

FROM SURVIVING TO THRIVING? AN INVESTIGATION OF ASYLEE INTEGRATION IN THE UNITED STATES

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ABSTRACT

This article assesses the efficacy of the legal framework for asylees, individuals granted refugee status within the United States, through an examination of the human outcomes following the grant of asylum. To understand how the asylee benefits system actually functions, I conducted more than fifty field interviews with advocates, service providers, and government officials in the San Francisco Bay Area and the Washington, D.C. metropolitan area.

This research fills a conspicuous gap in our understanding of what happens after the grant of asylum and reveals a number of insights about the ways in which the prevailing laws, policies, and programs yield suboptimal outcomes, even given the limited resources presently devoted to asylee integration. Interviews yielded important findings, including that the current legal structure and attendant administrative programs push asylees quickly into survival jobs, which are often a stark mismatch for their education and skills. For educated asylees, these survival jobs impede both English language acquisition, which is critical to successful integration, and re-credentialing to allow recognition of education and expertise acquired overseas. For less educated asylees, the rush to employment in a survival job similarly delays and potentially undermines successful integration and may result in future costs to counties, states, and the federal government. The subsequent financial distress asylees experience plays a role in housing instability and delays in applying for permanent residence. These problems are compounded by limited ongoing mental health treatment for

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asylees, who are often survivors of torture or trauma, and delays in the family reunification process.

This article offers several prescriptions for reform to help asylees, who have often already survived unthinkable horrors, to thrive in the United States and to allow our society to more fully benefit from asylee contributions. First, revisions to regulations implementing the Refugee Act are necessary to shift from an almost singular focus on rapid employment and economic self-sufficiency to a more holistic approach to asylee integration. Second, the playing field should be leveled for asylees by amending the current benefits package to be more aligned with the benefits received by those who are selected to enter the U.S. as resettled refugees while still overseas. Third, measures should be taken to increase asylee awareness of and access to the benefits to which they are entitled. Finally, short and long-term data gathering on asylee integration must be improved. These prescriptions for reform promise not only a more meaningful chance at life for asylees in the U.S., but will also benefit our communities as asylee contributions are maximized.

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I. INTRODUCTION

“There is a difference between surviving and thriving and we want [asylees] to thrive.”¹

This article examines the integration of asylees into our communities in the United States. Asylees are individuals who were forced to flee their countries because they fear or have suffered persecution on account of their race, religion, nationality, political opinion, or membership in a particular social group and

1. Telephone Interview with Molly Corbett, Exec. Dir., Asylee Women’s Enter. (Feb. 11, 2014). The definition of “thrive” in the Merriam Webster dictionary is “to grow or develop successfully; to flourish or succeed.” *Thrive*, MERRIAM WEBSTER, <http://www.merriam-webster.com/dictionary/thrive> (last visited Oct. 12, 2015). In contrast, “survive” is defined as: “to remain alive; to continue to live; to continue to exist.” *Survive*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/survive> (last visited Oct. 12, 2015).

were then granted asylum.² The United States has chosen to grant protection to asylees, who are often skilled individuals, but their potential to make positive contributions to our society is frequently lost. The system in place to assist asylees with their transition to life in the United States is under-studied, and research on the well-being of this population is sorely lacking. This article reveals findings from more than fifty firsthand interviews with attorneys and social service providers on both coasts who come into contact with thousands of asylees a year. It aims to remedy the paucity of information on this population and proposes regulatory, legislative, and policy reforms to address the problems identified. The experience of one particular asylee, Jeanne, illustrates the complex challenges asylees face.³

When I first met Jeanne, she was almost unfriendly. Smiling seemed foreign to her. I soon learned why. Jeanne had battled her entire life to maintain her dignity and physical safety in her home country in West Africa. At the age of six, she was forcefully subjected to female genital cutting. At twelve, she was forced into marriage with a man thirty years her senior, as his fourth wife. Raped on her wedding night, she managed to escape the marriage, obtain a divorce, attend university, and earn a biology degree. She secured a job as a high school biology teacher and married the man she loved. When Jeanne's daughter was just five years old, Jeanne's family started to pressure her to have the little girl cut and prepared for marriage. Determined to protect her daughter from what she herself had endured, Jeanne refused. As a result of this defiance, she and her husband were isolated, ostracized and physically attacked, leaving Jeanne scarred and her husband with long-term brain damage. By the time Jeanne and her family arrived in the U.S., she was exhausted by the battle to protect her daughter. Jeanne then commenced the long road to obtain asylum.⁴

As an asylum seeker, Jeanne was ineligible for public assistance, including subsidized housing and mental health services. Like many asylum seekers, the family depleted all of their financial resources just obtaining visas and traveling to the U.S.⁵ Consequently, while Jeanne was living in a one-bedroom apartment

2. An asylum applicant is referred to as an "asylum seeker." Once granted asylum, the asylum seeker becomes an "asylee." Asylees and refugees must meet the same legal definition of "refugee" under 8 U.S.C. § 1101(a)(42).

3. Jeanne is one of the author's former clients from the Tahirih Justice Center, a non-profit legal and social services organization representing women and girls fleeing gender-based violence. Her story has been used with her permission and her name changed to protect her anonymity.

4. Jeanne's journey to asylee status was *much* shorter than that of many asylees. For a reader-friendly explanation of how long and challenging the road to asylum can be, see PHILIP G. SCHRAG & DAVID NGARURI KENNEY, *ASYLUM DENIED: A REFUGEE'S STRUGGLE FOR SAFETY IN AMERICA* (2008).

5. Unlike many asylum seekers, Jeanne was able to secure visas to travel to the U.S. with her husband and two of her three children. Many asylum seekers are unable to obtain visas to legally travel to the U.S. because expressing a fear of return to their country of origin would suggest that they have "immigrant intent" and thus make them ineligible for most visas to travel to the U.S. See Immigration and Nationality Act (INA) of 1952 § 214(b), 8 U.S.C. § 1184(b) (2012) ("Every alien . . . shall be presumed to be an immigrant until he establishes to the satisfaction of the

in Maryland with her daughter and four other individuals, her husband and son shared a room in Ohio with other friends. Ten months after Jeanne's arrival in the U.S., Jeanne was granted asylum.⁶ She cried tears of joy on that day because she hoped asylum would be a new beginning. Jeanne was finally able to work and provide for the family in the United States.

Since she received asylum, however, Jeanne's hopes for a new start in the U.S. have faded. With limited English and without a clear and affordable path to convert her biology degree and teaching credentials to comply with U.S. requirements, she struggled to find work. Her family was entitled to minimal health and welfare benefits for eight months. A local resettlement agency matched Jeanne with a job and she started working night shifts in a factory in Baltimore, a two-hour bus ride from her house, for minimum wage. Caught in a bind of not having the time to find another job or improve her English while working long hours just to pay the rent, four years later Jeanne still works these long night shifts and still struggles with English.

Jeanne's situation is not unique. Countless asylees have struggled to integrate into the American workforce after an asylum approval: the human rights lawyer working as a baggage handler at Dulles airport; the PhD graduate working in a meat processing plant; the doctor driving a cab; the high school graduate who abandoned dreams of university to work in food service; the single semi-literate mother unable to find any employment.⁷ Although asylees are by no means the only individuals who struggle to realize their potential in the U.S., certain attributes—the trauma many asylees have suffered, the lack of familial or professional ties in the U.S., or the professional training background that many

consular officer, at the time of application for admission, that he is entitled to a nonimmigrant status . . ."). Asylum seekers often pay thousands of dollars to come to the United States and face dangerous conditions along the way.

6. This time period is relatively short compared to the duration it takes many asylum seekers whose cases now languish in a backlog at the asylum offices due to an overwhelming number of credible fear interviews on the southern U.S. border. The Asylum Division of the United States Citizenship and Immigration Services (USCIS) recently began posting a scheduling bulletin for affirmative asylum cases, which reflects, as of February 5, 2016, that affirmative asylum applicants in Los Angeles wait more than four and a half years for an interview, with the fastest interview time being a delay of one and a half years, in New York. <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-scheduling-bulletin> (last visited Feb. 13, 2016); *see also infra* note 20. It is also much shorter than the duration it takes those asylum seekers who are referred to court, or begin the process in court. Immigration court backlogs mean that an individual may wait two to three years for an individual merits hearing. *See* BETSY CAVENDISH & STEVEN SCHULMAN, APPLESEED, REIMAGINING THE IMMIGRATION COURT ASSEMBLY LINE: TRANSFORMATIVE CHANGE FOR THE IMMIGRATION JUSTICE SYSTEM 28 (2012) ("Starting in late 2011, the Immigration Court in New York was scheduling half-day asylum hearings for 2015, leaving refugees in limbo for more than 3 years."); *see also Immigration Court Backlog Tool*, TRAC IMMIGRATION, SYRACUSE UNIVERSITY, http://trac.syr.edu/phptools/immigration/court_backlog/ (last visited Feb. 13 2016) (calculating the backlog in immigration court to be a record high of 667 days).

7. These are all clients or individuals with whom the author has worked from 2007–2015. Clearly these one-line descriptions reduce complex individuals to caricatures, but the author's aim is to communicate the diversity of asylee experience.

survivors of political persecution share,⁸ for example—make the problem particularly acute for asylees.

The Refugee Act of 1980 commits the United States to providing protection for “refugees,” individuals who have suffered persecution, or who fear persecution in the future because of their race, nationality, political opinion, religion, or membership in a particular social group.⁹ The law allows for two paths to refugee status—one as resettled refugees from abroad and one as asylum seekers within the U.S.

“Resettled refugees” are identified as refugees by the U.S. government in cooperation with the United Nations High Commission for Refugees (UNHCR) while they are living abroad, often in camps, settlements, or urban environments.¹⁰ After being selected for refugee resettlement, they travel to the U.S.¹¹ to be resettled, often within family or kinship groups,¹² in geographic

8. It is not possible at this time to give percentages or numbers of asylees who are educated or have professional credentials. Although this information is shared by each asylee filing for asylum on the I-589 form, United States Citizenship and Immigration Services (USCIS) does not track this data. The author requested data on the percentage of asylum seekers with professional degrees, a high school education, college degrees, and English fluency at the November 14, 2014, Asylum Division Quarterly Stakeholders’ Meeting in Washington, D.C., but USCIS responded that the data is not available. Anecdotally, from the author’s experience and through discussion with others, asylees have historically been perceived as educated individuals with some mastery of the English language.

9. The Immigration and Nationality Act defines a refugee as “any person who is outside any country of such person’s nationality . . . and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” INA § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42) (2012).

10. The U.S. operates an extensive refugee resettlement program, resettling more refugees than any other industrialized country. See *Resettlement*, U.N. HIGH COMM’N FOR REFUGEES, <http://www.unhcr.org/pages/4a16b1676.html> (last visited Dec. 5, 2015). Each year, the President, in consultation with Congress, determines the number of refugees to be resettled in the U.S., and this number has hovered around 70,000 in recent years. The ceiling was 80,000 in 2011 and 76,000 in 2012. See DANIEL C. MARTIN & JAMES E. YANKAY, OFF. IMMIGR. STAT., ANNUAL FLOW REPORT: REFUGEES AND ASYLEES: 2013, at 2 (2014) [hereinafter ANNUAL FLOW REPORT 2013]. According to the most recently available statistics, in 2013, the U.S. admitted 69,909 refugees for resettlement, falling just shy of the 70,000 total number authorized by President Obama. *Id.* at 2. The report attributed this twenty percent increase from 58,179 refugees admitted in 2012 to staffing increases and enhanced synchronization between the security and medical check processes. *Id.* at 3. The ceiling for 2016 has been raised to 85,000. See OFF. OF THE PRESS SEC’Y, PRESIDENTIAL DETERMINATION—PRESIDENTIAL DETERMINATION ON REFUGEE ADMISSION FOR FISCAL YEAR 2016 (2015), <https://www.whitehouse.gov/the-press-office/2015/09/29/presidential-determination-presidential-determination-refugee-admissions> (last visited Mar. 19, 2016).

11. Note that the International Organization for Migration (IOM) arranges for refugees travel to the U.S. with interest-free loans. For a description of the IOM’s Refugee Travel Loan Program, see *Refugee Travel Loans*, INT’L ORG. FOR MIGRATION, <https://www.iom.int/countries/united-states-america/general-information#rtl> (last visited Dec. 5, 2015).

12. Resettlement is a complex process. Three preference categories currently exist for refugees. Priority 1 is for “[i]ndividual cases referred to the program by virtue of their circumstances and apparent need for resettlement[.]” Priority 2 is for “[g]roups of cases designated as having access to the program by virtue of their circumstances and apparent need for resettlement[.]” Priority 3 is for “[i]ndividual cases from designated nationalities granted access for

locations chosen by the Office of Refugee Resettlement of the Department of Health and Human Services in cooperation with the Department of State.¹³

The focus of this article is the legal framework and resulting policies for the second category of individuals who meet the refugee definition—asylees like Jeanne. Unlike resettled refugees, asylum seekers flee to the United States at their own expense and ask for protection when they reach our shores. Some arrive on tourist, student, or other visas, while others state their intent to seek asylum at the border or arrive without inspection. Until their asylum applications are approved, these individuals are known as asylum seekers. Federal courts and agencies adjudicate asylum claims, and if successful, asylum seekers become “asylees.”¹⁴

Academic,¹⁵ governmental,¹⁶ and non-governmental studies¹⁷ conducted since the early 1980s have focused on the benefits and services provided for

purposes of reunification with anchor family members already in the [U.S.].” U.S. DEP’T OF STATE, U.S. DEP’T OF HEALTH & HUMAN SERVS., & U.S. DEP’T OF HOMELAND SEC., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2015: REPORT TO CONGRESS 6, <http://www.state.gov/documents/organization/232029.pdf> [hereinafter PROPOSED REFUGEE ADMISSIONS 2015]. These Priority 3 individuals are selected to be reunified with immediate family members in the U.S. who initially entered as refugees or were granted asylum. For more details on the Priority 3 program, see *id.* at 11–13.

13. Many factors go into the decision regarding where exactly to resettle a refugee within the U.S., including existing communities, sponsorship by faith-based and community organizations, and consultation with states and counties. See U.S. GOV’T ACCOUNTABILITY OFF., GAO-12-729, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM 11–12 (2012) [hereinafter GAO JULY 2012 REPORT].

14. There are three paths to a grant of asylum. First, an affirmative applicant self-identifies through an application to USCIS, within the Department of Homeland Security (DHS). The applicant is scheduled for an interview at one of eight asylum offices nationwide. Following the interview, an applicant is either granted asylum and becomes an asylee, or is referred to immigration court through a “Notice to Appear” for removal proceedings. In court, the individual’s defense to removal, perhaps among others, is their claim for asylum in the U.S. Second, other individuals may come under the radar of DHS’ enforcement arms, the Customs and Border Protection (CBP) or Immigration and Customs Enforcement (ICE). Individuals without status in the U.S. are issued a Notice to Appear in immigration court, where they may file what is known as a “defensive” application for asylum. Third, individuals who claim a fear of return to their home country upon arrival often undergo the expedited removal process, including a credible fear interview with USCIS, discussed *infra* note 20.

15. See, e.g., KATE BRICK, AMY CUSHING-SAVVI, SAMIA ELSHAFIE, ALAN KRILL, MEGAN M. SCANLON & MARIANNE STONE, COLUMBIA UNIV. SCH. OF INT’L & PUB. AFFAIRS, REFUGEE RESETTLEMENT IN THE UNITED STATES: AN EXAMINATION OF CHALLENGES AND PROPOSED SOLUTIONS (2010), <http://www.rcusa.org/uploads/pdfs/Columbia%20SIPA%20Report,%205-10.pdf> [hereinafter COLUMBIA REFUGEE RESETTLEMENT REPORT]; GEORGETOWN UNIV. LAW CTR., HUMAN RIGHTS INST., REFUGEE CRISIS IN AMERICA: IRAQIS AND THEIR RESETTLEMENT EXPERIENCE (2009), http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1001&context=hri_papers [hereinafter REFUGEE CRISIS IN AMERICA]; Nicole Ives, *More than a “Good Back”: Looking for Integration in Refugee Resettlement*, 24 REFUGEE 54 (2007); Noor Dawood, *From Persecution to Poverty: The Costs of the U.S. Refugee Resettlement Program’s Narrow Emphasis on Early Employment*, POLICYMATTERS J., Spring 2011; Anastasia Brown & Todd Scribner, *Unfulfilled Promises, Future Possibilities: The Refugee Resettlement System in the United States*, 2 J. ON MIGRATION & HUMAN SECURITY 101 (2014), <http://jmhs.emsny.org/index.php/jmhs/article/view/27>.

resettled refugees. Some of those reports have strongly criticized the scope and administration of existing services.¹⁸ By contrast, almost no attention has been paid to how the system functions for asylees or the problems that asylees face in accessing services or benefits, even though they have been legally entitled to comparable rights to resettled refugees since 2000.¹⁹ This article does not intend to condone the current services and benefits in place for resettled refugees, and in fact, the author agrees with the contentions put forth in the refugee resettlement literature, calling for change to benefit the resettled refugee population. This article aims to expand the focus beyond resettled refugees to include asylees and to articulate specific legal and regulatory reforms that would in fact effectuate the change that refugee resettlement researchers and scholars demand.

A focus on the neglected population, asylees, is more important now than ever in light of the humanitarian crisis on the southern border. Officials with the United States Citizenship and Immigration Services (USCIS) continue to document increasing numbers of asylum seekers.²⁰ As increasing numbers of

16. U.S. GOV'T ACCOUNTABILITY OFF., GAO-10-274, IRAQI REFUGEES AND SPECIAL IMMIGRANT VISA HOLDERS FACE CHALLENGES RESETTLING IN THE UNITED STATES AND OBTAINING U.S. GOVERNMENT EMPLOYMENT (2010) [hereinafter GAO IRAQI REFUGEE REPORT]; U.S. GOV'T ACCOUNTABILITY OFF., GAO 11-369, REFUGEE ASSISTANCE: LITTLE IS KNOWN ABOUT EFFECTIVENESS OF DIFFERENT APPROACHES FOR IMPROVING REFUGEES' EMPLOYMENT OUTCOMES at 14 (2011) [hereinafter GAO REFUGEE EMPLOYMENT REPORT].

17. *See, e.g.*, INT'L RESCUE COMM., IRAQI REFUGEES IN THE UNITED STATES: IN DIRE STRAITS (2009) [hereinafter IN DIRE STRAITS]; TATIANA DWYER, CHURCH WORLD SERV. IMMIGR. & REFUGEE PROGRAM, REFUGEE INTEGRATION IN THE UNITED STATES: CHALLENGES AND OPPORTUNITIES (2010).

18. *See, e.g.*, U.S. COMM'N ON IMMIGR. REF., LEGAL IMMIGRATION: SETTING PRIORITIES (1995). This document discusses the "Economic Self-Sufficiency of Refugees" and highlights criticism in 1995 of the resettlement program criticized because of "high rates of welfare dependency and low rates of employment among a number of refugee groups, particularly those from Southeast Asia. Some experts fault the domestic assistance program for utilizing a welfare model in assisting refugees through a transition into the United States." The report further recognizes that "[t]here has been consistent debate over the benefits of 'front loading' services versus early employment placement. Proponents believe that providing language and skills training up front better prepares refugees for placement in good jobs with opportunities for advancement and that quick placement of refugees in jobs leads to placement in 'dead end' jobs without room for advancement."

19. Asylees were technically always eligible for the benefits and services that resettled refugees received, but realistically they did not access those benefits until 2000, when the Office of Refugee Resettlement (ORR) released a "State Letter" which changed the start date of eligibility from the date of entry to the date of the asylum grant. *See* LAVINIA LIMON, OFFICE OF REFUGEE RESETTLEMENT, STATE LETTER #00-12, ASYLEE ELIGIBILITY FOR REFUGEE RESETTLEMENT PROGRAM BENEFITS (2000), <http://www.acf.hhs.gov/programs/orr/resource/state-letter-00-12> ("Because of the time it normally takes for an individual to apply for asylum and to proceed through the Immigration and Naturalization Service (INS) adjudication process, this interpretation of 'entry' prohibited most asylees from accessing refugee cash and medical assistance and reduced their access to social services. Under ORR's new policy, an asylee's entry date will be the date that the individual is granted asylum in the United States.").

20. There has been an explosive increase in recent years in credible fear interviews conducted at the southern U.S. border. USCIS asylum officers conduct credible fear interviews when an arriving immigrant, subject to expedited removal under Immigration and Nationality Act

unaccompanied child migrants, families, and individuals seek protection from violence and instability in Central America,²¹ it seems likely this trend will continue.

In 2014, 121,200 individuals sought asylum in the United States, an increase of approximately 36,800, or 44 percent from 2013.²² In fiscal year 2013, 25,199 individuals were granted asylum.²³ When the spouses and children of asylees receiving status are taken into account, the numbers of individuals obtaining asylum status in 2013 is even greater, totaling 40,465.²⁴ The total number of resettled refugees admitted was 69,909.²⁵ Thus, individuals holding asylum status represent approximately 37 percent of the individuals meeting the refugee definition in the year of 2013.

