May 11, 2005.
  - Applies to asylum and withholding.

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## Summary

- Post-REAL ID Act standard:
  - A protected ground was or will be **at least one central reason** for claimed persecution.
  - Applies to I-589s filed on or after May 11, 2005.
  - Applies to asylum and withholding **except** in Ninth Circuit.

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## Summary

- Board and most circuit courts:
  - One central reason cannot be incidental, tangential, superficial, or subordinate to a non-protected reason.

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## Summary

- Third Circuit
  - One central reason cannot be incidental, tangential, or superficial.
  - It may be subordinate to a non-protected reason.

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## Summary

- In the Ninth Circuit, the post-REAL ID Act standard:
  - The “at least one central reason” applies to asylum.
  - The “a reason” standard applies to withholding of removal.

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The End

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