§ 235, expresses intent to apply for asylum or a fear of return to her home country. *See* INA §235, 8 U.S.C. § 1225 (2012). If the interviewee is found to have met the threshold standard, which is establishing a significant possibility of eligibility for asylum, the asylum office issues a Notice to Appear and refers the case to immigration court to file and present the application for asylum. *See* INA § 235(b)(1)(B)(ii), 8 U.S.C. § 1225(b)(1)(B)(ii) (2012); 8 C.F.R. § 208.30 (2015). In FY 2014, USCIS completed 49,607 credible fear cases, a 36 percent increase from the previous year when USCIS completed 36,454 credible fear cases. *Credible Fear Workload Report Summary – FY 09-14*, U.S. CITIZENSHIP & IMMIGR. SERVICES (Oct. 28, 2014), http://www.uscis.gov/sites/default/files/USCIS/Outreach/Upcoming%20National%20Engagements/PED_Credible_Fear_and_Reasonable_Fear_FY14_Q4.pdf (statistics shared at Nov. 14, 2014 USCIS Asylum Division Quarterly Stakeholder Meetings, Washington D.C.). This is a vast increase from previous years. In 2009, for example, USCIS completed just 5,523 cases, but this number has been steadily rising with a huge leap between 2012 (13,607) and 2013 (36,454). *Id.* Once an individual “passes” a credible fear interview, she appears in removal proceedings before an immigration judge to file and present her asylum application for adjudication. *See* 8 C.F.R. § 208.30. Of course, not all of these individuals will be granted asylum, but a significant number of asylees now receive status through this path.

21. *See* U.N. HIGH COMM’N FOR REFUGEES, CHILDREN ON THE RUN: UNACCOMPANIED CHILDREN LEAVING CENTRAL AMERICA AND MEXICO AND THE NEED FOR INTERNATIONAL PROTECTION (2014), http://www.unhcrwashington.org/sites/default/files/UAC_UNHCR_Children%20on%20the%20Run_Full%20Report.pdf; ELIZABETH KENNEDY, AM. IMMIGRATION COUNCIL, NO CHILDHOOD HERE: WHY CENTRAL AMERICAN CHILDREN ARE FLEEING THEIR HOMES (2014), http://www.americanimmigrationcouncil.org/sites/default/files/docs/no_childhood_here_why_central_american_children_are_fleeing_their_homes_final.pdf; U.N. HIGH COMM’N FOR REFUGEES, WOMEN ON THE RUN: FIRST-HAND ACCOUNTS OF REFUGEES FLEEING EL SALVADOR, GUATEMALA, HONDURAS, AND MEXICO (2015), <http://www.unhcr.org/5630f24c6.html>.

22. U.N. HIGH COMM’N FOR REFUGEES, ASYLUM TRENDS 2014: LEVELS AND TRENDS IN INDUSTRIALIZED COUNTRIES 11 (2015), <http://www.unhcr.org/551128679.html>. According to the United Nations High Commission for Refugees, this number of asylum applicants in calendar year 2014 makes the U.S. second only to Germany in terms of the number of asylum receipts. *Id.* at 3.

23. ANNUAL FLOW REPORT 2013, *supra* note 10, at 1. U.S. agencies track immigration statistics by fiscal year rather than calendar year. Of these asylum grants, 9,993 were before the immigration courts within the Department of Homeland Security’s Executive Office for Immigration Review and 15,266 were affirmative grants through the Department of Justice’s United States Citizenship and Immigration Services’ eight regional asylum offices. *Id.* This is actually slightly lower than the 29,367 individuals granted asylum in 2012. *Id.* at 5.

24. In addition to the principal applicants for asylum granted, in 2013, 13,026 documents for travel to the U.S. were approved for derivative asylum status for family members residing abroad and 2,240 individuals were approved for derivative status while residing in the U.S. *See id.*

25. *Id.*

Much attention is paid to our asylum system, that is, the process of granting asylum,²⁶ while very little attention has been devoted to what happens after asylum is granted. How successful are asylees following a grant of asylum? As a threshold matter, are asylees aware of the benefits to which they are entitled, and do they know how to access them? Do the services and benefits available meet their needs? Does assistance come at the right time in the process or is it too late? Does the post-grant system function in an effective and fiscally sound manner? Ultimately, is the United States truly providing meaningful protection and enabling asylees to integrate successfully into our society?

The purpose of asylum is to provide a survivor of persecution, or an individual with a well-founded fear of future persecution, with protection. I argue, however, that the goal of our asylum system should be not only to provide protection to those in need, but also to give asylees a chance to rebuild their lives, in essence, to thrive, and to ensure that we, as a country, take full advantage of their presence in the United States.²⁷ The sheer number of asylees and individuals seeking protection, potentially leading to even higher numbers of individuals granted asylum, make this a topic necessary of examination, but perhaps more important are the potential benefits of full integration and the costs to our economy and society of failing to properly integrate asylees.²⁸

26. Scholars have examined the asylum system as a whole, highlighting various issues including inconsistent adjudication. *See, e.g.*, JAYA RAMJI-NOGALES, ANDREW I. SCHOENHOLTZ, & PHILIP G. SCHRAG, *REFUGEE ROULETTE: DISPARITIES IN ADJUDICATION AND PROPOSALS FOR REFORM* (2009) [hereinafter *REFUGEE ROULETTE*]; ANDREW I. SCHOENHOLTZ, PHILIP G. SCHRAG, & JAYA RAMJI-NOGALES, *LIVES IN THE BALANCE: ASYLUM ADJUDICATION BY THE DEPARTMENT OF HOMELAND SECURITY* (2014) [hereinafter *LIVES IN THE BALANCE*]. In the past few years, asylum has made the headlines and caught Congressional attention with fears about fraud within the system. *See, e.g.*, Kirk Semple, Joseph Goldstein & Jeffrey E. Singer, *Asylum Fraud in Chinatown: An Industry of Lies*, N.Y. TIMES (Feb. 22, 2014), http://www.nytimes.com/2014/02/23/nyregion/asylum-fraud-in-chinatown-industry-of-lies.html?_r=0; *see also* Letter from H. Comm. on the Judiciary, to Gene L. Dodaro, Comptroller Gen. of the U.S., U.S. Gov't Accountability Off. (Feb. 11, 2014), http://judiciary.house.gov/_cache/files/ecd0d467-e929-492b-8b83-640137e89839/gaoasylumfraudletter021114.pdf (last visited April 28, 2014); U.S. GOV'T ACCOUNTABILITY OFF., *ASYLUM: ADDITIONAL ACTIONS NEEDED TO ASSESS AND ADDRESS FRAUD RISKS* (2015), <http://www.gao.gov/assets/680/673941.pdf>.

27. There may be potential arguments in favor of this more expansive reading of the purpose of asylum to be found in the legislative history of the Refugee Act or that could be read from the *travaux préparatoires*, records of the negotiations, of the Refugee Convention. Such inquiry is beyond the scope of this article, which provides only an initial exploration of the topic of asylee integration. The author hopes to pursue this avenue in subsequent work. For an in-depth analysis of refugees' rights under the Refugee Convention and linked to international human rights norms, see generally JAMES HATHAWAY, *THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW* (2005) (providing detailed analysis of international refugee rights).

28. Without full integration, we lose potential asylee contributions to our communities. Jeanne's talents as a science teacher are wasted in her current work packaging in a factory at night. Asylee doctors, lawyers, engineers, high school graduates, and others could make positive contributions to American society and the economy if the time and resources are allocated to assist those individuals in achieving their goals. Failing to fully integrate the asylees who lack professional skills, English language ability, or formal education may have economic and other

Drawing upon the more than fifty interviews I conducted with attorneys and social service providers who work with thousands of asylees each year on both coasts, this article uncovers key shortcomings in the system for asylees, including the detrimental one-size-fits-all approach to integration, a lack of awareness and access to benefits, and the paucity of data and information available on asylee integration.

Part II of this article provides an introduction to asylee integration, considering what integration means and why it matters. Part II further explains the existing legal framework for the treatment of asylees, outlines the benefits and services currently available, and begins to explore the question of whether asylees actually access these benefits. Part III outlines the methodology used for this original research and Part IV explains the key research findings.

Part V offers a series of prescriptions for reform, tasking the executive branch, Congress, civil society, and funders with solutions to alleviate the problems exposed in the system. These prescriptions include both practical quick fixes and more comprehensive legal and procedural changes.

II.

UNDERSTANDING ASYLEES

A. Legal Framework for Asylee Benefits and Integration

The legal framework is a starting point to understand the existing landscape for integration and the services and benefits to which asylees are entitled. As signatory to the 1967 Protocol to the 1951 United Nations Convention on the Status of Refugees,²⁹ the U.S. has international legal obligations to accord certain rights to all refugees, including asylees. The Convention calls on State parties to accord refugees “treatment as favorable as possible” with regards to the right to wage-earning employment,³⁰ to pursue liberal professions,³¹ housing,³² public education,³³ public relief,³⁴ and naturalization.³⁵ The Convention generally

costs for our society. These tandem challenges, failing to realize asylee potential at both ends of the spectrum, counsel a more proactive approach to integration.

29. U.N. Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137; Protocol Relating to the Status of Refugees, July 28, 1967, 606 U.N.T.S. 267. The U.S. ratified the 1967 Protocol in 1968, which incorporates most provisions of the original 1951 Convention. *See* United Nations High Comm’r for Refugees, State Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, <http://www.unhcr.org/3b73b0d63.pdf> (last visited Dec. 27, 2015).

30. *See* U.N. Convention Relating to the Status of Refugees, *supra* note 29, art. 17.

31. *Id.* at art. 19.

32. *Id.* at art. 21.

33. *Id.* at art. 22.

34. *Id.* at art. 23.

35. *Id.* at art. 34. For a detailed discussion of the exact parameters of the aforementioned rights accorded to refugees under the Refugee Convention, see HATHAWAY, *supra* note 27.

requires Contracting States to accord the same rights to refugees as other immigrants.³⁶

The U.S. legal framework for refugee benefits and services, through both the Refugee Act (the “Act”) of 1980³⁷ and the implementing regulations,³⁸ establishes a rigid system focused on rapid employment and self-sufficiency for refugees as soon as possible. The Act, incorporated into the Immigration and Nationality Act (INA), created the Office of Refugee Resettlement (ORR).³⁹ The Act focuses primarily on the resettlement of refugees, whose status is determined prior to admission into the U.S. The focus is overwhelmingly on “economic self-sufficiency.” Indeed, the Act highlights concerns over the tension between cash assistance and economic self-sufficiency—requiring ORR to “insure that cash assistance is made available in such a manner as not to discourage [refugees’] economic self-sufficiency”⁴⁰

The ORR has promulgated regulations to implement the Refugee Act. The regulations highlight the goal of “effective resettlement” along with achieving “economic self-sufficiency as quickly as possible.”⁴¹ The term “effective resettlement” is undefined. The regulations define economic self-sufficiency as “earning a total family income at a level that enables a family unit to support itself without receipt of a cash assistance grant.”⁴² The regulations also condition Refugee Cash Assistance on the individual registering with an agency providing employment services, attending job interviews arranged by the State agency or its designee, and accepting offers of employment “determined to be appropriate by the State agency or its designee.”⁴³

36. *Id.* at art. 6.

37. *See* INA § 207, 8 U.S.C. § 1157 (2012) (discussing refugees); INA § 208, 8 U.S.C. § 1158 (2012) (considering asylees). Individuals under both sections must meet the definition of refugee given at INA §101(a)(42), 8 U.S.C. § 1101(a)(42). Refugees broadly, including asylees then, are entitled to the benefits discussed under 8 U.S.C. § 1522. *See* INA §412, 8 U.S.C. § 1522 (2012).

38. Refugee Resettlement Program, 45 C.F.R. pt. 400 (2015).

39. Refugee Act, Pub. L. No. 96-212, 94 Stat. 102 (1980) (codified as amended at 8 U.S.C. § 1521 (2012) (directing the establishment of the Office of Refugee Resettlement)).

40. 8 U.S.C. § 1522(1)(A)(iii) (2012).

41. 45 C.F.R. § 400.1(b) (2015) (“It is the purpose of this program to provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible.”); *see also* § 400.5(b) (requiring States to describe how they will coordinate cash and medical assistance programs with support services to “encourage effective refugee resettlement and to promote employment and economic self-sufficiency as quickly as possible.”).

42. 45 C.F.R. § 400.2 (2015). Cash assistance is defined as “financial assistance to refugees, including TANF, SSI, refugee cash assistance, and general assistance” *Id.* General assistance programs are defined as “financial and/or medical assistance program[s] existing in a State or local jurisdiction which: (a) is funded entirely by State and/or local funds; (b) is generally available to needy persons residing in the State or locality who meet specified income and resource requirements; and (c) consists of one-time emergency, or ongoing assistance intended to meet basic needs of recipients, such as food, clothing, shelter, medical care, or other essentials of living.” *Id.*

43. 45 C.F.R. § 400.75(a)(1)–(3) (2015).

As revealed by this article, this legal framework sets up an almost singular focus on rapid employment and economic self-sufficiency that is inappropriate for the long-term integration of the diverse population of asylees. Under Part V, *Prescriptions for Change*, I argue in favor of revising the Refugee Act and its implementing regulations to facilitate more effective integration.

B. Asylee Integration

How do we measure and define asylee post-grant success? Scholars,⁴⁴ researchers in civil society,⁴⁵ and government bodies⁴⁶ have created a variety of metrics to evaluate immigrant integration and success in general. This article does not attempt to define asylee integration precisely. Rather, this article will operate on two key and fairly uncontroversial assumptions regarding asylee

44. FRANK VAN TUBERGEN, *IMMIGRANT INTEGRATION: A CROSS-NATIONAL STUDY* (2006) (discussing socio-cultural integration, economic integration, and various theories of integration. Factors considered contributing to socio-cultural integration include ethnic intermarriage, religiosity, language proficiency, residential segregation, and ethnic identity. Factors considered contributing to economic integration include unemployment, occupational status, self-employment, and income. Various theories of integration include concepts of reception, human capital, structural opportunities, prejudice, and social capital theory.).

45. *See, e.g.*, TOMAS R. JIMENEZ, *MIGRATION POLICY INSTITUTE, IMMIGRANTS IN THE UNITED STATES: HOW WELL ARE THEY INTEGRATING INTO SOCIETY* 4 (2011), <http://www.migrationpolicy.org/pubs/integration-jimenez.pdf> (identifying five key dimensions for integration—language, socioeconomic attainment, citizenship and political participation, residential locale, and social life).

46. In 2006, President George W. Bush created the Task Force on New Americans to study immigrant integration. Exec. Order No. 13404, 3 C.F.R. § 229 (2006), <http://www.gpo.gov/fdsys/pkg/CFR-2007-title3-vol1/pdf/CFR-2007-title3-vol1-eo13404.pdf>. As part of these initiatives, ORR funded the Building the New American Community Initiative (BNAC) in an effort to encourage integration of refugees and immigrants through cross-sector coalition building. NAT'L CONF. OF STATE LEGISLATURES, *MIGRATION POL'Y INST., BUILDING THE NEW AMERICAN COMMUNITY INITIATIVE: NEWCOMER INTEGRATION AND INCLUSION EXPERIENCES IN NON-TRADITIONAL GATEWAY CITIES* (2004), <http://www.ncsl.org/research/immigration/building-the-new-american-community-initiative-rep.aspx>. In August 2009, ORR created a National Security Council Inter-Agency Task Force to focus on refugee issues and reforms to improve resettlement program. *See* DWYER, *supra* note 17, at 27. In 2014, President Obama announced the creation of a White House Task Force on New Americans focusing on full integration of both immigrants and refugees. *See* *Creating Welcoming Communities and Fully Integrating Immigrants and Refugees*, 79 Fed. Reg. 70765 (Nov. 21, 2014), <http://www.gpo.gov/fdsys/pkg/FR-2014-11-26/pdf/2014-28191.pdf>. The Task Force produced a Strategic Plan, released in April 2015. *See* WHITE HOUSE TASK FORCE ON NEW AMERICANS, *STRENGTHENING COMMUNITIES BY WELCOMING ALL RESIDENTS: A FEDERAL STRATEGIC PLAN ON IMMIGRANT AND REFUGEE INTEGRATION* (2015), https://www.whitehouse.gov/sites/default/files/docs/final_tf_newamericans_report_4-14-15_clean.pdf [hereinafter TASK FORCE ON NEW AMERICANS 2015 STRATEGIC PLAN].

integration. First, integration is desirable.⁴⁷ Second, integration is much more than “economic self-sufficiency.”⁴⁸

Scholars and researchers have argued in favor of immigrant integration in general.⁴⁹ Specific attention to asylee integration is important because of the unique qualities of this population, including their great potential and vulnerability. Asylees are individuals who have fled their countries, often because they faced a threat or suffered serious harm for taking a stand for justice, equal rights, or against a corrupt regime. They have come to the U.S., against all odds, and have successfully convinced an adjudicator that their story is credible. At their very core, asylees, like Jeanne, are resilient survivors. They also often have a great deal to contribute to our society, including diverse and valuable skills and experience. Failing to provide meaningful support to asylees—regardless of whether they arrive with professional skills, education, or English language ability—risks wasting valuable human capital and marginalizing already traumatized individuals, which may have untold economic and other costs for our society.

47. One potential avenue for scholarly exploration might be whether the Refugee Convention, human rights norms, or perhaps the legislative history of the Refugee Act create or imply a *right* to asylee integration. This inquiry is beyond the scope of this article but is certainly one that the author may explore in future research.

48. For example, the Integration Working Group, established by ORR, generated the following working definition of integration: “[A] dynamic, multidirectional process in which newcomers and the receiving communities intentionally work together, based on a shared commitment to tolerance and justice, to create a secure, welcoming, vibrant, and cohesive society.” GERALD BROWN, PEGGY GILBERT & JAN LOSBY, REPORT OF THE INTEGRATION WORKING GROUP 7 (2007). They also identified indicators in the following subject areas to measure integration: health/well-being, language acquisition, economic opportunity, civic values/participation/engagement, education, housing, social connections, and belonging/safety. *Id.* at 8. Another working definition of integration comes from Church World Service’s Immigration and Refugee Program: “Integration is a long-term process, through which refugees and host communities communicate effectively, function together and enrich each other, expand employment options and create economic opportunities, and have mutual respect and understanding among people of different cultures. DWYER, *supra* note 17, at 6.

49. See e.g., MANUEL PASTOR, RHONDA ORTIZ, VANESSA CARTER, JUSTIN SCOGGINS & ANTHONY PEREZ, CALIFORNIA IMMIGRANT INTEGRATION SCORECARD 2 (2012), http://dornsife.usc.edu/assets/sites/731/docs/California_Immigrant_Integration_Scorecard_web.pdf (arguing that immigrant integration is in the best interest of communities at large because immigrants contribute to society and locales that integrate immigrants successfully are “more resilient and better able to adapt to economic, social, and other shifts”); John Mollenkopf & Manuel Pastor, *Struggling Over Strangers or Receiving with Resilience: The Metropolitics of Immigrant Integration* 33 (MacArthur Foundation Network on Building Resilient Regions, U.C. Berkeley, Working Paper, 2013), <http://brr.berkeley.edu/wp-content/uploads/2013/05/Mollenkopf-Pastor-struggling-strangers.pdf> (“[R]egional leaders who want their metropolitan areas to weather the country’s inevitable economic and demographic changes will likely need to weave immigrants into their regional narratives and visions for their regional futures, helping to calm the political waters by highlighting how immigrants and their children can be assets rather than problems.”); Andrew Wainer, *A Tale of Two Cities (and a Town): Immigrants In the Rust Belt*, BREAD FOR WORLD INST., Oct. 2013, <http://www.bread.org/library/tale-two-cities-and-town-immigrants-rust-belt-briefing-paper-23>; see also TASK FORCE ON NEW AMERICANS 2015 STRATEGIC PLAN, *supra* note 46, at 79 (touting the economic and other benefits of immigrant integration).

A more proactive approach to integration, operationalized through the suggested prescriptions for reform discussed in Part V, will not only ensure that the protection the U.S. provides to asylees is meaningful, but also that asylees are empowered to contribute to our economy and society rather than remaining reliant on our resources and institutions.

I do not argue that asylees should be privileged over other vulnerable and historically marginalized populations in the U.S. Indeed, some of the problems my research findings highlight exist in the general population as well, such as a mismatch between an individual's skills and work obtained, housing instability, and unmet mental health needs. Others have highlighted the deficiencies in the poverty system as a whole.⁵⁰ My research specifically focuses legal and regulatory framework for benefits for asylees, which is modeled, at least in part, on the anti-poverty system at large. Other countries, particularly within the European Union, have begun efforts to mainstream immigrant integration. Mainstreaming refers to "an effort to reach people with a migration background through social programming and policies that also target the general population."⁵¹ In that vein, any overhaul of the poverty system at large should address some of the problems I highlight for the asylee population.⁵² In addition to larger systemic reform to make general public programs responsive to the needs of refugees and asylees, I outline the shortcomings of the current system services and benefits for asylees and provide prescriptions for reform with that existing framework.

C. Asylee Eligibility for Benefits

Unlike many immigrants in the U.S., resettled refugees and asylees are entitled to certain federal benefits, including Temporary Assistance for Needy Families (TANF, formerly known as "food stamps"), Medicaid, Social Security

50. See, e.g., David Super, *Privatization, Policy Paralysis, and the Poor*, 96 CAL. L. REV. 470 (2008) (critiquing the expansion of the private sector's role in public benefit programs); CTR. ON BUDGET AND POL'Y PRIORITIES, CHART BOOK: TANF 18 (2014), <http://www.cbpp.org/files/8-22-12tanf.pdf>; see also Robert Rector & Jennifer Marshall, *The Unfinished Work of Welfare Reform*, 14 NAT'L AFF. 94 (2013), <http://www.nationalaffairs.com/publications/detail/the-unfinished-work-of-welfare-reform>; CTR. ON BUDGET AND POL'Y PRIORITIES, AN INTRODUCTION TO TANF 6 (2015), <http://www.cbpp.org/files/7-22-10tanf2.pdf> (explaining that TANF is a weak safety net that reaches fewer families than its predecessor program, AFDC, and fails to address barriers to employment many poor Americans face, including "mental and physical impairments; substance abuse; domestic violence; low literacy or skill levels; learning disabilities; having a child with a disability; and problems with housing, child care, or transportation.").

51. See PETRA BENDEL, COORDINATING IMMIGRANT INTEGRATION IN GERMANY: MAINSTREAMING AT THE FEDERAL AND LOCAL LEVELS 4 (2014).

52. Indeed, in Europe, there has been some concern over policies that focus specifically on immigrant populations because of the potential stigmatizing effect of that focus. See *id.* at 45; ANGÉLINE ESCAFRÉ-DUBLET, MAINSTREAMING IMMIGRANT INTEGRATION POLICY IN FRANCE: EDUCATION, EMPLOYMENT, AND SOCIAL COHESION INITIATIVES 1, 4, 6, 7 (2014) (discussing the perceived disadvantages of targeting of one population over another, including a specific focus being contrary to the notion of equal treatment irrespective of race, religion, or national origin).

Insurance, and more.⁵³ There are some differences, however, in asylum seeker and asylee eligibility for benefits compared to resettled refugee eligibility for benefits. Below is a discussion, accompanied by a chart, summarizing the process and benefits for asylees versus refugees. This examination is significant because individuals in both populations gain protection in the U.S. by meeting the same legal definition. As I argue under Part V, Prescriptions for Reform, the benefits and services resettled refugees and asylees receive should be harmonized to reflect their shared characteristics.

Resettled refugees, who are identified for protection overseas, are eligible for certain benefits and services upon arrival in the U.S. under the Refugee Assistance Program, overseen by the Department of State's Bureau for Population, Refugees, and Migration (PRM) along with the Office of Refugee Resettlement (ORR). I provide an overview of these benefits here, but in no way intend to endorse the current approach or to suggest that it is sufficient to ensure effective refugee resettlement and integration.⁵⁴

Each refugee is matched with a resettlement agency that receives a Reception & Placement Grant (R&P Grant) in the amount of \$1,925 for each refugee from PRM.⁵⁵ This initial R&P Grant, awarded to resettlement agencies only on behalf of resettled refugees, *not asylees*, is used by a refugee resettlement case manager to meet basic needs—food, housing, furniture, houseware, and clothing—for the first thirty days in the U.S. and to fund the resettlement agency's coordination of these services.⁵⁶ The standard experience

53. For a full description of the benefits to which resettled refugees and asylees are entitled, and those specifically available only to this population and other vulnerable immigrant populations, see *infra* Appendix A.

54. Indeed, as mentioned above, scholars, researchers, and government reports have criticized the current refugee resettlement regime and suggested numerous reforms. See *supra* notes 15–17. The legal and regulatory fixes proposed under Part V of this article could address the many problems that critics have highlighted in the functioning of the refugee resettlement system, benefiting both asylees and refugees.

55. Congress passed legislation to double the amount of the R&P grant from \$900 to \$1800 in December 2009 and the increase was implemented in January 2010. See GAO IRAQI REFUGEE REPORT, *supra* note 16, at 12. According to the most recent cooperative agreement, voluntary agencies now receive \$925 per person in direct assistance, plus \$200 for each client in “flex funding,” which can be spent on the current client or saved for a more vulnerable client. The agency also receives \$800 for administrative expenses, so the total is \$1,925. Telephone Interview with Joan Hodges, Acting Program Manager for Refugee and Asylum Seeker Services, Int’l Inst. of Conn. (July 28, 2014). For an interesting history of the R&P Grant, see Brown & Scribner, *supra* note 15, at 106–7.

56. Participating agencies use the R&P funds and donations from private and other sources to provide the following to resettled refugees: sponsorship, pre-arrival resettlement planning, reception on arrival, basic needs support (housing, furnishings, food, and clothing) for at least thirty days, cultural orientation, assistance with access to health, employment, education, and other services, and development and implementation of an initial resettlement plan for each refugee for thirty days. See PROPOSED REFUGEE ADMISSIONS 2015, *supra* note 12, at 18. The R&P grant can be extended for up to ninety days. See Bureau of Population, Refugees & Migration, *FY2016 Notice of Funding Opportunity for Reception and Placement Program*, U.S. DEP’T OF STATE (Apr. 24, 2015), <http://www.state.gov/j/prm/funding/fy2016/241122.htm>.

for arriving refugees is that a case manager from a refugee resettlement agency meets them at the airport, and transports them to housing, already equipped with basic necessities. The International Organization for Migration (IOM) arranges for refugees' travel to the U.S. through interest-free loans.⁵⁷ Refugees may arrive with their family members if they have not been separated during forced migration, and some refugees have the opportunity to be reunited with family members in the U.S.⁵⁸

Asylum seekers, like Jeanne, arrive in very different circumstances. Having not yet proven that they meet the legal definition of a refugee, they do not receive loans to cover their travel to the U.S. Because asylees are often unable to travel with their whole family, family reunification may take years longer. On arrival, unlike refugees, asylum seekers are ineligible for any public assistance or benefits,⁵⁹ and so, like Jeanne, they are often forced to depend on others for free or very low cost housing and can fall into untenable and even abusive situations. Some asylum seekers arrive at the airport or cross the border and literally have nowhere to go; others are held in immigration detention centers upon arrival and some are released only when their asylum claims are granted.⁶⁰ When asylum seekers arrive, they must find their own housing, navigate public transportation and obtain basic necessities alone, and access and initiate the asylum seeking process, often paying an attorney to file the asylum claim. Even after asylum is granted and the asylum seeker becomes an asylee, asylees do not receive the R&P Grant to facilitate their transition to the U.S. and no case manager assists them in navigating life in a new country. Unlike resettled refugees, asylees, like Jeanne, must either find a resettlement agency that receives funding through the ORR that is willing to assist her to access her other benefits, or apply for benefits herself through the state, without any aid from a resettlement agency.⁶¹

57. *See supra* note 11.

58. *See* PROPOSED REFUGEE ADMISSIONS 2015, *supra* note 12, at 11–13 (discussing Priority 3 refugees, those who are being reunited with an anchor family member granted refugee status or asylum in the United States).

59. Under 45 C.F.R. § 400.44 (2015), “an applicant for asylum is not eligible for assistance under Title IV of the Act unless otherwise provided by Federal law.” According to a Human Rights Watch report, when compared with other industrial asylum-receiving countries, the U.S. is alone in both severely limiting employment and not providing government assistance to asylum seekers. *See* HUMAN RIGHTS WATCH & SETON HALL LAW, “AT LEAST LET THEM WORK”: THE DENIAL OF WORK AUTHORIZATION AND ASSISTANCE FOR ASYLUM SEEKERS IN THE UNITED STATES (2013), <http://www.hrw.org/reports/2013/11/12/least-let-them-work> [hereinafter AT LEAST LET THEM WORK].

60. *See* HUMAN RIGHTS FIRST, U.S. DETENTION OF ASYLUM SEEKERS: SEEKING PROTECTION, FINDING PRISON (2009), <http://www.humanrightsfirst.org/wp-content/uploads/pdf/090429-RP-hrf-asylum-detention-report.pdf> (critiquing U.S. detention of asylum seekers). This article does not attempt to understand how detention may affect long-term asylee integration, but it is reasonable to assume that immigration detention is highly likely to exacerbate any mental health issues an asylum seeker has prior to arrival in the U.S. and very likely undermines long-term integration.

61. In a State Letter 00-15 from August 2000, ORR recognized that asylee access of benefits would be difficult. LAVINIA LIMON, OFF. OF REFUGEE RESETTLEMENT, STATE LETTER #00-15, ASYLEE ELIGIBILITY FOR REFUGEE RESETTLEMENT PROGRAM BENEFITS (2000),

Apart from the travel assistance through an IOM loan, the R&P Grant, and case management upon arrival, asylees are technically eligible for the same panoply of benefits as refugees. Resettled refugees and asylees are both eligible for the purposes of federal means-tested benefits for up to seven years.⁶² If a resettled refugee or asylee meets state requirements for benefits, she will receive assistance through those programs first, including benefits such as TANF, Medicaid, SCHIP, SNAP, or SSI.⁶³ If she is ineligible for state benefits, then she is eligible to receive eight months of benefits administered through ORR grantees, including Refugee Cash Assistance (RCA), Refugee Medical Assistance (RMA), or enrollment in a program called Matching Grant.⁶⁴ These programs fill a gap because cash assistance through the states is typically only available to parents of children in the U.S., and RCA provides benefits for individuals who are not parents or whose children are abroad. Thus, asylees who arrived without family members and are therefore ineligible for state administered federal benefits like TANF, can receive RCA. Typically, a refugee who enrolls in benefits receives eight months of limited cash assistance and medical coverage. Details on all of the programs available to resettled refugees and asylees are included in Appendix A.

	Resettled Refugees	Asylees
When refugee status is gained	Individuals are interviewed and awarded refugee status prior to	Asylum is granted after adjudication in the U.S., at the asylum office or through the

<http://www.acf.hhs.gov/programs/orr/resource/state-letter-00-15> (“Asylees, unlike refugees, will need to learn about available programs and services and to locate the appropriate benefits offices without the aid of resettlement agencies. This can be a daunting task for individuals who have recently arrived in the United States, may not have English language skills and may not have family or other support networks.”).

62. Many immigrants (or “aliens,” the legal term of art) are ineligible for benefits, but certain categories are deemed “qualified” for the purposes of accessing federal benefits. For a quick summary of immigrant eligibility for public benefits, see Office of the Assistant Sec’y for Planning and Evaluation, *Summary of Immigrant Eligibility Restrictions Under Current Law*, U.S. DEP’T OF HEALTH & HUMAN SERVS., <http://aspe.hhs.gov/hsp/immigration/restrictions-sum.shtml> (last updated Feb. 25, 2009). Under 8 U.S.C. § 1612(a)(2)(A), refugees and asylees are exempted from the general ineligibility of immigrants for means-tested public benefits, including SNAP, TANF, etc.

63. See *infra* Appendix A, which provides an outline of the benefits for which asylees and refugees are eligible.

64. Refugee Cash Assistance and Refugee Medical Assistance are currently available for eight months. Matching Grant is an alternative to Refugee Cash Assistance, combining an initial grant of cash and health benefits with a work-oriented program emphasizing self-sufficiency within 120 or maximum 180 days through employment and English as a Second Language training. See Office of Refugee Resettlement, *About the Voluntary Agencies Matching Grant Program*, U.S. DEP’T OF HEALTH & HUMAN SERVS., <http://www.acf.hhs.gov/programs/orr/programs/matching-grants/about>. For a concise history and explanation behind the funding levels for refugee resettlement, see generally Brown & Scribner, *supra* note 15.

	arrival in the U.S.	immigration courts
Employment authorization	Resettled refugees are eligible immediately upon arrival.	Asylum seekers are eligible to apply for employment authorization only after an asylum application has been pending for 150 days, or when asylum is granted.
Travel to the United States	The International Organization for Migration (IOM) finances refugee travel through interest-free loans.	Individual asylum seekers pay travel expenses.
Family Reunification	Refugees are usually resettled with family members when possible.	Only after the asylum grant, asylees can petition to bring family members to the U.S. Asylees are responsible for paying travel costs and no loan process is set up.
Benefits	Benefits are available immediately upon arrival. A case manager assists a refugee in navigating the system.	Benefits are available after the asylum grant and after proper documentation is obtained (asylee I-94 card, Social Security Number, etc). An asylee must reach out to resettlement organization or the state to access her benefits.
Benefits Orientation	Cultural orientation and benefits orientation is provided to all resettled refugees prior to arrival in the U.S.	Benefits orientation sessions ⁶⁵ are available periodically, but somewhat irregularly, at four of the eight asylum offices nationwide, and not available in immigration courts, which is where many individuals are granted asylum (9,933 in 2013). ⁶⁶
Reception and Placement Grant	This grant is awarded to service providers working	This grant is not available, even after asylum is granted.

65. See *infra* Part IV.K under Research Findings for a discussion of the Asylum Benefits Orientation sessions currently offered at participating USCIS asylum offices.

66. See OFF. OF PLANNING, ANALYSIS, & TECH., EXEC. OFF. FOR IMMIGR. REVIEW, FY 2013, STATISTICS YEARBOOK at K1 (2014), <http://www.justice.gov/eoir/statspub/fy13syb.pdf>. The grant rate for asylum cases in court in 2013 was fifty-three percent. *Id.*

	with refugees to assist with initial resettlement costs and fund staff.	
Adjustment of status to lawful permanent residence	Adjustment is mandatory after one year and resettled refugees are automatically exempt from the \$1,070 fee.	Asylees are eligible to apply after one year, but the fee waiver adjudicated on a case-by-case basis.

D. Do Asylees Actually Access the Benefits to Which They are Entitled?

Very few studies have focused on asylee use of benefits.⁶⁷ Indeed, the only study that analyzes asylee utilization rates of public benefits⁶⁸ was conducted prior to a major legal change in June 2000, which enabled asylees to access

67. In the wake of the 1996 welfare reform, several scholars undertook studies of immigrant access to benefits programs. These studies do not, in general, differentiate between refugees and asylees. *See, e.g.*, Christopher R. Bollinger & Paul Hagstrom, *Food Stamp Program Participation of Refugees and Immigrants*, 74 S. ECON. J. 665 (2008) (comparing non-refugee immigrants and refugee immigrants, grouping asylees and refugees together, and their use of food stamp program following 1996 welfare reform); *see also* Randy Capps, Michael E. Fix & Everett Henderson, *Trends in Immigrants' Use of Public Assistance after Welfare Reform*, in IMMIGRANTS AND WELFARE: THE IMPACT OF WELFARE REFORM ON AMERICA'S NEWCOMERS 123, 123–152 (Michael E. Fix ed., 2009) (treating refugees and asylees together—imputing this status from U.S. Census data solely based on the assumption that individuals born in certain refugee or asylees producing countries who entered the U.S. after 1980 were likely asylees or refugees). The differentiation of asylees versus refugees is not easily understood because the Current Population Survey Annual Social and Economic Supplement conducted in March each year by the U.S. Census Bureau includes participation in the major public benefits programs, but does not differentiate between asylees and resettled refugees. *See* CARMEN DENAVAS-WALT & BERNADETTE D. PROCTOR, U.S. CENSUS BUREAU, INCOME AND POVERTY IN THE UNITED STATES: 2014, CURRENT POPULATION REP. (2015), <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p60-252.pdf>. A recent report from the Migration Policy Institute again used Census Data to try to analyze trends in refugee use of benefits, by imputing refugee status to individuals arriving from certain countries during certain time periods and finding that refugee use of benefits in general declined over time, but remained higher than the general population. *See* RANDY CAPPS & KATHLEEN NEWLAND, THE INTEGRATION OUTCOMES OF U.S. REFUGEES: SUCCESSES AND CHALLENGES (2015), <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges>.

68. *See* DAVID NORTH, U.S. COMM'N ON IMMIGR. REFORM, ESTIMATES OF THE FINANCIAL COSTS OF REFUGEE RESETTLEMENT: THE CURRENT SYSTEM AND ALTERNATIVE MODELS (1997), <https://www.utexas.edu/lbj/uscir/respapers/efc-feb97.pdf>. This study found that “asylee utilization rates [of TANF] are considerably below those of refugees, although both have equal legal access to benefit programs.” *Id.* at 24. The study attributes lower TANF utilization rates among asylees to the fact that asylum seekers are “not greeted on arrival with the supportive programs that exist for refugees” and generally resort to unauthorized employment. *Id.* The study further noted, from a limited data set, that “it appears that asylees are much *less* likely than refugees to make use of their eligibility for cash assistance . . . [finding] much lower use of Food Stamps and Supplemental Security Income [SSI] among the asylees than among the refugees.” *Id.* at 40–41. It should however be noted that asylees often arrive without family members, making them ineligible for TANF, which is awarded to individuals with children living in the U.S.

benefits for eight months after the asylum grant date, rather than eight months after their entry into the United States.⁶⁹ Because the process of seeking and being granted asylum usually takes more than eight months, prior to this change asylees accessed benefits at rates much lower than resettled refugees, who were able to access benefits upon arrival in the U.S.

Most studies do not break down categories of immigrants into “asylees” and “refugees,” but rather group both populations together. One study found that “refugee” use of public assistance, including Medicaid and SCHIP, following welfare reform legislation of 1996 “fell much more dramatically than that of other families during the study period, which is surprising given that refugee eligibility for these programs was largely unaffected by PRWORA [Personal Responsibility and Work Opportunity Reconciliation Act of 1996].”⁷⁰ The authors explain the decline in refugee use of benefits, suspecting that the decline was due:

[I]n part from aggressive placement in low-wage work; ORR’s sustained integration efforts, including initial cash and health benefits; shifts in the origins and increased education of arriving refugees; and time limits on refugees’ eligibility for SSI and Medicaid. Declines in new arrivals of refugees, shifting settlement patterns, and internal migration to locations with better job opportunities may also play a role.⁷¹

Of course, immigrants in general face numerous obstacles and challenges to accessing benefits.⁷² More recent and robust studies are needed to gain an understanding of asylees’ use of the benefits system and whether the current system is effective.⁷³

69. See LIMON, *supra* note 19.

70. CAPPS & NEWLAND, *supra* note 67, at 133. Further, “[b]etween 1994 and 2004, refugee families’ TANF use fell 32 percentage points, far outpacing the decline among native families. At the same time, refugee families’ SSI participation also dropped from 12 to 5 percent, between 1994 and 2004, though only after 1999 . . . Between 1994 and 2004, [Food Stamp Program] participation among refugees dropped more than 30 percentage points, from 57 to 26 percent. Medicaid-SCHIP also fell between 1994 and 2004, from 66 to 51 percent. Most of this decline occurred when use was rising considerably for both native-born and LPR families.” *Id.* at 133–34.

71. *Id.* at 143.

72. See Leighton Ku, *Changes in Immigrants’ Use of Medicaid and Food Stamps: The Role of Eligibility and Other Factors*, in IMMIGRANTS AND WELFARE, *supra* note 67, 153, 153–192. (examining immigrant use of food stamps and Medicaid and exploring factors affecting immigrant use of public benefits including awareness and understanding, social isolation and integration, time in the US, language barriers, fears about consequences of participation, perceived need for assistance, alternative forms of assistance, program access, and perceived friendliness to immigrants).

73. See Ives, *supra* note 15, at 55 (“There has been limited exploration of the ways in which a state’s social protection and welfare systems shape resettlement policies and how those policies in turn affect refugee integration.”).

The lack of data makes it difficult to ascertain exactly how many, or what percentage of asylees actually access the benefits to which they are entitled.⁷⁴ Although clear data on the exact participation of asylees in the benefits system is lacking, available information suggests that participation is low.⁷⁵

We lack a clear understanding of *why* certain asylees do not access benefits. While it is possible that some asylees simply do not need services, findings from this study suggest that at least some asylees do not understand their eligibility for benefits while others face problems actually accessing the benefits. Further, this study suggests that some asylees are reluctant to access their benefits because they have become accustomed to “living in the shadows,” virtually ineligible for any benefits or assistance, as asylum seekers, and the shift from being ineligible to eligible is a psychological barrier.

Another logical question is—does legal representation make a difference in whether asylees access benefits? We know, from pioneering research by Professors Ramji Nogales, Philip Schrag, and Andrew Schoenholtz, that represented asylum seekers are more likely to be granted asylum in our immigration system.⁷⁶ Of course, all representation is not equal⁷⁷ and

74. ORR provides annual reports to Congress. The most current report available is for Fiscal Year 2013. *See* OFF. OF REFUGEE RESETTLEMENT, OFFICE OF REFUGEE RESETTLEMENT ANNUAL REPORT TO THE CONGRESS: FY 2013 (2013), https://www.acf.hhs.gov/sites/default/files/orr/arc_2013_508.pdf [hereinafter ORR REPORT TO CONGRESS: FY 2013]. However, these reports do not include detailed data on asylees and only include the results of the ORR annual survey of resettled refugees. *Id.* at 77; *see also* Interview with Ronald Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement, in D.C. (Nov. 19, 2013) (stating that the annual survey does not collect data on asylees).

75. Resettlement agencies contract with ORR to administer benefits. It is worth noting that the ORR eligible population, often collectively referred to as “refugees” actually includes resettled refugees, asylees, Cuban/Haitian entrants, special immigrant visa holders, certain victims of human trafficking, Amerasians, and unaccompanied refugee minors. *See* Admin. for Children & Families, *Summary of ORR Benefits and Services to Eligible Populations*, OFF. REFUGEE RESETTLEMENT, http://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_benefits_at_a_glance.pdf (last visited July 4, 2014). Because refugees and asylees must first attempt to enroll in federally subsidized benefits administered by the states before resorting to ORR specific programs (such as Refugee Cash Assistance, Refugee Medical Assistance, and Matching Grant), we lack an understanding of the whole population of asylees accessing benefits because the states do not uniformly track benefit enrollment by immigration status. Connecticut, for example, codes asylees, Special Immigrant Visa Holders, and refugees just as “refugee.” Telephone Interview with Joan Hodges, Acting Program Manager, Refugee & Asylum-Seeker Services, Int’l Inst. of Conn. (July 28, 2014). According to ORR, of the more than 29,000 individuals enrolled in Matching Grant in 2013, only 2,231 were asylees, versus 22,965 refugees. These numbers are significant because the percentage of asylees enrolling in the program is much lower than the percentage of refugees enrolling in the program. Using the 2013 figures of asylees granted and refugee arrivals, only 8.9 percent of asylees were enrolled in the program (2,231 enrollees out of 25,199 asylees granted in 2013) compared to 32.8 percent of refugees (22,965 refugee enrollees out of 69,909 refugee arrivals in 2013). *See* OFF. OF REFUGEE RESETTLEMENT, OFFICE OF REFUGEE RESETTLEMENT YEAR IN REVIEW: 2013 (2013), <http://www.acf.hhs.gov/programs/orr/resource/office-of-refugee-resettlement-year-in-review-fy2013>; Interview with Ronald Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement, in D.C. (Nov. 19, 2013).

76. *See, e.g.,* REFUGEE ROULETTE, *supra* note 26, at 45 (Figure 3-11 illustrating the relationship between representation and grant rates in immigration courts, reflecting a 16.3 percent

representation may make more of a difference in some cases than others.⁷⁸ This leaves one to wonder, then, whether *pro se* asylum applicants, i.e. those without legal representation, are less likely to have knowledge of and therefore access asylees benefits. Or, whether applicants represented by attorneys equipped with the knowledge that asylees are eligible for certain benefits access those benefits more frequently than those represented by attorneys without a clear grasp on the benefits or lacking the inclination to explain those benefits. A threshold question is, of course, whether attorneys representing asylum seekers are actually aware of the benefits to which their clients are entitled upon receipt of an asylum grant. This topic is explored in Part IV, Research Findings, below.

III.

METHODOLOGY

No previous research has focused specifically on asylee integration. To understand the challenges asylees face following the asylum grant, I conducted approximately fifty interviews with stakeholders in two geographic areas—the San Francisco Bay Area and the greater Washington, D.C. metropolitan area, including Baltimore, Maryland.⁷⁹ These two geographic areas were selected for a number of reasons. First, both areas have robust immigration bars and representation rates of asylum seekers are fairly high.⁸⁰ Second, both areas are relatively expensive in terms of cost of living, yet both attract fairly high numbers of asylees. Both locales also have fairly strong advocacy communities

grant rate for unrepresented asylum seekers versus a 45.6 percent grant rate for those with attorneys).

77. See M. Margaret McKeown & Allegra McLeod, *Counsel Conundrum: Effective Representation in Immigration Proceedings*, in REFUGEE ROULETTE, *supra* note 26, at 286 (describing in one instance a California lawyer who handled more than 2,720 cases in a two-year period. The California State Bar Court found the attorney accepted more cases than he could handle and failed to competently represent his clients) (citing *Morales Apolinar v. Mukasey*, 514 F.3d 893, 894–98 & n.4 (9th Cir. 2008)).

78. See LIVES IN THE BALANCE, *supra* note 26, at 133–42 (updating statistics and sharing that between October 1995 and June 2009 DHS granted asylum nineteen percent more often to represented asylum seekers than to *pro se* applicants, but that the difference representation makes seems to be diminishing over time. According to this study representation did, however, more frequently make a difference for younger asylum applicants and for those who entered the United States without inspection or a valid visa).

79. See *infra* Appendices B and C, providing interviewees' names, affiliation, and date of interview, in both locations.

80. According to statistics released by the USCIS Asylum Division in response to my submitted questions at the Quarterly Stakeholders' Meeting on April 23, 2014, asylum seekers have appeared with representation at the SF asylum office around 66–68 percent of the time for fiscal years 2011–2013. In Arlington, the asylum office serving the D.C. metro area, the representation rate is lower, with 56–59 percent of applicants appearing with representation during fiscal years 2011–2013. See *infra* Appendix D, reflecting representation rates by asylum office, using data received from USCIS Asylum Division, Refugees, Asylum and Parole System (RAPS) on April 23, 2014. According to the EOIR statistics yearbook, in 2013, fifty-nine percent of all immigrants were represented in immigration court. See OFFICE OF PLANNING, ANALYSIS, & TECH. EXEC. OFFICE FOR IMMIGRATION REVIEW, *supra* note 66.

and networks. In the D.C. metro area, a number of non-profits represent immigrants along with extensive pro bono representation by large law firms.⁸¹ Opportunities for representation are similar in San Francisco.⁸² If asylees face challenges in accessing benefits, services, and integrating in these two fairly immigrant friendly locales, it seems likely that the population would similarly struggle in other parts of the United States.

Between November 2013 and February 2014, I conducted thirty to sixty minute interviews in person and by phone with a group of systematically selected⁸³ stakeholders who come into frequent contact with asylees. Because the individuals who come into daily contact with asylees are advocates and service providers, some selection bias is inherent in this study because we can generally assume that those individuals are likely to be friendly towards asylees, may have a more favorable opinion of asylees, and thus are more likely to question the system in place to support this population. Interview schedules with questions for each group were prepared ahead of time and the same set of questions were used with each interviewee, with the questions varying slightly depending on the interviewee fitting into one of the four major groups:⁸⁴

81. These non-profit organizations include Capital Area Immigrants Rights (CAIR) Coalition, Catholic Charities, Ayuda, CARECEN, Northern Virginia Family Services, Human Rights First, Tahirih Justice Center, Kids in Need of Legal Defense (KIND), Torture Abolition & Survivors Support Coalition (TASSC), Whitman Walker, Legal Aid Justice Center, and APARLC, among others.

82. The non-profit organizations operating in the San Francisco Bay Area include: Catholic Charities, International Institute of Bay Area, East Bay Community Law Center, East Bay Sanctuary Covenant, Lawyer's Committee for Civil Rights, Community Legal Services of East Palo Alto, Bay Area Legal Aid, and Pangea Legal Services.

83. I attempted to include approximately equal numbers of attorneys, mental health professionals, and social service agency case managers in both geographic locations. The interviewees were identified partially through personal contacts but many were contacted with a "cold call" after locating the organization for which they worked through the Office of Refugee Resettlement's publicly available information on organizations with which it contracts to provide asylee benefits. *See infra* Appendices B and C for a table listing all the interviewees in both geographic locations, including their names, titles, and organizational affiliation(s).

84. Lindsay Harris, Interview Schedules and Question Outlines (2013) (unpublished interview materials) (on file with author). In some instances, it became clear that a certain group of people did not have enough information to answer a specific question or set of questions, so those questions were abandoned as interviews progressed. Because not all attorneys or service providers provide exactly the same services, largely due to differences in funding, some questions were not applicable to certain interviewees. Interviews were recorded when the individual interviewed gave permission to do so and each interview, whether recorded or not, notes were taken. All interview responses were then reviewed and key findings identified by reviewing those notes and analyzing the trends that emerged. Questions were included on the following topics: how asylees find out about benefits, what information the interviewee communicates to asylees about benefits, the interviewee's own knowledge about asylee benefits, what types of work asylees are doing post-grant, opinions on the adequacy of various programs and services for asylees (including English language courses, housing, mental health services, re-credentialing services, and case management services), opinions on the sufficiency of asylee benefits, asylee adjustment of status (applications for permanent residence), and asylum office benefits orientation sessions.

Attorneys and Legal Representatives	Interviews with ten attorneys and legal representatives of asylum seekers, ⁸⁵ from the Bay Area and twelve practicing in the D.C. metropolitan area. In the Bay Area, the attorneys interviewed represented approximately 650–700 asylum seekers per year, while in D.C. the attorneys interviewed represented approximately 300–500 asylum seekers per year. ⁸⁶ This group included attorneys at non-profit organizations, private immigration attorneys handling asylum cases, attorneys working within law school clinics, and non-immigration specialists within large law firms.
Case Managers	Interviews with individuals providing social services to the asylee population, including seven individuals in the Bay Area and eleven in the D.C. metro area. This group included individuals working at resettlement agencies, faith-based organizations, and other non-profit organizations.
Mental Health Professionals	Interviews with psychologists, therapists, and Licensed Clinical Social Workers—who frequently provide therapeutic, counseling, or psychiatric services to asylees. ⁸⁷ I conducted four such interviews in each area.
Government Officials	Interviews with officials at the Office of Refugee Resettlement, within the Administration for Children and Families in the Department of Health and Human Services, and the San Francisco USCIS asylum office. ^{88,89}

The limits of this study are clear—this is not only a small set of interviewees in only two geographic areas but also an attempt to understand the challenges a

85. Most individuals interviewed were licensed attorneys, but one individual interviewed in the Bay Area and another in D.C. was a BIA accredited representative. *See infra* Appendices B and C for a detailed list of interviewees.

86. This calculation was based on a rough estimate by each interviewee of approximately how many new asylum cases the attorney and his or her office handled each calendar year.

87. In the Bay Area, I interviewed two psychologists, one licensed clinical social worker who provides therapy and psychological evaluations to asylees, as well as a coordinator for the Newcomer's Health Program in the San Francisco Department of Public Health. In D.C., I interviewed two psychologists at Advocates for Survivors of Torture and Trauma and two therapists with the Program for Survivors of Torture and Trauma at Northern Virginia Family Services.

88. Officials at the Arlington, VA, asylum office, serving asylum seekers in the D.C. metropolitan area, declined the author's request for interview, but the author did attend an Asylum Benefits Orientation Session in April 2014 upon invitation from the Arlington asylum office Supervising Officer managing the program.

89. My goal in interviewing government officials was to ensure that my understanding of the existing programs was correct. Because the government officials do not come into direct contact with asylees, I interviewed just a few officials in order to verify my understanding of the system.

specific population faces without interviewing members of that specific population. A randomized study interviewing asylees would provide additional important perspective and critical understanding of the challenges asylees face.⁹⁰ Those coming into daily contact with asylees, however, can provide valuable initial insights into the integration challenges asylees face, as revealed below.

IV. RESEARCH FINDINGS⁹¹

My study of asylee integration paints a bleak picture. This study reveals that generally attorneys lack a basic awareness of the benefits and services available to asylees following a grant of asylum, and even when they are informed, they lack the time needed to explain those benefits along with the legal ramifications of an asylum grant. Even when asylees are able to access benefits, those benefits are often inadequate because the current legal structure focuses so heavily on rapid employment and “economic self-sufficiency.” This pressure towards immediate employment compounds some of the other problems revealed by the study. Interviewees identified lack of English language skills as the primary barrier to integration and employment matching an asylee’s skills and background. Because many asylees work long hours in minimum wage jobs, they lack time, energy, or opportunity to engage in learning English. The mismatch in employment and subsequent financial challenges also means asylees often cannot cover the cost of professional re-certification, struggle with stable housing, and are unable to apply for permanent residence when they become eligible. Other findings included delays in the family reunification process: while attorney interviewees lamented the opaque and frustrating bureaucracy, mental health professionals explained the psychological effects of prolonged separation from family. Finally, mental health professionals and other service providers identified a shortage of mental health services available to asylees. The key research findings resulting from this study are addressed in detail below and then Part V offers prescriptions for reform to address the challenges identified.

A. Asylees are Not Obtaining Employment Suited for their Skills and Expertise

The resettlement agencies seem to have one toolkit that’s the same for everyone . . . We have had attorneys, university professors, professional athletes who have sought assistance and the response is the same—it feels like these women’s education

90. In future work, I hope to gain funding to carry out a robust study of asylees, ideally in cooperation with the Office of Refugee Resettlement.

91. Direct quotations by interview subjects are attributed in citations within the article to the respective speakers. When paraphrasing interviewees’ responses, citations have not been included; rather readers may refer to Appendix B and C, *infra*, for the names, titles and interview dates of all interviewees, other than clients. Additionally, the editors of this journal have independently verified all interview information by examining the author’s interview notes.

and experiences are discounted and what they could bring to the community is lost. One woman is a university professor from Cameroon, who speaks good English. And she was told she had a job interview at the Four Seasons—she thought she was going for a management interview—she got there and discovered they were hiring for a maid.⁹²

Interviews revealed that the system currently in place to facilitate asylee employment focused on a one-size-fits-all approach, not tailored to an individual asylee's skills, background, and expertise. While many asylees do in fact secure employment, it is often in a "survival job," intended to be a temporary stop on the road to more appropriate employment, but which often becomes the unintended final destination. This mismatch is compounded by deficiencies in the government issued documentation to asylees, which leads to confusion among employers regarding whether an asylee is actually entitled to work.

This study revealed perceptions among services providers that asylees are underemployed.⁹³ Forty-seven out of forty-eight advocate, case manager, or psychologist interviewees stated that there was a mismatch between the jobs their asylee clients were qualified for and the jobs that the asylee clients managed to obtain. All of the eight mental health professionals interviewed noted that many, if not all, of their well-educated asylee clients were not accessing appropriate employment for their skills, background, and expertise. A Bay Area psychologist explained: "I don't see a difference in the work being done before the grant and post grant; it's not like the engineers are coming over here and working as engineers."⁹⁴ Two D.C. based psychologists agreed that it was "difficult . . . [for professionals] to continue employment in the sectors that they were employed in back home"⁹⁵ and that "[t]hey end up in jobs that aren't anywhere near commensurate to their skill sets and what they have accomplished in their countries."⁹⁶ One psychologist interviewed described her professional asylee clients as "almost all under-employed and overqualified."⁹⁷

92. Telephone Interview with Molly Corbett, Founder, Asylee Women's Enter. (Feb. 11, 2014).

93. Of course, in today's economy, asylees are not the only population employed beneath their education level and earning potential. Although the current Office of Refugee Resettlement Reports to Congress focus on resettled refugees, the most recently available reports share that employment for refugees is more difficult in the current economy. *See* ORR REPORT TO CONGRESS: FY 2013, *supra* note 74, at 27 ("[T]he state of [sic] U.S. economy made finding jobs for refugees more difficult.").

94. Telephone Interview with Joshua Rose, Licensed Clinical Social Worker, Family Works Cmty. Counseling (Jan. 16, 2014).

95. Telephone Interview with Sheetal Patel, Clinician, Advocates for Survivors of Torture and Trauma (Feb. 11, 2014).

96. Interview with Mary Cogar, Clinician, Advocates for Survivors of Torture and Trauma, in D.C. (Feb. 10, 2014).

97. Telephone Interview with Sheetal Patel, Clinician, Advocates for Survivors of Torture and Trauma (Feb. 11, 2014). One D.C. based therapist explained that, "Most of the time our clients are very well-educated and have a lot of work experience and it's not a good match—and that's

For highly educated asylees with professional backgrounds (including doctors, lawyers, and engineers) interviewees generally responded that the success rate for these individuals in finding jobs in their field is very low.⁹⁸ Interviewees recounted that the only successful asylee professionals had special connections in the U.S.—for example an individual who came specifically for work in the field with pre-existing contacts and relationships and then applied for asylum, or an individual who obtained an advanced degree in the U.S. prior to the asylum grant.

Case managers working at resettlement agencies in the Bay Area and the D.C. metro area explained that most asylees undertake “survival jobs”—jobs that pay the rent, regardless of whether this is a good match for their skills or expertise. Resettlement agency staff interviewed explain that the focus is not on finding the “perfect match” for an asylee’s experience and skill set, but rather simply securing employment—“we have people with PhDs who are highly educated, we focus on getting the job to pay the first month’s rent, while they focus on trying to find another job.”⁹⁹ All of the case managers interviewed opined that the work their asylee clients find is a poor or very poor match for their skill sets, education, and work history. Case managers also reported that

one of the hardest realities—you worked for the Ministry of Finance, and now you wash dishes.” Telephone Interview with Sabine Fajon, Mental Health Therapist & Program Co-Coordinator, Program for Survivors of Torture and Trauma at N. Va. Family Services (Mar. 14, 2014). Another therapist interviewed reflected on her experience with asylees in the field and shared: “Generally, asylees I have worked with are not able to find employment in their fields—it’s a very long struggle. Maybe 2–3% of my clients find jobs within their fields of expertise—after a long struggle and with some connection that they’ve made here.” Telephone Interview with Saara Amri, Mental Health Therapist, Program for Survivors of Torture and Trauma at N. Va. Family Services (March 11, 2014). Other interviewees shared similar sentiments, attorneys and social service providers explained that the grant of asylum does not seem to make much of a difference to an individual’s employment situation (assuming they were already working): “For the most part, there’s no real change in jobs following the asylum grant.” Interview with Niloufar Khonsari, Exec. Dir., Pangea Legal Services, in S.F., Cal. (Dec. 13, 2013); “They are pretty much doing exactly the same thing as they were doing before.” Interview with Lynette Parker, Immigration Supervising Attorney, George Alexander Cmty. Law Ctr., in Santa Clara, Cal. (Dec. 17, 2013); “[T]o be honest, their lives don’t change that drastically post-grant—they mostly do exactly the same work they were doing before.” Interview with Michael Smith, Refugee Rights Dir., and Kaveena Singh, Attorney, E. Bay Sanctuary Covenant, in Berkeley, Cal. (Dec. 18, 2013).

98. Some notable responses included: “[T]hey have had no success gaining jobs; the success rate has been virtually zero.” Interview with Alberto Benitez, Professor of Clinical Law, George Wash. Univ. Immigr. Clinic, in D.C. (Nov. 15, 2013); “I don’t think in the four years I’ve worked here I have ever seen a successful case of someone matching their profession.” Telephone Interview with Tori A. Babington, Dir. of Legal Services, N. Va Family Services (Feb. 11, 2014); “I can’t say there are very positive experiences; they have had to take whatever jobs they can to pay the bills.” Interview with Jocelyn Dyer, Staff Attorney, Human Rights First, in D.C. (Nov. 18, 2013); “[T]he professionals who have some contacts and are being helped out tend to find something, but those without contacts are stuck and feel very frustrated and end up working at a convenience store or driving a taxi.” Interview with Vanessa Allyn, Managing Attorney, Human Rights First, in D.C. (Nov. 18, 2013).

99. Telephone Interview with Aerlande Wontamo, Resettlement Manager, Lutheran Social Servs. for the Nat’l Capitol Area, (Feb. 4, 2014).

they encountered asylees, more often than refugees, who refused to accept a “survival job” and were subsequently cut off of Refugee Cash Assistance benefits for their failure to accept that first offer of “appropriate” employment. Some case managers explained that they were unable to provide asylees with services to help them access the jobs that would be best suited to them:

[W]e are missing out as a society—we have teachers, lawyers, etc, that we could employ and we could take advantage of their presence if we had enough resources to re-train them and give them time to actually look and find a job for which they are suitable. With asylees, we have to say ‘You got [immigration] status, but you have to go back to the beginning and start all over again.’¹⁰⁰

Interviewees identified a number of barriers to employment, including mental health issues,¹⁰¹ lack of connections, lack of certifications or U.S. credentials, lack of adequate English language skills, and problems with government-issued work authorization documents.

Asylees are legally permitted to work in the U.S. even without a work authorization document. A Department of Justice letter to employers makes this clear and is often used while an asylee awaits processing of the employment authorization document application. Attorney interviewees explained that submitting this letter to employers does not always secure an asylee a job because often employers do not understand the immigration status “asylum” and refuse to hire asylees.¹⁰² For instance, attorneys highlighted that the immigration judge’s order granting asylum “doesn’t look very legitimate” and suggested that a more formal document be produced.¹⁰³ Others experienced delays in obtaining the I-94 card, which is required as proof of asylee status. Even just scheduling a USCIS InfoPass appointment to obtain that I-94 can be difficult. The lack of an I-94 can delay enrollment in asylees benefits, obtaining a social security card, and employment. In the D.C. metro area, unlike the Bay Area, case managers identified transportation as a key barrier to asylee employment. Interviewees explained that the public transportation system does not provide the means for

100. Telephone Interview with Augustin Ntabaganyimana, Program Manager, Int’l Rescue Comm. (Feb. 3, 2014).

101. Traumatic experiences have a “whole range of impacts on an individual, from fear of going out, distrust of others, of authority, hyper-vigilance that can make certain professions challenging, traveling at night, [and] public transportation. Secondary effects could include depression, lack of motivation, fatigue, negative self-image, negative cognition, an inability to conceive of positive outcomes and a sense of future, immobilization, inability to learn English, to learn new skills; so many internal resources are being diverted to survival.” Telephone Interview with Joshua Rose, Licensed Clinical Social Worker, Family Works Cmty. Counseling (Jan. 16, 2014).

102. See OFF. OF SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMP’T PRACTICES, DEP’T OF JUST., REFUGEES AND ASYLEES HAVE THE RIGHT TO WORK, http://www.justice.gov/crt/about/osc/pdf/refugee_asyleeflyer32510.pdf (last visited Mar. 19, 2016).

103. Interview with Dree Collopy, Private Practitioner, in D.C. (Feb. 7, 2014).

asylees to travel to the locations where jobs are available at the hours when they work.

A subsidiary finding related to employment is that asylees may be hampered in their job seeking by a limited knowledge or lack of familiarity with technology. Because many employers now require applicants to submit applications online, interviewees shared that a lack of computer skills can impede securing a job even where computer skills are irrelevant and not required for the actual job. Some interviewees explained that even if an asylee does access the job application process online, they lose the chance to connect in person, where despite a lack of U.S. work experience they could present themselves as reliable, intelligent, and capable. This lack of familiarity with technology also likely affects asylees' ability to understand the processes and access the resources for recertification that do exist. This related finding further emphasizes the need for case management by an individual specifically assigned to guide an asylee through the system and assist with their integration, as discussed below under Part IV.D.

In sum, interviewees almost universally agreed that employment placement efforts for skilled or educated asylees leave a lot to be desired. While asylees may actually be obtaining employment of some kind, challenges remain because those "survival jobs" are low paying and often not well matched to the individual asylee's skills, background, and education. Related to the findings on a mismatch between asylees' skills and the jobs they secure in the United States is the issue of professional recertification, considered next.

B. Resources for Asylee Re-Credentialing and Re-Certification are Inadequate

The processes for recertification can be expensive, lengthy, and demanding – compounded with the fact that individuals are severely traumatized and working in not well paying jobs while studying for the exams.¹⁰⁴

Recertification and re-credentialing refers to the transfer of an individual's qualifications recognized in one country to another. Overall, interviews revealed that service providers often lacked knowledge regarding recertification opportunities for asylees, coupled with a shortage of such programs, despite the fact when such programs are implemented, they have been successful.

Attorney interviewees lacked knowledge of recertification programs to assist with converting foreign professional credentials to recognized U.S. credentials.¹⁰⁵ Generally, only case managers and mental health professionals had enough knowledge to respond to questions on this issue.

104. Interview with Dr. James Livingston, Senior Staff Psychologist, Asian American for Cmty. Involvement, Ctr. for Survivors of Torture, in San Jose, Cal. (Dec. 16, 2013).

105. Only a couple of the attorneys/legal representatives interviewed claimed to have familiarity with available services for re-credentialing and both shared their opinion that the existing services were inadequate.

Case managers at resettlement agencies reported that when funding is available to provide professional re-certification programs, these programs can be very successful. Lutheran Social Services of the National Capitol Area, for example, received a short-term discretionary grant from ORR funding the Refugee Recertification Program. This program targeted recertification for refugees in five fields—teaching, information technology, engineering, health care, and accounting, which yielded strong results for the 116 asylees and refugees who enrolled in the program.¹⁰⁶ The Program Director there explained: “In the ideal world, it would be good to have recertification programs available for professionals for whom we haven’t invested a dime to get them trained – we’re wasting their skills not putting them to work where they can make a difference.”¹⁰⁷

In general, resettlement agency staff interviewed confirmed that budget shortages necessitate their focus on individuals within the first eight months of their benefits eligibility.¹⁰⁸ ORR as an agency is also tasked with providing assistance to Unaccompanied Alien Children and some agency resources have been diverted to providing for this population.¹⁰⁹ The focus on the most recently resettled refugees or recently granted asylees, which seems to be at least partially a product of limited funding, means that agencies lack the resources to focus on asylees who seek assistance later on in their five-year eligibility period.¹¹⁰ Thus, asylees who aim to upgrade from their “survival job” to something more aligned with their background or abilities, a process that usually takes more than eight months, may be left on their own.

Case managers in the D.C. area agreed that what they described as the “cookie cutter” approach to asylees ignores individual backgrounds, which

106. Telephone Interview with Mamadou Sy, Program Dir., Refugee and Immigrant Servs. (Feb. 3, 2014); Telephone Interview with Mamadou Sy, Program Dir., Refugee and Immigrant Servs. (Sept. 8, 2014). Mr. Sy shared that of the 116 clients enrolled in this recertification project from February 2012 to September 2013, ninety-two received assistance with translation and evaluation of their overseas credentials, eighty received study materials to prepare for recertification exams, and ninety-seven attended specialized job search workshops. Ultimately, within the duration of the project, eighteen individuals found jobs in their fields with an average hourly wage of \$22.23. Unfortunately, once the grant ended, the agency did not have the staff to continue tracking outcomes but Mr. Sy expects that many of the individuals enrolled in the program later obtained jobs in their field. *Id.*

107. Telephone Interview with Mamadou Sy, Program Dir., Refugee and Immigrant Servs. (Feb. 3, 2014).

108. Interview with Ronald Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement, in D.C. (Nov. 19, 2013).

109. See OFF. OF REFUGEE RESETTLEMENT, OFFICE OF REFUGEE RESETTLEMENT ANNUAL REPORT TO THE CONGRESS: FY 2012, at 70–71 (2012). http://www.acf.hhs.gov/sites/default/files/orr/fy_2012_orr_report_to_congress_final_041014.pdf [hereinafter ORR REPORT TO CONGRESS: FY 2012] (explaining that funds were re-allocated from refugee programs to address the surge in unaccompanied alien children referrals to ORR in 2012).

110. Telephone Interview with Aerlande Wontamo, Resettlement Manager, Lutheran Social Servs. for the Nat’l Capitol Area (Feb. 4, 2014).

negatively affects long-term integration. One representative response on this issue was:

[We should] work towards acknowledging past education and skills, which may mean working with case managers who don't just funnel people into a factory . . . but everything needs to be tailored to the individual . . . I wish that in general everything was geared towards the asylees' actual goals and needs that they verbalize themselves . . . Part of that means focusing on re-credentialing and career placement . . .¹¹¹

As discussed above, many interviewees lacked knowledge on the availability of programs to assist with re-credentialing or degree/diploma conversion. Despite this, the responses with regards to the fit between asylees' backgrounds and the jobs they are able to secure, discussed in Part IV.A above, suggest that programs for re-credentialing do not exist in meaningful numbers or, in the very least, are not well accessed or advertised.

C. English Language Acquisition is a Key Priority for Long-Term Integration

Attorney interviewees identified lack of English language skills as an impediment in two ways—first, as a barrier to asylee employment, and second, as a challenge for long-term integration. In the San Francisco Bay Area, most attorneys shared that English as a Second Language (ESL) classes were available, although this varied by county. Attorneys in the South Bay, including Santa Clara County, observed that resources were adequate; while attorneys in the East Bay expressed concern that budget cuts necessitated closure of several local ESL programs available to immigrants. Some attorneys, however, identified that it was too difficult for their clients to make it to English classes because they were working long hours, often in multiple jobs, and were too tired at the end of work to attend an English class. One attorney shared that “going to school is a luxury, even if it's only once or twice a week, it's just not practical given the socio-economic situation.”¹¹²

Attorneys in the D.C. metro area were either unaware of the availability of ESL classes in their region, or shared that the opportunities were sparse and asylee clients faced problems with access, hours of availability, and transportation. Case managers in the D.C. metro area related that ESL classes were generally available and accessible, especially in Maryland, for beginner level English learners. However, interviewees identified challenges with availability and access to higher-level English classes, which are often most

111. Telephone Interview with Laurel Smith-Raut, Case Manager, Advocates for Survivors of Torture & Trauma (Feb. 27, 2014).

112. Telephone Interview with Lydia Lopez, Attorney, E. Bay Sanctuary Covenant (Jan. 16, 2014).

appropriate for many asylees,¹¹³ and with access to ESL classes in general in Northern Virginia.

In the D.C. metro area, eight of ten attorneys spontaneously identified language barriers as a barrier to asylee employment. Many shared that this is the primary challenge facing asylees. One attorney explained that in his opinion “asylees don’t achieve proficiency or a comfort level in English because they spend so much time working.”¹¹⁴ In the Bay Area, five of ten attorneys identified language as a primary barrier for asylees accessing employment. Seven of ten attorneys in the D.C. area identified language as a barrier to effective asylee integration in the region. Case managers and mental health professionals in both locations also expressed that language was a barrier to both asylee employment and integration.

D. Some Asylees Fail to Access Benefits to Which They are Entitled and Many Lack Comprehensive Case Management

Interviewees shared that some asylees had difficulty accessing benefits because they lack case management, may be reluctant to seek assistance, and may be isolated.

According to a report by the U.S. Government Accountability Office, case management “can encompass a wide range of activities, including referring refugees to needed services, such as transportation, child care, English classes, employment-readiness training, and food and housing assistance; helping the refugee adapt to the new culture; and facilitating interactions between clients and employers or other service providers.”¹¹⁵ As one interviewee explained:

There should be regular case management. If you really want to integrate people, stick with them the whole eight months, or whatever cut off you want. Check in with them, give them a sense that someone is out there watching and trying to help them out so that they don’t feel like they are adrift.¹¹⁶

Several interviewees expressed their concern that asylees are reluctant to access assistance and take advantage of the benefits available, even where they are in great need. One interviewee explained that: “Asylees are used to living in the shadows. Before they are granted asylum, they are nobody, so they don’t like

113. That asylees tend to speak more English than resettled refugees is a personal observation, but the interviewees also spontaneously and frequently shared their perception that asylees speak more English. Of course, this is not tracked and is yet another reason for more robust data gathering on the asylee population, one reform that I suggest in Part V. English language ability is tracked for resettled refugees. *See* ORR REPORT TO CONGRESS: FY 2013, *supra* note 74, at 92–94 tbls.II-13 & II-14.

114. Interview with Alberto Benitez, Professor of Clinical Law, George Wash. Univ. Immigr. Clinic, in D.C. (Nov. 15, 2013).

115. GAO REFUGEE EMPLOYMENT REPORT, *supra* note 16, at 14.

116. Interview with Vanessa Allyn, Managing Attorney, Human Rights First, in D.C. (Nov.18, 2013).

asking for help. They aren't aware of their rights."¹¹⁷ Other interviewees also related the ineligibility for benefits during the asylum seeking period to asylees' reluctance to take advantage of benefits to which they are entitled post grant. They explained that asylees have trouble adjusting to the sudden eligibility for benefits post-grant: "Quite a few asylees tell me that they never know about the benefits. Many asylees tell me that they don't even read the asylum grant letter. The asylum seeking process can take years—and they get nothing at all during that time period—so they often don't realize that they are eligible for anything."¹¹⁸

One mental health professional explained that the period of ineligibility for benefits during the asylum process can have adverse mental health consequences: "Often the people I see who are the most depressed are those who can't work and who are in kind of a purgatory. Recovery from that takes a while—once they are granted it takes them some time to bounce back from what it was like to be an asylum seeker."¹¹⁹ Other interviewees opined that the delay in eligibility for benefits for asylees necessarily affects long-term integration success: "Anything that delays the process impacts the road to self-sufficiency—if it takes 3 to 4 years for someone to receive an asylum approval, that's 3 or 4 years they could have used to go back to school, to convert their degree, etc."¹²⁰

A few interviewees shared their opinion that asylees are often isolated from the rest of the immigrant community and this creates a barrier in accessing benefits and services and seeking assistance. The psychologists interviewed noted that asylees, for various reasons related to their trauma and the persecution suffered or feared, often feel unsafe in their own linguistic or cultural communities. Those communities also tend to be disconnected and scattered. As one case manager explained, "[a]sylees are a little more isolated than refugees because refugees tend to come with their own families and in groups. There tends to be a better safety net for refugees than asylees."¹²¹

San Francisco County Health Department serves all ORR eligible populations, but asylees represent eighty percent of their clients served.¹²² Given

117. Interview with Lina Chernyak, Licensed Clinical Social Worker, Clinical Servs. & School Consultation, in S.F., Cal. (Dec. 7, 2013); Interview with Basia Leaffer, Licensed Clinical Social Worker, Jewish Family and Children's Servs., in S.F., Cal. (Dec. 7, 2013).

118. Telephone Interview with Betty Symington, Dir., Episcopal Refugee & Immigrant Ctr. Alliance (Feb. 25, 2014).

119. Telephone Interview with Sahar Bhaloo, Psychologist (Jan. 31, 2014); *see also* AT LEAST LET THEM WORK, *supra* note 59, at 28–30 (discussing the psychological effects on asylum seekers of not being able to work or be eligible for benefits during the asylum seeking period).

120. Telephone Interview with Mamadou Sy, Program Dir., Refugee and Immigrant Servs. (Feb. 3, 2014).

121. Telephone Interview with Sarah Zullo, Exec. Dir. & Ileen Khamooshi, Special Programs Officer, Ethiopian Cmty. Dev. Council (Feb. 11, 2014); *see also* Telephone Interview with Lauren Goodsmith, Founder, The Intercultural Counseling Connection (Feb. 10, 2014) (discussing isolation among asylum seekers and asylees).

122. Telephone Interview with Samira Causevic, Clinical Servs. Coordinator, Cmty. Health Equity & Promotion Branch, S.F. Dep't of Pub. Health (Jan. 17, 2014).

the high proportion of asylees served, I interviewed Samira Causevic, Clinical Services Coordinator, who interacts with asylees on a daily basis. She shared that one challenge asylees face, unlike resettled refugees, is that they are “not connected to someone to navigate them through the system and help them access benefits.”¹²³ As discussed under Part II.C, resettled refugees are matched with case managers at resettlement agencies upon arrival in the U.S. and the case managers assist the refugees in accessing the benefits to which they are entitled. Asylees get no such automatic connection with case managers. Ms. Causevic shared her opinion that asylees experience problems accessing benefits because asylees do not necessarily know how to self-advocate through bureaucratic institutions and consequently can fail to ask necessary questions or follow up.¹²⁴ Ms. Causevic describes the process of accessing benefits as “overwhelming,” requiring a significant time commitment and substantial documentation.¹²⁵ Misinformation in the community also leads to the misperception that if an asylee accesses benefits, then she will be ineligible to adjust status to become a lawful permanent resident because she is designated a “public charge.”¹²⁶ Although the public charge ground of inadmissibility under INA § 212(a)(4) does not apply to asylees or resettled refugees,¹²⁷ this is sadly a common misperception the author has observed among her own former clients.¹²⁸

Ms. Causevic also observed problems with confidence in gaining employment and suggested that having someone assigned to help each asylee navigate the system would yield better results in terms of asylee access to benefits, employment, and long-term integration.¹²⁹ Ms. Causevic suggested that case management should include follow up to make sure that asylees are effectively integrating, at least during the time that they are eligible for services. This assistance is particularly important for asylees because they have been denied access to benefits while seeking asylum.

[Y]ou go from one day having no access to services or support,
no one wants you in their program, and then suddenly you’re
granted asylum and you can get assistance. With asylum seekers,

123. *Id.*

124. *Id.*

125. *Id.*

126. *Id.*; see also Interview with Sead Eminovic, Emp’t Specialist, Int’l Rescue Comm., in San Jose, Cal. (Dec. 16, 2013); Interview with Igor Radulovic, Case Manager Supervisor, Int’l Rescue Comm., in San Jose, Cal. (Dec. 16, 2013) (“Asylees can be hesitant to get services; they worry that it may affect their green card applications.”).

127. See INA § 209(c), 8 U.S.C. § 1159(c) (2012) (making clear that, INA § 212(a)(4), 8 U.S.C. § 1182(a), the public charge ground of inadmissibility, does not apply to refugees or asylees).

128. In addition, one of the attorneys interviewed for this study stated during the interview that the attorney (erroneously) advises clients not to apply for asylees benefits because of the public charge implications.

129. Telephone Interview with Samira Causevic, Clinical Servs. Coordinator, Cmty. Health Equity & Promotion Branch, S.F. Dep’t of Pub. Health (Jan. 17, 2014).

they spend years in the process of being shunned by treatment centers, organizations, all the needs that you have not being met, living in semi-hiding in the U.S.— there’s a trust issue. They don’t really understand why all of a sudden people want to help them.¹³⁰

Several attorneys in both the San Francisco Bay Area and the D.C. metropolitan area suggested that asylees need assistance navigating the post-grant benefits system. Attorneys described the need for a “bridge to the benefits”¹³¹ and better integration of benefits and information with a “one stop shop.”¹³² A couple of attorney interviewees suggested that heightened interagency coordination was needed to ensure that the post-grant needs of asylees did not go unmet. Attorneys lamented the lack of a comprehensive information guide on post-grant issues for attorneys and clients, specific to the area in which they practice and offered in different languages respectively. Case managers employed outside of the resettlement agencies expressed that for asylees to obtain assistance in enrolling in benefits, they need to be strong advocates for themselves, and speaking English helps, explaining that to navigate the system successfully alone, asylees “have to make a stink.”¹³³

E. Attorneys Do Not Adequately Advise Asylee Clients About Benefits

Interviews with attorneys revealed that many attorneys are unsure of the benefits available, and that even those who are informed often lack the time to adequately advise their asylee clients about the benefits to which they are entitled. Mental health professionals and case managers working with asylee clients also shared their impression that knowledge of benefits among attorneys representing asylum seekers is mixed.¹³⁴ Further, several attorneys, especially in D.C., were unaware of the Asylum Benefits Orientation sessions (ABOs) offered at local asylum offices.¹³⁵

130. Telephone Interview with Sahar Bhaloo, Psychologist (Jan. 31, 2014).

131. Interview with Alberto Benitez, Professor of Clinical Law, George Wash. Univ. Immigr. Clinic, in D.C. (Nov. 15, 2013).

132. Interview with Steven Schulman, Partner, Akin Gump Strauss Hauer & Feld, LLP, in D.C. (Nov. 11, 2013).

133. Telephone Interview with Laurel Smith-Raut, Case Manager, Advocates for Survivors of Torture & Trauma (Feb. 27, 2014).

134. Psychologists in the D.C. metro area shared their perspective attorneys do not consistently address post-grant benefits issues. They explained that “it’s a bit uneven”, “it’s case by case,” and “some of the attorneys just don’t know about the benefits.” Likewise, case managers in both the Bay Area and the D.C. metro area believe that attorneys are routinely unaware of or misunderstand the benefits for which asylees are eligible, or at least do not communicate that information in a way that asylee clients retain. One case manager shared that attorneys tell clients that the resettlement agencies will provide housing or housing assistance, which is not generally accurate.

135. Both the San Francisco, CA and Arlington, VA asylum offices offer ABOs. The ABOs are covered in more detail under subpart k of this Part.

Not one attorney interviewed expressed confidence in their knowledge of asylee benefits. Many interviewees openly expressed that his or her knowledge of asylees benefits was “very limited” and that they had a “poor understanding” of the benefits. Some attorneys who expressed that they had some knowledge of asylee benefits mistakenly believed that housing assistance is provided to asylees. In the Bay Area, eight of ten attorneys interviewed were unaware of where their clients could access asylees benefits and in the D.C. metro area, only the attorneys working at non-profit organizations knew where their clients could access benefits.

Attorney practices regarding post-grant information provided to asylee clients varied greatly. At one D.C. non-profit, staff attorneys ensure that their clients receive a comprehensive “grant packet,” with information on all aspects of the post-grant process, from legal rights to economic benefits and cultural orientation and integration.¹³⁶ Many attorneys, however, do not provide written materials, and some do not routinely cover benefits even orally.

Several attorneys shared that following an asylum grant, they give their asylee clients the “1-800 number.” This refers to the National Asylee Information and Referral Line (“the hotline”), which was jointly administered by Catholic Legal Immigration Network, Inc. and the Catholic Charities of the Archdiocese of New York.¹³⁷ Although interviews were conducted after November 2013, several attorneys were unaware that the hotline, intended for asylees to learn about their benefits, was shut down at the end of September 2012.¹³⁸ The hotline was a toll free number asylees could call from anywhere in the U.S., referenced on their asylum grant letter, where assistance was available in eighteen different languages to help asylees understand where to access benefits in their locale. The most recently available Office of Refugee Resettlement Report to Congress stated that the hotline received 3,943 calls in FY 2012.¹³⁹ The hotline was funded through an ORR grant and funding was not

136. Interview with Jocelyn Dyer, Staff Att’y, Human Rights First, in D.C. (Nov. 18, 2013); Interview with Isabel Toolan, BIA Representative and Senior Paralegal, Human Rights First, in D.C. (Nov. 18, 2013); Interview with Vanessa Allyn, Managing Att’y, Human Rights First, in D.C. (Nov. 18, 2013). Human Rights First Grant Packet (on file with author).

137. CARMEL CLAY-THOMPSON, OFF. OF REFUGEE RESETTLEMENT, STATE LETTER #01-18, ASYLEE INFORMATION HOTLINE (2001), <http://www.acf.hhs.gov/programs/orr/resource/state-letter-01-18> (announcing the establishment of the Asylee Information Hotline).

138. In the D.C. metro area, six out of eleven attorneys or legal representatives asked about the hotline did not know that the Hotline had shut down and two did not know it had ever existed. Only the remaining three knew it had been shut down. In the Bay Area, none of the attorneys interviewed knew that the Hotline was no longer functional. In presenting this paper to colleagues at peer institutions, the author has received feedback from colleagues that they were similarly unaware that the Hotline no longer existed.

139. See ORR REPORT TO CONGRESS: FY 2012, *supra* note 108, at 4. The hotline received 3,498 calls in FY 2011. See OFF. OF REFUGEE RESETTLEMENT, OFFICE OF REFUGEE RESETTLEMENT ANNUAL REPORT TO THE CONGRESS: FY 2011, at 15 (2011) http://www.acf.hhs.gov/sites/default/files/orr/fy_2011_orr_annual_report.pdf.

renewed,¹⁴⁰ leading the hotline to shut down in September 2012. Two officials at ORR interviewed disclosed that they themselves receive two to three phone calls a week from asylees looking for assistance or information on benefits eligibility. Both employees make efforts to respond to the calls, but cannot speak all of the relevant languages and of course both are not functioning as direct service staff, but rather in the policy and management arena.¹⁴¹ This *ad hoc*, limited system, by well-meaning ORR employees trying to fill a gap, is clearly unsustainable and cannot solve the concerns about asylee access to information about benefits.

Although some attorneys lack awareness of the benefits available to asylees, another reason that attorneys did not share more information on benefits with their asylee clients was that they already feel burdened to inform and advise their clients as to the legal rights and obligations attendant with asylee status. Attorneys explained that they commonly address the following nine topics following an asylum grant: (1) change of address; (2) relative petitions; (3) employment authorization; (4) obtaining an unrestricted social security card; (5) adjustment of status after a year and the required fees and documentation; (6) refugee travel documents and re-entry permits; (7) selective service registration, if required; (8) adverse consequences of reavilment to the country of feared persecution;¹⁴² and (9) consequences of criminal charges or convictions for asylum status.

These nine topics alone, plus anything specifically related to the client's case, can certainly consume a great deal of an attorney's time. One attorney explained that they focus on the "deadlines and responsibilities with [the asylee's] new status, rather than on benefits . . . It's like a minefield they need to navigate, with various hurdles and obstacles to surmount."¹⁴³ A Bay Area non-profit organization, which received almost 300 asylum grants on behalf of its clients in 2012, shared that given the high volume of cases that the attorneys handle, it is difficult to spend even ten minutes with each client going over the key legal issues.¹⁴⁴

140. Interview with Ronald Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement, in D.C. (Nov. 19, 2013) (explaining that the hotline was proposed alongside many other funding proposals, which were funded while the hotline was not; stating that it is a question of limited resources and choices made to allocate the funds differently by the ORR committee who met to review the funding proposals for this cycle).

141. *Id.*; see also Interview with Thomas Pabst, Refugee Servs. Program Specialist, Off. of Refugee Resettlement, in D.C. (Nov. 19, 2013).

142. Reavilment means that an asylee has availed herself of the protection of the country of feared persecution—for example—traveling to the country of origin, renewing a passport, or other similar actions could be construed as reavilment. See INA § 208(c)(2)(D), 8 U.S.C. § 1158(c)(2)(D) (2012). Note that resettled refugees are not subject to reavilment. See INA § 207, 8 U.S.C. § 1157 (2012).

143. Interview with Robin Goldfaden, Senior Att'y, Lawyers' Comm. for Civil Rights, in S.F., Cal. (Dec. 19, 2013).

144. Interview with Michael Smith, Refugee Rights Dir., E. Bay Sanctuary Covenant, in Berkeley, Cal. (Dec. 18, 2013); Interview with Kaveena Singh, Att'y, E. Bay Sanctuary Covenant, in Berkeley, Cal. (Dec. 18, 2013).

F. Eight Months of Asylee Benefits Do Not Provide Adequate Financial Assistance or Effectively Facilitate Integration

Interviewees almost universally agreed that the current eight-month period of asylee eligibility for Refugee Cash Assistance, Refugee Medical Assistance, and Matching Grant, is too short.¹⁴⁵ Many interviewees suggested lengthening the period of benefits eligibility for all asylees, as discussed below, or instituting a case-by-case assessment of how long an individual asylee receives benefits. Further, interviewees almost all agreed that the amount of financial assistance is inadequate and some suggested that it should be increased to ensure that an asylee can live at least at or above the federal poverty line.

Mental health professionals in the Bay Area highlighted that the eight-month benefits period is too short, particularly in light of the “profound and often chronic trauma these individuals have faced, sometimes trying to undo decades of severe trauma.”¹⁴⁶ One psychologist described the system as “disgraceful” and explained:

We don’t do nearly enough to support our [asylees]—to expect almost universally traumatized individuals to learn the language and become self-supporting within eight months is preposterous.¹⁴⁷

This psychologist went on to explain that his organization often helps asylees to enroll in Supplemental Security Income benefits, by virtue of their mental health or trauma related impairment, and this may be unnecessary if the asylees received cash assistance for a longer period of time.¹⁴⁸ All of the attorneys interviewed in the Bay Area would increase the length of time for which benefits are awarded, most encouraging “at least a year” of benefits. One attorney explained that there are “layers and layers of complexity” in adjusting to

145. Refugees are entitled to up to thirty-six months of Refugee Cash Assistance and Refugee Medical Assistance. Budget cuts after the enactment of the Refugee Act reduced RMA and RCA from thirty-six months, to thirty-one months, to eighteen months, then twelve months, and finally in 1991, to eight months, where it has remained. E-mail from Roland Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement (Sept. 11, 2014) (on file with author); *see also* CHRIS GERSTEN, OFF. OF REFUGEE RESETTLEMENT, REFUGEE PROGRAM CMA POLICY AND FUNDING IN FY 1992—ACTION (1991) (on file with author) (responding to congressional appropriations that are only sufficient to cover eight months of Refugee Cash Assistance and Refugee Medical Assistance); Refugee Resettlement Program: Refugee Cash Assistance and Refugee Medical Assistance, 57 Fed. Reg. 1114-01 (Jan. 10, 1992) (Dep’t of Health Notice reducing RMA and RCA from twelve months after arrival to eight months).

146. Telephone Interview with Joshua Rose, Licensed Clinical Social Worker, Family Works Cmty. Counseling (Jan. 16, 2014).

147. Interview with Dr. James Livingston, Senior Staff Psychologist, Asian Americans for Cmty. Involvement, Ctr. for Survivors of Torture, in San Jose, Cal. (Dec. 16, 2013).

148. SSI refers to Supplemental Security Income, which is cash assistance designed to assist aged, blind, and disabled low-income individuals to meet basic needs for food, clothing, and shelter. Unless they are aged, blind or have a physical disability, asylees who qualify for SSI generally qualify because they have mental health or trauma-related impairments.

life in the U.S. as a trauma survivor, an immigrant, a non-English speaker, and potentially separated from family, and even one full year of support “could not be consistent with that reality.”¹⁴⁹

Mental health professionals in the D.C. metro area agreed that benefits should be available for a more flexible period, which could be more or less than eight months depending on an individual’s need.¹⁵⁰ Psychologists and therapists also suggested that if the benefits remain time-limited, they should start not from the date that asylum is granted, but from the date that the benefits are actually accessed.¹⁵¹ This would compensate for the delays many asylees experience in obtaining the necessary paperwork to actually enroll in and to receive benefits, discussed above in Part IV.A.

The majority of attorneys (ten of twelve) in D.C. recommended that the benefits period be extended to twelve to eighteen months, or even two years.¹⁵² Several suggested that benefits should be awarded “indefinitely on an as needed basis,” reasoning, “if we’re giving protection, we should do everything in our power to make this meaningful and effective.”¹⁵³ Attorneys reasoned that assisting asylees until they are eligible to adjust status to permanent residence would aid integration.

Case managers in D.C. expressed that assistance should be extended beyond eight months, although several commented that the length of time should depend on a case-by-case analysis of an individual asylee’s needs, moving away from a “one-size-fits-all” approach. One resettlement agency staff member suggested gradually decreasing the benefits after eight months, rather than a sudden termination of benefits. Interviewees expressed that with only eight months of benefits: “we are just leaving [asylees] in survival mode”¹⁵⁴ and “it doesn’t do

149. Telephone Interview with Lydia Lopez, Attorney, E. Bay Sanctuary Covenant, in Berkeley, Cal. (Jan. 6, 2014).

150. *See e.g.*, Telephone Interview with Sheetal Patel, Clinical Dir., Advocates for Survivors of Torture and Trauma (Feb. 11, 2014) (suggesting that the benefits eligibility time period should be client specific, rather than uniform, and assessed on a case-by-case basis); *see also* Interview with Mary Cogar, Clinician, Advocates for Survivors of Torture and Trauma, in D.C. (Feb. 10, 2014) (stating her belief that for some individuals eight months of support would be adequate, while others would need more assistance).

151. Telephone Interview with Saara Amri, Mental Health Therapist, Program for Survivors of Torture and Trauma at N. Va. Family Services (Mar. 11, 2014); Telephone Interview with Sabine Fajon, Mental Health Therapist & Program Co-Coordinator, Program for Survivors of Torture and Trauma at N. Va. Family Services (Mar. 14, 2014).

152. Only two attorneys differed in their responses on this issue—notably both were in private practice. One of these two private attorneys expressed that the immigrant community here in the U.S. could support asylees and that asylees rarely arrived without knowing someone; but this attorney represented almost exclusively paying clients. The second private attorney recommended replacing the eight months of cash benefits with a more intensive program, lasting for six months, including housing assistance, and help with finding jobs and addressing mental health needs.

153. Interview with Kristina Campbell, Associate Professor of Law & Dir., Immigr. and Human Rights Clinic, Univ. of D.C., David A. Clarke School of Law, in D.C. (Nov. 18, 2013).

154. Telephone Interview with Sarah Zullo, Exec. Dir. & Ileen Khamooshi, Special Programs Officer, Ethiopian Cmty. Dev. Council (Feb. 11, 2014).

anything for the long run and in some respects, it's practically irrelevant. It's not enough time, not enough money, to really make much of a difference."¹⁵⁵ With regards specifically to the Matching Grant program, an alternative program to Refugee Cash Assistance available to asylees detailed in Appendix A, one case manager expressed:

[F]or us to change . . . from an express lane to employment, we need to focus on true integration and self-sufficiency, and only time, funding, and individualized customized services will get us there. You can't apply the same rule and regulation to someone who is a professional and to someone who was a rural farmer their whole life. It just doesn't make sense.¹⁵⁶

In both geographic locations and between the various groups interviewed, all interviewees agreed that the actual amount of financial assistance available through RCA and MG is inadequate. Several interviewees commented that the amount of money awarded (ranging from around \$200 to \$350 a month in both locations) would not even cover rent for a single room in a shared apartment. Almost all interviewees spontaneously suggested that amount should be related to living costs in the area in which the asylee lives. Several interviewees also suggested that the amount of financial assistance should ensure that asylees are at least living at or above the federal poverty line. Interviewees also spontaneously commented on the additional financial burdens on asylees, versus refugees, including the costs of family reunification and lack of loans available to cover travel costs for family members, as well as accumulated debt from their original journey and their time in the U.S. unable to work while their case was being adjudicated.

*G. Failure to Apply to Apply for Permanent Residence after One Year is
Generally Due to a Lack of Finances*

Inadequate finances were also related to a subsidiary finding—although asylees are eligible to apply to become lawful permanent residents one year after the asylum grant, many do not apply because they cannot afford the application fee and associated costs. Adjustment to lawful permanent resident status is important for long-term integration because it sets an asylee on a path to citizenship, the most coveted of immigration statuses, of course, which comes with rights and privileges including voting, the right to travel on a U.S. passport, and a right to remain unconditionally in the United States. Most attorneys shared that their asylee clients who adjusted did so soon after they were eligible, a year after the asylum grant. Those asylees who failed to adjust after a year were

155. Telephone Interview with Betty Symington, Exec. Dir., Episcopal Refugee & Immigrant Ctr. Alliance (Feb. 25, 2014).

156. Telephone Interview with Sarah Zullo, Exec. Dir. & Ileen Khamooshi, Special Programs Officer, Ethiopian Cmty. Dev. Council (Feb. 11, 2014).

unable to do so because of the cost. Some attorneys explained that even if the client was fee waiver eligible, just paying for the required medical examination by a doctor was a barrier to timely adjustment.¹⁵⁷

It is not possible to know exactly how many asylees adjust shortly after or at the one-year mark because USCIS does not maintain statistics with that level of detail.¹⁵⁸ Presumably, however, more asylees would adjust and start on the path to citizenship if there were a way to waive the fee for a medical examination and more generous adjudication of the fee waiver¹⁵⁹ for the adjustment of status application itself, which now costs a total of \$1,070 per family member.¹⁶⁰ For some asylees, paying a \$1,070 lump sum combined with the cost of the medical examination is impossible; one Bay Area attorney who handles around 300 asylee adjustments per year mentioned that clients often ask if the U.S.

157. Medical examinations must be conducted by a doctor who is a designated civil surgeon by USCIS. Unfortunately, these examinations and the attendant vaccinations are not covered by Refugee Medical Assistance or Medicaid. The cost for a medical examination by a designated civil surgeon in the D.C. metro area ranges from around \$150 to \$450 and vaccinations are usually an additional fee.

158. Examining the numbers of asylees adjusting to permanent residence each year and then naturalizing, may be one measurement of post-grant success. However, these numbers are difficult to analyze. OFF. OF IMMIGRATION STATISTICS, U.S. DEP'T OF HOMELAND SEC., 2013 YEARBOOK OF IMMIGRATION STATISTICS (2013), https://www.dhs.gov/sites/default/files/publications/ois_yb_2013_0.pdf. According to the Yearbook, in 2013, 42,235 asylees adjusted to permanent resident status. *Id.* This is higher than the number of asylees granted asylum in the previous year. An asylee is eligible to adjust status to that of a permanent resident exactly one year after the asylum grant. Therefore, all individuals granted in 2010 would become eligible to apply for adjustment sometime in 2011, although processing times vary, so the numbers are not exact. This is because until May 2005 there was a congressionally mandated cap of 10,000 per year on asylees adjustments. This cap led to a backlog of asylee adjustment applications awaiting adjudication, but was lifted under the REAL ID Act of 2005, Div B of Pub. L. No. 109-13, 119 Stat. 231, 302–309 (codified at 8 U.S.C. § 1158) (2012). Pre-2005 asylees continue to apply for adjustment. The Office of Immigration Statistics reports break down adjustments by immigration status, region, and country. *See, e.g.*, OFF. OF IMMIGRATION STATISTICS, U.S. DEP'T OF HOMELAND SEC., *supra* note 157, at tbl. 10. It is possible to see whether refugees from certain regions adjusted at a higher rate than others, but “refugees” are not broken down into asylees versus resettled refugees. *Id.* Naturalization statistics are also not broken down by admission status, so it is not possible to tell how many asylees naturalize each year. *Id.* at 53–56. The author requested statistics on the numbers of asylees adjusting to permanent residence and naturalizing each year in advance of the November 14, 2014 USCIS Asylum Division Quarterly Stakeholders’ meeting, but was informed at the meeting that although efforts had been made to obtain the adjustment data, it would be made available after the meeting. On the naturalization data, USCIS representatives said the admission status of an individual is not tracked during the naturalization process, but USCIS would work with their data specialists to attempt to obtain the data through other means.

159. The fee waiver is awarded to individuals in three circumstances: (1) living below 150 percent of the poverty line for their family size, (2) receiving means-tested benefits, or (3) suffering a proven financial hardship. *See I-912, Request for Free Waiver*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/i-912> (last visited Aug. 25, 2014) (fee waivers are processed on USCIS form I-912).

160. *See I-485, Application to Register Permanent Residence or Adjust Status*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/i-485> (last visited Jan. 31, 2016) (\$985 filing fee plus \$85 biometrics fee).

government will accept a payment plan for the adjustment fee.¹⁶¹ Other attorneys mentioned that the finances were not the only barrier; asylees often found it hard to attend appointments to prepare an adjustment application because of their inflexible work schedules—many survival jobs do not provide any unpaid time off.

H. Asylees Routinely Struggle with Unstable Housing

Also related to inadequate financial assistance is the struggle asylees face with housing. Although asylees are generally eligible, as “qualified aliens” for federally subsidized housing assistance, the long waiting lists render eligibility meaningless. For the purpose of this study, housing difficulties were defined to include homelessness, instability (not knowing how long an individual could remain in a housing situation), and overcrowding. Housing problems may be magnified by the two geographic locales used in this study—the San Francisco Bay Area and the Washington, D.C. metro area are both areas known to have a shortage of affordable housing.¹⁶²

In the Bay Area, every attorney interviewee who felt qualified to respond to the question about whether their asylee clients faced housing difficulties post-grant responded that a majority of their clients faced these problems. Interviewees identified affordable housing as a major problem facing low-income populations in general in the Bay Area, but specifically asylees. In the D.C. metro area, responses were similar, with interviewees estimating that anywhere from thirty to one-hundred percent of their asylee clients faced problems with housing. Attorneys shared thoughts including, “the [asylum] grant makes no difference to housing stability,”¹⁶³ and “the problems continue after the [asylum] grant.”¹⁶⁴ One attorney handling a high volume of asylum cases explained that high housing costs meant that asylees are forced to find housing in remote areas, which increases isolation and undermines integration.¹⁶⁵

161. Telephone Interview with Lydia Lopez, Att’y, E. Bay Sanctuary Covenant (Jan. 16, 2014).

162. See, e.g., CAL. HOUSING P’SHIP CORP., HOW CALIFORNIA’S HOUSING MARKET IS FAILING TO MEET THE NEEDS OF LOW-INCOME FAMILIES: RECOMMENDATIONS TO THE LEADERS OF THE STATE OF CALIFORNIA (2014), <http://chpc.net/dnld/CHPCHousingNeedReport020814FINAL.pdf> (including Alameda, Santa Clara, and San Francisco counties as among the top ten worst counties in terms of the shortfall of affordable housing available to low income people); HOGAN LOVELLS, LAURA BIDDLE, MEGHAN EDWARDS-FORD, JOANNA HUANG, DEEPIKA RAVI, LISA STRAUSS & MARY A. SULLIVAN, WASH. LAWYER’S COMM. FOR CIVIL RIGHTS & URBAN AFFAIRS, UNFULFILLED PROMISES: AFFORDABLE HOUSING IN METROPOLITAN WASHINGTON (2014), http://www.washlaw.org/pdf/wlc_affordable_housing_report.PDF.

163. Interview with Jocelyn Dyer, Staff Att’y, Human Rights First, in D.C. (Nov. 18, 2013).

164. Interview with Alberto Benitez, Professor of Clinical Law, George Wash. Univ. Immigr. Clinic, in D.C. (Nov. 15, 2013).

165. Interview with Vanessa Allyn, Managing Att’y, Human Rights First, in D.C. (Nov. 18, 2013).

Several mental health professionals also identified housing as a major challenge for asylees. One D.C. psychologist identified housing as the number one barrier to asylee integration. Two other therapists confirmed that they see no difference between housing difficulties pre- and post-asylum grant, and they connected housing challenges to problems with employment and an adequate income. Three of the four D.C. mental health professionals interviewed also highlighted housing-related challenges for asylees who have families or who are preparing to be reunited with family members arriving from overseas. Mental health professionals in the Bay Area explained that housing instability and anxiety around housing issues often impedes progress for asylees in addressing of their mental and physical health needs. Two Bay Area psychologists interviewed estimated that eighty-five percent of their asylee clients faced housing difficulties. One related a story where a client lamented that housing in Oakland was unsafe and traumatizing, and she said that it was “no different than Baghdad.”¹⁶⁶

Case managers in the Bay Area and D.C. also uniformly shared that their asylee clients face housing difficulties following the asylum grant. Responses ranged from housing problems are “common”¹⁶⁷ to “almost 100% of our asylees face housing problems.”¹⁶⁸ Interviewees again expressed that “nothing changed post-grant” and several explained that the housing asylees do find is unsafe. Case managers explained that the “good Samaritans” who had provided free housing to asylees during the asylum seeking process often expect the asylee to be self-sufficient immediately after the grant.¹⁶⁹ Others mentioned that their clients remained trapped in abusive quasi-employment situations post-grant because the person letting them stay for free also required the asylee clean the house and/or care for children and the asylee could not afford to move out. In sum, inadequate housing was identified as a problem consistently throughout interviews.

I. Access to Mental Health Services for Asylees is Limited

With the exception of interviewees in one particular geographic location (Santa Clara County, California), interviewees agreed that currently available mental health services for asylees, due a lack of funding, are limited and accessing ongoing care is very challenging. Mental health services for asylees are critical – many asylees have fled torture or other trauma and some experience symptoms of Post-traumatic Stress Disorder, Major Depressive Disorder, or other psychological challenges. The Office for Refugee Resettlement, through its Services for Survivors of Torture Program under the Torture Victims Relief Act,

166. Telephone Interview with Sahar Bhaloo, Psychologist (Jan. 31, 2014).

167. Interview with Kristina Campbell, Associate Professor of Law & Dir., Immigr. and Human Rights Clinic, Univ. of D.C., David A. Clarke School of Law, in D.C. (Nov. 18, 2013).

168. Interview with Alberto Benitez, Professor of Clinical Law, George Wash. Univ. Immigr. Clinic, in D.C. (Nov. 15, 2013).

169. Interview with Ruby Lieberman, Private Practitioner, in S.F., Cal. (Dec. 19, 2013).

funds some organizations providing mental health services to torture survivors.

¹⁷⁰ This is, however, limited and does not currently cover all of the survivors of torture, including some asylees, living in the U.S. Further, ORR funding is limited to providing services to individuals who have suffered torture “under color of law,” meaning that the foreign government must act or be complicit in the torture.

Given the profile of many asylees, including those fleeing gender-related harm not perpetrated by a government, or those fleeing harm by non-state actors such as the Central American transnational criminal organizations (known as “maras”), these individuals are generally not eligible for services. More comprehensive funding at Asian Americans for Community Involvement, Center for Survivors of Torture (CST) in San Jose, California ensures that any refugee or asylee residents of Santa Clara County can access mental health services, regardless of whether they are a torture survivor or suffered torture under the color of law. This broad funding recognizes that even asylees who have not suffered past persecution may have unmet mental health needs due to the future fear they face of returning to their home countries, anxiety created by the asylum-seeking process, or other events they may have witnessed.

All eight mental health professionals interviewed shared that mental health services for asylees are inadequate. Although comprehensive services are offered by mental health professionals at each of the organizations touched by this research study, each organization had a waiting list of six weeks to three or four months, or much longer.¹⁷¹ Furthermore, all eight interviewees confirmed that resources in their region could not meet the need for mental health services in the asylee population. Finally, almost all of the organizations were limited in the services they could provide.

Several interviewees outside the group of mental health professionals identified shortcomings with the available mental health services for clients. Although attorneys were often eventually able to find a low bono or pro bono professional to conduct a psychological evaluation to support an asylum claim, almost all attorneys felt that ongoing mental health services were in short supply. One D.C. based non-profit attorney explained that there are “deep resources” for psychological evaluations, but for “ongoing counseling, the situation is very different, especially if the client is not a survivor of government sponsored torture.”¹⁷² Attorneys in both the Bay Area and the D.C. metro area cited local

170. In FY 2013, ORR provided \$10.5 million in funding to organizations in nineteen states providing services to survivors of torture. ORR REPORT TO CONGRESS: FY 2013, *supra* note 74, at 55–57. The FY 2014 and FY 2015 Budget allocated \$10.7 million in ORR funding to Survivors of Torture programs. ANDORRA BRUNO, CONG. RESEARCH SERV., RL31269, REFUGEE ADMISSIONS AND RESETTLEMENT POLICY 9 (2015), <http://www.fas.org/sgp/crs/misc/RL31269.pdf>.

171. Through the author’s experience referring clients, the waitlist at one D.C. area organization was eight months as of July 2014.

172. Interview with Vanessa Allyn, Managing Att’y, Human Rights First, in D.C. (Nov. 18, 2013).

organizations who provided culturally competent and effective services,¹⁷³ but identified capacity and sometimes language barriers as a challenge to accessing services.¹⁷⁴ The only two interviewees who expressed that mental health services were widely available for asylees were an attorney and a case manager, both located in Santa Clara County in the Bay Area. These Santa Clara interviewees are somewhat uniquely situated because their asylee clients can access services through the Center for Survivors of Torture—which, as mentioned above, has been able to negotiate very broad eligibility categories for its clients due to flexible county funding.¹⁷⁵ The case manager recognized that access to mental health services for asylees in Santa Clara county was very good, thanks to CST, but noted that access to the same services in Oakland, for example, was sorely lacking. Bay Area attorneys shared that there were more therapy resources available for certain groups of clients—highlighting in particular HIV-positive LGBT clients.

Case managers in the D.C. metro area also shared that finding ongoing or any other mental health services for asylee clients was very challenging. Even where case managers had asylees who were able to access mental health services, language access issues remained a challenge. Case managers shared that waitlists for the two organizations in the area who do provide these services—Advocates for Survivors of Torture and Trauma and the Program for Survivors of Torture and Trauma at Northern Virginia Family Services were long, often more than two months. Sadly, in April 2015, after this research was completed, Advocates for Survivors of Torture and Trauma closed its doors due to funding shortages.¹⁷⁶

173. In Washington D.C., attorney interviewees mentioned Advocates for Survivors of Torture and Trauma in Baltimore, MD, and Washington D.C., and Torture Abolition and Survivor Support Coalition, in Washington D.C., Northern Virginia Family Services, in Fairfax, VA, Whitman Walker Health, in Washington D.C., and N*Common (New Capacity & Outreach for Multicultural Mental health Opportunities Now, in Montgomery County, MD). In the Bay Area, attorney interviewees mentioned Asian Americans for Community Involvement, Center for Survivors of Torture, in San Jose, Family Works Community Counseling, in Richmond, the Gardner Mental Health Center in San Jose, and Survivors of Torture/Trauma Recovery Center, in San Francisco.

174. Telephone Interview with Samira Causevic, Clinical Servs. Coordinator, Cmty. Health Equity & Promotion Branch, S.F. Dep't of Pub. Health (Jan. 17, 2014); Telephone Interview with Sahar Bhaloo, Psychologist (Jan. 31, 2014) (discussing challenges with interpretation when clinicians take a *pro bono* or low bono therapy case).

175. As explained above, AACI-CST has a grant from Santa Clara County allowing for the treatment of all asylees and refugees, regardless of whether they can be categorized as torture survivors, i.e. tortured under the color of law. Interview with Dr. James Livingston, Senior Staff Psychologist, Asian Americans for Cmty. Involvement, Ctr. for Survivors of Torture, in San Jose, Cal. (Dec. 16, 2013).

176. See *Only Torture Trauma Treatment Services Program in DC/MD Area Closes*, TASSC INTERNATIONAL (Apr. 30, 2015), <http://www.tassc.org/news/2015/4/30/only-torture-trauma-treatment-services-program-in-dcmd-area-closes>. Torture Abolition & Survivors Support Coalition, another local organization, absorbed one psychologist and two case managers on a part-time and temporary basis and hopes to secure funding to continue to serve torture survivors in the D.C. metro area. For more information about the organization, see www.tassc.org.

One organization in the Baltimore, Maryland, area has tried to fill the gaps in serving asylees. The Intercultural Counseling Connection aims to train mental health professionals to provide culturally appropriate and ongoing mental health services to traumatized individuals, including asylees.¹⁷⁷ In general, however, these services remain lacking in both the D.C. metro area and in the San Francisco Bay Area.

J. Separation from Family and Delays in the Family Reunification Process are Devastating for Some Asylees

Although asylees are entitled to be reunited with some family members living overseas, interviews revealed that asylees faced challenges in successfully bringing their families to the U.S.¹⁷⁸ These challenges included delays in the reunification process, a lack of transparency, responsiveness, and consistency in the government processing the asylee relative petitions, a steep mental toll of prolonged separation from loved ones, implications for the safety of family members overseas, and the heavy financial burden of travel to reunify family members.

To trigger the reunification process, asylees file a relative petition on Form I-730 with USCIS.¹⁷⁹ Once USCIS approves the I-730 petition, USCIS refers the petition overseas to a Department of State embassy located in the appropriate country or region. The embassy staff process these so-called “follow-to-join” visas by gathering further documentation from the beneficiary and conducting an in person interview.

Rating the current family reunification system on a scale of one to four, one being completely inadequate and ineffective, and four being completely adequate and effective, the highest rating any of the twenty-two attorneys interviewed gave for this process was two. The problems identified by the attorneys interviewed included: (1) inconsistent adjudication, (2) delays, and (3) a lack of transparency in the system.

All but one attorney interviewed routinely filed these petitions for their asylee clients who had eligible relatives abroad. Attorneys identified that some of the U.S. embassies handling I-730 petitions are responsive and efficient, while

177. The Intercultural Counseling Connection is a project started by Lauren Goodsmith, with funding from the Open Society Institute. See Telephone Interview with Lauren Goodsmith, Founder, The Intercultural Counseling Connection (Feb. 10, 2014); see generally *Intercultural Counseling Connection*, FUSION PARTNERSHIPS, <http://fusionpartnerships.wordpress.com/sponsored-projects/icc/> (last visited Mar. 24, 2014).

178. Asylees are entitled to bring family members to the U.S. specifically any spouse at the time asylum was granted and children under the age of twenty-one at the time the asylum application was filed. See INA § 208(b)(3)(A)–(B), 8 U.S.C. § 1158(b)(3)(A)–(B) (2012).

179. The I-730 petition is free to file but must be filed within two years of the asylum grant, with limited exceptions. The form is available online. *I-730, Refugee/Asylee Relative Petition*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/i-730> (last visited Nov. 12, 2015) [hereinafter *I-730*]. For a concise explanation of the process, see PROPOSED REFUGEE ADMISSIONS 2015, *supra* note 12, at 13–14.

at other embassies the petitions seem to be in a “black hole.”¹⁸⁰ Attorneys recounted that delays were sometimes related to adoption, terrorism-related inadmissibility issues, security checks, and DNA testing,¹⁸¹ but were often unexplained. Attorneys described the system as having “no visibility,”¹⁸² “inconsistent,”¹⁸³ “really mixed,”¹⁸⁴ “so opaque,”¹⁸⁵ and having a lack of transparency, communication, and clarity.¹⁸⁶ Attorneys also highlighted the emotional toll that the delays have on their asylee clients, who have often already faced prolonged separation from family members.¹⁸⁷ Further, a few attorneys identified concerns for the family members, often children, who may be forced to travel through unsafe regions to attend a consular interview in another country¹⁸⁸ and then may wait for an indefinite amount of time before the visa to travel is issued.

Mental health professionals interviewed in both regions universally confirmed the profound mental health effects of prolonged separation from family members overseas, explaining that asylees are affected psychologically in numerous ways by this separation. First, asylees feel guilt and shame at having left their families behind as well as responsibility to provide for loved ones overseas often coupled with an inability to do so due to low-income. Such separation can also intensify traumatic symptoms and cause feelings of a profound loss of control. Asylees experience difficulty in the uncertainty of how long the family reunification process will take, compounded with concern for the safety of family members at risk. Further, asylees experience challenges in

180. Telephone Interview with Tori A. Babington, Dir. of Legal Servs., N. Va Family Services (Feb. 11, 2014).

181. DNA testing can be ordered to establish the relationship between the petitioner and beneficiary. This testing can sometimes be prohibitively expensive for some asylees. In the author’s own experience, depending on the country, DNA testing, even when negotiated at a lower rate, can range from \$300 to \$700 or more, including international mailing costs.

182. Interview with Jocelyn Dyer, Staff Att’y, Human Rights First, in D.C. (Nov. 18, 2013).

183. Interview with Isabel Toolan, BIA Representative and Senior Paralegal, Human Rights First, in D.C. (Nov. 18, 2013); Interview with Alberto Benitez, Professor of Clinical Law, George Wash. Univ. Immigr. Clinic, in D.C. (Nov. 15, 2013); Interview with Ruby Lieberman, Private Practitioner, in S.F., Cal. (Dec. 19, 2013); Interview with Steven Schulman, Partner, Akin Gump Strauss Hauer & Feld, LLP, in D.C. (Nov. 11, 2013).

184. Interview with Ruby Lieberman, Private Practitioner, in S.F., Cal. (Dec. 19, 2013).

185. Interview with Steven Schulman, Partner, Akin Gump Strauss Hauer & Feld, LLP, in D.C. (Nov. 11, 2013).

186. Interview with Michael Smith, Refugee Rights Dir., E. Bay Sanctuary Covenant, in Berkeley, Cal. (Dec. 18, 2013); Interview with Kaveena Singh, Att’y, E. Bay Sanctuary Covenant, in Berkeley, Cal. (Dec. 18, 2013).

187. Due to severe backlogs in the affirmative asylum process and in immigration courts, the prolonged separation includes the several years before asylum is granted, only after which the asylee can even begin the year plus process of being reunited with a spouse or child.

188. If a U.S. embassy does not exist in the beneficiary’s location or if the embassy does not process these applications, the beneficiary will be sent to an embassy located in another country in the region for processing. For example, applications on behalf of beneficiaries living in Mali might be processed in Dakar, Senegal.

planning for their own future or moving forward with their lives as well as difficulty sleeping, eating, or finding pleasure in anything.

Case managers in the Bay Area and the D.C. metro area echoed the concerns of mental health professionals regarding the detrimental psychological effects of prolonged separation from family members. Case managers also highlighted the difficulties that asylee families face following reunification, which are not only financial but also include a period of adjustment, culture clash, and parenting after a lengthy absence. Several interviewees also highlighted the financial difficulties asylees face during and following family reunification.¹⁸⁹ Family reunification is often delayed because asylees lack the funds to pay for family members to travel to the U.S., or asylees enter into a great deal of debt facilitating travel to the U.S..¹⁹⁰

K. Four of the Eight Asylum Offices Nationwide Offer Asylum Office Benefits Orientation Sessions to Asylees

According to statistics released in response to my inquiry prior to a January 2014 USCIS Asylum Division Stakeholders meeting, three of the eight asylum offices in the U.S. offered Asylum Benefits Orientation sessions (which this article calls “ABOs”).¹⁹¹ Currently, four of the eight offices offer ABOs.¹⁹² The purpose of these sessions is to orient newly granted asylees to the benefits available in their local area. At the time of writing, efforts are underway by the American Immigration Lawyers Association National Asylum and Refugee Liaison Committee to facilitate cooperation with resettlement agencies to conduct presentations at the remaining four asylum offices.¹⁹³

189. While travel for resettled refugees and their family members is financed through interest-free travel loans from the International Organization for Migration, no such system exists for asylees. *See supra* note 11.

190. One small non-profit organization in Baltimore has stepped into the fray on this issue and does provide loans to asylees for family reunification. *See* Family Reunification Grant Fund, EPISCOPAL REFUGEE & IMMIGR. CTR. ALLIANCE, <http://www.eric-baltimore.org/family-reunification-grants.html> (last visited July 5, 2014). This organization is described in more detail under Part V(a)(ii) in recommendations. The Refugee Reunification Project, founded by graduates of Yale Law School, also provides grants to approximately fifteen asylees per year (or on average fifty family members) to cover the costs of family reunification. *See Apply for Funding*, REFUGEE REUNIFICATION PROJECT, <http://www.refugeereunificationproject.org/apply-for-funding.html> (last visited Sept. 28, 2014); Email from Jean C. Han, Board Member, Refugee Reunification Project (Sept. 29, 2014) (on file with author).

191. *Additional Handouts – Asylee Benefits Orientation*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Jan. 15, 2014), <http://www.uscis.gov/sites/default/files/USCIS/Outreach/Notes%20from%20Previous%20Engagements/Asy-AdditionalHandouts-12814.pdf> (sharing that three offices offer ABOs—San Francisco, Arlington, and Los Angeles).

192. The author personally worked with the Chicago asylum office and Illinois State Refugee Coordinator to launch ABOs in Chicago in 2014 and 2015. As of February 2016, the four offices offering ABOs are San Francisco, Los Angeles, Arlington, and Chicago.

193. The AILA Asylum and Refugee Liaison Committee has continued to work to launch these sessions in the remaining four offices and as of February 2016, Houston and Miami are close to beginning ABOs. The author served on this AILA committee as a member from 2014–2015. As

Because little information is publicly available about the ABOs, below is information gleaned from the author's research and interactions with asylum office officials. Each of the eight asylum offices nationwide issue a "grant letter" when the decision is made to award asylum to an applicant.¹⁹⁴ This letter outlines some of the benefits for which asylees are eligible, but as the San Francisco Supervising Officer interviewed explained, the grant letter "doesn't even really scratch the surface" of the complicated topic of asylee benefits.¹⁹⁵

The movement to provide asylees with information about the benefits to which they are entitled started sometime in 2008 when the International Rescue Committee (IRC), one of the leading resettlement agencies in the Bay Area, approached San Francisco Asylum Office Director Emilia Bardini with the idea of providing information sessions on benefits to asylees following the asylum grant.¹⁹⁶ IRC spearheaded the effort by drafting the content of the presentation, which the asylum office reviewed and shepherded through the required internal approval process.

In San Francisco, the ABOs occur every four weeks and last around two hours. A Quality Assurance Training Officer or Supervising Asylum Officer gives a brief introduction and then non-governmental organization (NGO) representatives¹⁹⁷ present the content. The content includes a PowerPoint presentation and handouts with relevant information depending on the individual asylee's county of residence.¹⁹⁸ Although some of the presenting NGO staff members speak various languages, individual asylees are asked to come with their own interpreter (much as they do for the asylum interview). Each asylum grantee in San Francisco receives with an approval letter an invitation to the next ABO.¹⁹⁹ No RSVP is required; to enter the building, asylees bring identification, the ABO invitation, and their Asylum Approval letter or Immigration Judge grant letter. The office also provides a simple handout from the local resettlement agencies with contact information in the event that an asylee is

of July 2015, the author participates in this committee in an advisory capacity with the American Immigration Council.

194. Asylum Approval Letter from U.S. Citizenship & Immigr. Servs. (June 18, 2012) (on file with author). The eight asylum offices are located in Arlington, Chicago, Houston, Los Angeles, Miami, Newark, New York, and San Francisco.

195. Telephone Interview with Vincent Ferri, Supervising Asylum Officer, S.F. Asylum Off. (Mar. 11, 2014).

196. Telephone Interview with Emilia Bardini, Dir., S.F. Asylum Off. (Dec. 17, 2013).

197. As of December 2014, in San Francisco these agencies were: the International Rescue Committee, the Newcomers Program with the S.F. Department of Public Health, Jewish Family and Children's Services, and Bay Area Legal Aid.

198. Asylee Orientation Presentation Packet, Newcomers Health Program, Int'l Rescue Comm. (on file with author), in E-mail from Vincent Ferri, Supervising Asylum Officer, S.F. Asylum Off. (Mar. 11, 2014) (on file with author).

199. Letter Informing of Orientation on Benefits Available to Asylees, U.S. Citizenship & Immigr. Servs. (on file with author).

unable to attend the session.²⁰⁰ The San Francisco asylum office welcomes asylees granted in court and has made efforts to liaise with their local court to ensure that flyers are available in the courtroom, but not all judges draw attention to these materials.²⁰¹

In terms of numbers, San Francisco sees about fifty to seventy-five attendees at each benefits orientation session.²⁰² They report that only three or four asylees granted defensively through the immigration courts appear at the sessions.²⁰³ The number of attendees at each session generally directly corresponds to the number of asylum grants made in the previous month by the asylum office.²⁰⁴

The San Francisco Office Director presented the idea for the ABOs at an Asylum Office Director's conference and received the approval to launch the program. The following year, she presented on what the office had implemented.²⁰⁵ The message from the Asylum Division Headquarters was that all of the offices should implement such a program, but this has not yet happened. In response to my inquiry at the January 2014 stakeholders meeting, Asylum Division Director John Lafferty explained that this is a question of funding and that each asylum office needs willing NGO partners to implement these benefits orientation sessions.²⁰⁶

200. Handout to Asylees from Newcomers Health Program, S.F. Dep't of Pub. Health (on file with author).

201. Telephone Interview with Emilia Bardini, Dir., S.F. Asylum Off. (Dec. 17, 2013); Interview with Niloufar Khonsari, Exec. Dir., Pangea Legal Services, in S.F., Cal. (Dec. 13, 2013); Interview with Lynette Parker, Immigr. Supervising Att'y, George Alexander Cmty. Law Ctr., in Santa Clara, Cal. (Dec. 17, 2013).

202. San Francisco hosted a total of 438 asylees (sixty-eight attendees who were granted asylum in court, or 15.5 percent) at their ABOs in FY 2012. They hosted 488 in 2011 (fifty-eight court grantees), 593 in 2010 (sixty-six court grantees), and 502 in 2009 (twenty-four court grantees), and 305 in 2008. Note that only six sessions, instead of twelve, were held in 2008. E-mail from Vincent Ferri, Supervising Asylum Officer, S.F. Asylum Off. (Mar. 19, 2014) (on file with author). Attendance rates for the ABOs have varied from around 16–30 percent of the total affirmative grantee population during the fiscal years for which the office has maintained and released data to the author (2009–2012). See *infra* Appendix E., San Francisco Asylum Office Affirmative Asylee Attendance of Asylum Benefits Orientation Session, created using data released to the author by S.F. asylum office and in response to submitted questions at April 23, 2014 Asylum Division Quarterly Stakeholders' Meeting. This data is also available online. *Additional Statistics – Asylum Applications Granted by Asylum Office*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Apr. 23, 2014), <http://www.uscis.gov/sites/default/files/USCIS/Outreach/Notes%20from%20Previous%20Engagements/AdditionalStatisticRequestedApril2014AsylumStakeholderEngagement.pdf>. Arlington sees fifty to sixty attendees per session and Los Angeles sees forty to eighty. *Additional Handouts – Asylee Benefits Orientation*, *supra* note 191.

203. Telephone Interview with Emilia Bardini, Dir., S.F. Asylum Off. (Dec. 17, 2013); Telephone Interview with Vincent Ferri, Supervising Asylum Officer, S.F. Asylum Off. (Mar. 11, 2014).

204. Telephone Interview with Vincent Ferri, Supervising Asylum Officer, S.F. Asylum Off. (Mar. 11, 2014).

205. Telephone Interview with Emilia Bardini, Dir., S.F. Asylum Off. (Dec. 17, 2013).

206. Please note that the American Immigration Lawyers' Association National Asylum and Refugee Liaison Committee is making efforts to try to facilitate partnerships between NGOs and the remaining asylum offices. The author has consulted with the Committee on these efforts and

Moving forward, the San Francisco asylum office is struggling with how to implement the ABOs in its circuit ride locations—Anchorage, AK, Seattle, WA, and Portland, OR. The dramatic rise in credible fear and reasonable fear interviews in the past couple of years, especially at the Southern border,²⁰⁷ has necessitated asylum officers from San Francisco and other asylum offices to be detailed temporarily to the border or to conduct interviews by video or phone. Asylum officer ability to travel with any frequency to conduct regular affirmative asylum interviews at circuit ride locations and thus to oversee ABOs, outside of San Francisco has been limited. The Asylum Office Director and Supervising Officer responsible for the ABOs freely admitted that the lack of interpretation provided at the ABOs was also a problem. One of the presenters, from Newcomers Health Program, also noted, “lots of people show up and don’t speak English, so it’s unclear how much information they are able to understand.”²⁰⁸

In the Bay Area, several attorneys shared that asylees granted at the asylum office receive the invitation to the ABOs. Several of those attorneys, however, stated that the ABOs were of limited use because of the lack of interpretation and the requirement that an individual asylee bring an interpreter with them in person. All of the Bay Area attorneys actively handling affirmative asylum cases were aware of the benefits sessions. This is in contrast to the D.C. metro area attorneys interviewed, who were, for the most part, unfamiliar with the Arlington Asylum Office’s ABOs program. The only exception was for the attorneys working at non-profit organizations. Even attorneys handling very high volumes of affirmative asylum cases were unaware that the asylum office offered ABOs. This is likely in part due to the inconsistent offering of the session by the Arlington asylum office.²⁰⁹

facilitated a connection with the Office of Refugee Resettlement, who are willing to work with the State Refugee Coordinators to organize NGO grantees to participate in this session. These efforts are ongoing as of January 2016.

207. *See supra* notes 20 and 21.

208. Telephone Interview with Samira Causevic, Clinical Servs. Coordinator, Cmty. Health Equity & Promotion Branch, S.F. Dep’t of Pub. Health (Jan. 17, 2014). Others in the community familiar with the ABOs confirmed that there were problems with the interpretation; *see, e.g.*, Telephone Interview with Sahar Bhaloo, Psychologist (Jan. 31, 2014) (explaining that asylees go to the ABOs but do not understand the session and so bring the materials shared to her as their psychologist to explain).

209. In January 2014, the author contacted the Arlington asylum office and was informed, by email, that they were no longer offering the benefits sessions because the same information was contained in the grant letter. The last session held was in approximately September 2013. As of March 28, 2014, however, the asylum office had resumed the benefits orientation sessions, offering them on an approximately bi-monthly to quarterly basis.

V.

PRESCRIPTIONS FOR REFORM

The preceding findings offer an initial picture of the challenges for asylees following the asylum grant²¹⁰ and counsel for some legal and regulatory reforms in combination with practical measures to address avoidable problems. These prescriptions fall into three broad categories: (a) Improve benefits available for asylees; (b) Increase asylee awareness of and access to benefits; and (c) Improve data gathering on short and long-term asylee well-being.

A. Improve Asylee Benefits

Below, this article proposes three complementary reforms to improve the efficacy of asylee benefits. First, the ORR regulations should be amended to introduce flexibility for resettlement agencies to address an individual asylee's circumstances in a manner more conducive to long-term success than the present focus on rapid employment. Second, by funding non-profit agencies to provide comprehensive case management, attention can be focused on English language acquisition, recognition of education and skills acquired overseas, and matching each asylee with a job or career path that fits her skills and individual goals. These policy prescriptions also focus on the timing and content of the currently available benefits. Finally, several measures should be taken to improve asylees' mental health and the family reunification process.

1. Revise the Refugee Act and the Regulations to Deemphasize the Focus on Rapid Employment and Economic Self-Sufficiency

Expecting refugees to behave like immigrants, and to conform statistically to our pictures of immigrants, will lead to failures of law and policy, as well as failures of compassion.²¹¹

The Refugee Act's focus on rapid employment and "self-sufficiency" undermines long-term integration and resettlement success for asylees and refugees. Refugee resettlement literature has long criticized this policy focus and contended that benefits for refugees should be separated from general U.S. anti-poverty programs.²¹² General U.S. anti-poverty programs are primarily focused on economic self-sufficiency and reducing dependence on public assistance.²¹³

210. The absence of government-collected data on long-term asylee integration and the relatively short duration of services provided after the grant limit this study's ability to assess long-term asylee integration. Long-term asylee integration merits additional research and will likely necessitate surveying asylees rather than government agencies, advocates, and service providers.

211. Catherine Dauvergne, *Informing Integration: Assessing What We Know, Admitting What We Don't Know*, 24 REFUGEE 14, 14 (2007).

212. See *supra* notes 14–17.

213. Ives, *supra* note 15, at 55 ("American social welfare policies tend to be evaluated and supported based on their ability to enhance personal independence in the form of individual economic self-sufficiency and to reduce dependence on public assistance. Assistance provided by

The refugee resettlement literature posits that those fleeing persecution overseas face an “utterly different set of challenges than do U.S. residents struggling with poverty,”²¹⁴ and that the application of general anti-poverty programs to refugees is inappropriate and ineffective.²¹⁵ To highlight the unique attributes of asylees that are particularly poorly served by the focus of general anti-poverty programs is certainly not to endorse the efficacy of these programs in general. It is not clear that the current anti-poverty programs are effective for the general population in the U.S.²¹⁶ In any event, my study reveals that the legal framework for asylees and refugees, which draws on the legal regime for anti-poverty programs in the U.S., does not work for asylees and reform is necessary.

As discussed in Part IV.A, the current system of benefits and services for asylees sets up a one-size-fits-all approach to asylee integration and refugee resettlement.²¹⁷ This problem is rooted in the underlying legal framework—the Refugee Act and the implementing regulations do not define the key term, “effective resettlement,” and both texts repeatedly emphasize achieving economic self-sufficiency “as quickly as possible.”²¹⁸ The Act elaborates that

the state for people in need, aside from being thought of as the last resort (after family and the local community) is believed to encourage dependency and be detrimental to both recipients and society. State-provided assistance must be kept less than market wages to ensure a greater attachment to the workforce than to aid receipt.”).

214. REFUGEE CRISIS IN AMERICA, *supra* note 15, at 26.

215. *See id.* at 2 (“The application of mainstream U.S. anti-poverty programs to refugee assistance under the USRAP does not promote the long-term self-sufficiency of refugees. It does not break down barriers to sustainable employment, employment services are not properly funded, English language training is insufficient, transportation is inadequate and professional certification is not viable.”); *see* PEGGY GILBERT, MARIA HEIN & JAN LOSBY, ISED SOLUTIONS, EXPLORING REFUGEE INTEGRATION: EXPERIENCES IN FOUR AMERICAN COMMUNITIES 2 (2010), <http://www.isedsolutions.org/sites/default/files/ISED%202010%20Integration%20Report.pdf> (explaining, in a report prepared at the request of the DHHS and ORR in June 2010, that the IWG repeatedly heard through their site visits that “one size does not fit all” in terms of resettlement, learning English, and finding a job); *see also* DEMETRA SMITH NIGHTINGALE, FRAMEWORK FOR CONTINUOUS EVALUATION OF OFFICE OF REFUGEE RESETTLEMENT FORMULA PROGRAMS SUPPORTING EMPLOYABILITY SERVICES 9 (2008) (suggesting that employment is not one size fits all but how different programs work for different subgroups of refugees should be considered in program evaluation); *see also* IN DIRE STRAITS, *supra* note 17, at i (suggesting a need for “increased program flexibility to provide services to refugees with different needs and backgrounds.”); *see also* REFUGEE CRISIS IN AMERICA, *supra* note 15, at 10 (“[T]he same one-size-fits-all approach designed largely for Southeast Asians is still in place, presenting distinct and novel challenges for the resettlement of new populations entering the United States, including Iraqis.”).

216. *See supra* note 50.

217. Section 412 of the Immigration and Nationality Act on Refugee Assistance applies equally to asylees granted under Section 208 and resettled refugees under Section 207, as individuals eligible for assistance simply meet the Section 101(a)(42) definition of a refugee. *See* INA §§ 101(a)(42), 207, 208, 412, 8 U.S.C. §§ 101(a)(42), 1157, 1158, 1522 (2012).

218. *See* 8 U.S.C. § 1522(a)(1)(i) (2012) (“In providing assistance under this section, the Director shall, to the extent of available appropriations, make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible.”); 45 C.F.R. § 400.1(b) (2015) (“It is the purpose of this program to provide

“employable refugees should be placed on jobs as soon as possible after their arrival in the United States.”²¹⁹ Congress also tasks the states with promoting “effective resettlement” and “economic self-sufficiency as quickly as possible.”²²⁰ The Act requires the Office of Refugee Resettlement to specifically focus on “efforts to reduce welfare dependency among refugees”²²¹

Section 1522(e)(2)(C) of the Refugee Act provides that if a refugee refuses an offer of employment that the agency deems appropriate or refuses to go to a job interview arranged through an agency, cash assistance will be terminated for a period of three months upon first refusal and six months upon subsequent refusal.²²² Unfortunately, as detailed under Research Findings Part IV.A, many asylees are currently channeled into “survival jobs” that are an inappropriate starting point given their existing skills and expertise. An educated professional should not be penalized for failing to accept a job in a poultry plant, but should be assisted with re-credentialing and with the opportunity to learn English in their field as necessary.

a. Define “Effective Resettlement”

The Act requires ORR monitor the assistance provided to refugees to evaluate program effectiveness and results.²²³ Given that “effectively resettled” is not defined and the almost exclusive focus is on “economic self-sufficiency,” it is difficult to know what exactly ORR, as the responsible agency, should be measuring. As the refugee resettlement literature has recognized, *effective* resettlement and integration means more than just employment of some kind and the minimal English required in order to secure that employment. And yet, economic self-sufficiency is defined, by regulation, as “earning a total family income at a level that enables a family unit to support itself without receipt of a cash assistance grant.”²²⁴ This neglects to consider the other factors involved in successful integration, such as health and well-being, language acquisition, education, housing, and social connections,²²⁵ although the Act itself does permit ORR to make grants to assist with these other integration factors.²²⁶ To remedy

for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible.”).

219. 8 U.S.C. § 1522(a)(1)(B)(i)(ii) (2012).

220. § 1522(a)(6)(b).

221. § 1522(b)(8)(A).

222. § 1522(e)(2)(C); *see also* 45 C.F.R. §§ 400.75, 400.77 (2015) (including condition that within thirty days prior to application, applicants may not have voluntarily quit employment or refused offer of employment).

223. 8 U.S.C. § 1522(a)(7) (2012).

224. 45 C.F.R. § 400.2 (2015).

225. *See* BROWN, GILBERT & LOSBY, *supra* note 48, at 8. These are some of the factors the Integration Working Group highlights as important in integration.

226. The Act permits the ORR Director to make grants available “to assist refugees in obtaining the skills that are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification

the overemphasis on employment and economic self-sufficiency, which focuses only on the financial situation for an asylee, it is necessary to define “effective resettlement” in a manner that enables resettlement agencies to tailor assistance to a more holistic concept of integration.²²⁷ I propose that this definition adopt a long-term view of integration and include factors that the U.S. government itself has recognized to be critically important to successful integration.²²⁸ The following definition for effective resettlement should be added to the regulations under 45 C.F.R. § 400.2:

Effective resettlement means that an individual has achieved economic self-sufficiency, as defined in this section, through appropriate employment, taking into account an individual’s goals, mental and physical health needs, opportunities to acquire English language skills, appropriate educational opportunities, adequate and stable housing, safe living conditions, opportunities for civic engagement or participation, and strong social connections.

b. Define “Appropriate”

A second revision is needed to define “appropriate” in the context of appropriate offers of employment and interviews for appropriate jobs. The regulations and the Refugee Act set out guidance for job seeking, requiring that applicants for and recipients of Refugee Cash Assistance comply with the employment regulations, accepting interviews and “appropriate offers of employment.”²²⁹ Voluntarily quitting employment results in a temporary (three or six months) loss of Refugee Cash Assistance benefits.²³⁰ The regulations require “an individualized written plan for a refugee registered for employment services that sets forth a program of services intended to result in the *earliest possible employment of the refugee*.”²³¹ Specifically, the employment plan must “[be] designed to lead to the earliest possible employment and not be structured in such a way as to discourage or delay employment or job-seeking,” and must “[c]ontain a definite employment goal, attainable in the shortest time period

services;” and “to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance)” and “to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational, and other services.” 8 U.S.C. § 1522(c)(1)(A)(i) (2012).

227. See GAO JULY 2012 REPORT, *supra* note 13, at 29 (expressing concern that the “focus on short-term employment . . . can result in a one-sized fits all approach to employment services and may in turn, limit service providers’ flexibility to provide services that may benefit refugees after the 6 to 8 month time frame”).

228. I draw the factors to be considered in assessing effective resettlement from the factors affecting integration identified by the Integration Working Group. See BROWN, GILBERT & LOSBY, *supra* note 48, at 8.

229. 8 U.S.C. §§ 1522(e)(2)(A)(iii)–(C) (2012); see also 45 C.F.R. § 400.75 (2015).

230. 45 C.F.R. §§ 400.77, 400.82 (2015).

231. § 400.71 (emphasis added).

consistent with the employability of the refugee in relation to job openings in the area.”²³² Again, the focus is not on the best match for an individual refugee’s skills or background, but on early employment. The regulations provide only minimal requirements for “appropriate employment,” which include:

- (1) if an individual claims that a certain job has an adverse effect on his or her mental or physical health, a physician or psychologist must support this claim,²³³
- (2) the commute to work should be under two hours,²³⁴ and
- (3) although part time or seasonal employment is acceptable, minimum wage must be paid.²³⁵

Given the challenges documented in this study, where asylees are matched with inappropriate “survival jobs,” neglecting to utilize their skills and background, a definition for “appropriate employment” should be added to the definitions section (45 C.F.R. § 400.2) of the existing ORR regulations. Congressional support for a definition of “appropriate employment” is found in the Refugee Act itself. The Act mandates that ORR provide reports to Congress every year, including evaluations of the extent to which “the services provided under this subchapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and *achieving employment commensurate with their skills and abilities*.”²³⁶ This manifestation of Congressional concern for the alignment between a particular refugee’s skills and abilities and the employment attained offers a sound basis for incorporating this dimension into a definition of “appropriate employment” within the regulations implementing the Act. Thus, the regulations should be revised to include a definition for appropriate employment as follows: “appropriate employment means employment commensurate with a refugee’s skills and abilities.”²³⁷

232. § 400.79(c).

233. § 400.81(a)(2).

234. § 400.81(a)(3). Note however that this time cannot include transporting a child to and from a child care facility. Further, if a longer commute is generally accepted in a community, then the “commuting time must not exceed generally accepted community standards.” *Id.*

235. § 400.81(a)(7)–(8).

236. 8 U.S.C. § 1523(b)(5) (2012) (emphasis added).

237. Along with this revision to the regulations, ORR should develop means to track alignment of employment with skills. The current system provides no mechanism by which ORR could monitor and report on whether asylees or resettled refugees are obtaining employment aligned with their skills and abilities. Current reporting by states and resettlement agencies to ORR only includes quantitative data on the numbers of refugees employed at specific points in time; there is no qualitative assessment or reporting of the jobs obtained or the match between an individual and her job.

c. Increase the Amount and Time During Which Asylees are Eligible for Assistance

As interviewees almost universally agreed, the length of time for eligibility for cash assistance should be increased.²³⁸ The Refugee Act itself allows for up to thirty-six months of assistance,²³⁹ but Congressional appropriations since 1991 have only allowed for eight months of cash assistance and Refugee Medical Assistance.²⁴⁰ Rather than automatically providing all individuals with eight months of cash assistance,²⁴¹ assistance should be assessed on an “as needed” basis; while one asylee may require only three months of assistance, another may benefit from fifteen months of financial support.

Interviewees also confirmed that the amount of financial assistance available to asylees is insufficient.²⁴² Congress should appropriate enough funding to ORR to enable ORR grantees to provide financial assistance to asylees to permit them to live above the federal poverty line in the geographic location in which they live.²⁴³ As mentioned above, the length of time for which asylees (and other

238. Those who have studied refugee resettlement reached the same conclusion in that context. REFUGEE CRISIS IN AMERICA, *supra* note 15, at 2 (“Refugee assistance should be increased from eight to eighteen months, and programs designed to promote the long-term self-sufficiency and integration of refugees should be better funded.”); IN DIRE STRAITS, *supra* note 17, at i, 10 (recommending “increased federal financial assistance, a uniform and generous package of services available to all refugees admitted to the United States” and increased medical assistance and support from resettlement agencies to “secure employment and restart their lives.”).

239. INA § 412(e)(1), 8 U.S.C. § 1522(e)(1) (2012).

240. The ORR Director sets the time-eligibility period for RMA and RCA each year “based on appropriated funds available for the fiscal year.” See 45 C.F.R. § 400.211 (2015); *see also* BRUNO, *supra* note 170, at 10 n.35 (reporting that current funding allows for eight months of cash and medical assistance, and this has been the funding level since October 1991); *see also supra* note 145.

241. Currently, individuals receiving state and federal benefits, including TANF, SSI, Medicaid, CHIP, and SNAP, or ORR benefits, RCA and RMA, are periodically re-assessed for eligibility. The exact schedule for reassessment of eligibility depends on the state in which the individual resides and the employment program in which they are enrolled. In some states, individuals are recertified as eligible on a monthly basis, in other states at the fourth month or sixth month of enrollment in the programs. In all cases, RCA ends at eight months. Individuals are also required to report to the office assessing their eligibility (the voluntary agency, or a state office) any of the following events: new employment, change in employment, change in income, receipt of resources such as gifts or in-kind assistance, change in family members, change in condition that could impact eligibility, such as becoming disabled or recovering from a disability. E-mail from Thomas Pabst, Refugee Servs. Program Specialist, Off. of Refugee Resettlement (Sept. 10–11, 2014) (on file with author).

242. Interviewees agreed on this regardless of whether individual asylees are receiving funding through the state, through TANF (for asylees with children in the U.S.), through Refugee Cash Assistance, or through the Matching Grant program. *See infra* Appendix A. Reports on resettled refugees also assert that financial assistance is inadequate; *see also* REFUGEE CRISIS IN AMERICA, *supra* note 15, at 2 (“[C]ash assistance is insufficient, both in amount and duration to allow refugees to support themselves.”).

243. For 2015, the federal poverty line for the forty-eight contiguous states and D.C. was \$11,880 for a single individual, which is roughly \$990 a month. *See* Off. of the Assistant Sec’y for Planning and Evaluation, 2015 *Poverty Guidelines*, U.S. DEP’T OF HEALTH & HUMAN SERVS.,

eligible populations) are entitled to benefits has not changed since 1991.²⁴⁴ At that time, the economy was strong and employers routinely visited refugee communities in search of new employees.²⁴⁵ Today, asylees and resettled refugees arrive in a very different economy and assistance should be adjusted to reflect that reality.²⁴⁶

Increasing the length of time for which asylees can receive benefits and increasing the amount of cash assistance require increased Congressional appropriations. Congressional appropriations for Refugee Cash Assistance and Refugee Medical Assistance for FY 2014 were \$391.5 million.²⁴⁷ This author is not qualified to make accurate calculations to anticipate the increased funding required, but notes that while an increase in funding is foreseeable to enact these reforms, it would not necessarily be in direct proportion to the added number of months of eligibility or the numbers of asylees granted per year. It is difficult to know how many asylees will remain eligible for benefits after eight months and how many asylees will access benefits in the first instance. Assuming that the number of asylees accessing benefits remained the same and cash assistance was only adjusted to increase the amount to situate an asylee above the federal poverty line, this would require approximately tripling the current appropriations for a total of approximately \$1.2 billion.

According to a 2011 Government Accountability Office report, budget shortfalls resulted in resettlement agencies providing employment services to refugees and asylees for just one year, rather than the five years allowed by regulation, because with limited funds, at a minimum the agencies must ensure that newly arriving refugees receive services.²⁴⁸ Interviewees for this study

<https://aspe.hhs.gov/poverty-guidelines> (last updated Jan. 25, 2016). The ORR regulations put a cap on refugee cash assistance, which varies from state to state, but can be no higher than \$335 a month for an individual or up to \$685 for a family of four. 45 C.F.R. § 400.60 (2015). One area for exploration is whether the U.S. has a legal duty or a moral obligation to provide higher levels of support to asylees. The German Constitutional Court ruled that the cash benefits Germany provided to individuals seeking asylum were insufficient to guarantee the right to a minimum standard of living under the German Constitution. See ESXR-New, *Judgment of the Federal Constitutional Court in the Proceeding 1 BVL 10/10* (July 18, 2012), <http://www.esqr-net.org/node/364979> (finding the amounts granted to asylum seekers “evidently insufficient to guarantee a dignified minimum existence”).

244. For a discussion of the history behind these funding levels, see Brown & Scribner, *supra* note 15.

245. E-mail from Roland Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement (Sept. 11, 2014) (on file with author).

246. E-mail from Roland Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement (Sept. 11, 2014) (on file with author) (“I’ve always felt that if we could live up to the Act and provide a longer period of adjustment, particularly when the economy is struggling, we would be a stronger program. Thus, if we were able to provide a year’s worth of RCA/RMA or more, there would be greater flexibility/time to find more ‘suitable’ jobs for refugees.”).

247. See BRUNO, *supra* note 170, at 9 (providing statistics for ORR Congressional appropriations from 2005–2014; the overall ORR appropriations for FY 2014 was \$1.530 billion, including funding for Unaccompanied Alien Children and all other programs).

248. See GAO REFUGEE EMPLOYMENT REPORT, *supra* note 16, at 34; see also GAO JULY 2012 REPORT, *supra* note 13, at 12, 29 n.44 (“[O]ne state refugee coordinator noted that local

repeatedly expressed that they could only provide services for the period during which asylees are entitled to receive Refugee Cash Assistance and Refugee Medical Assistance— eight months.²⁴⁹ Clearly, additional funding is needed. But whether or not additional appropriations are allocated, better asylee integration outcomes could be achieved if the regulations permitted resettlement agencies more flexibility to tailor benefits and their efforts to focus on the goals and needs of an individual asylee.

In sum, to remedy the problems caused by the heavy focus on rapid employment and to permit agencies flexibility in determining how long an individual asylee should receive financial and medical assistance, the following changes should be made:

	Proposed Language or Action	Purpose
Refugee Act	Add the following language to INA § 413(b), as sub-section (9): “a summary for individuals granted asylum under Section 208, of the same information shared for (b)(1)–(6) for resettled refugees” or Before current subsection (1) make clear that “refugee includes any individual who meets the definition under INA Section 101(a)(42), including individuals granted asylum under Section 208.”	This change will require ORR to report to Congress annually on not only resettled refugees, but also programs and results for asylees.
Regulations	Add the following definition to 45 C.F.R. § 400.2:	This revision to the regulations will further

affiliate funding is based on the number of refugees they serve, so affiliates have an incentive to maintain or increase the number of refugees they resettle each year rather than allowing the number to decrease.” Overall, the GAO found that the refugee resettlement program struggled with resources, stating, “some services providers have said that in order to ensure that new arrivals continue to receive needed services, they provided employment services to refugees for only about 1 year rather than the 5 years allowed.”).

249. One interviewee shared her perspective on this issue: “That’s the big gap with resettlement. How do we close that gap? We’re continuously working with new arrivals who are struggling and desperately need our help—and that’s who we get the funding for. We see it, we understand it—we don’t want someone with a college degree or who is a doctor struggling in a survival job, but it’s a funding issue. We need more funding for extended services to help them move on.” Telephone Interview with Sarah Zullo, Exec. Dir. & Ileen Khamooshi, Special Programs Officer, Ethiopian Cmty. Dev. Council (Feb. 11, 2014).

	<i>Appropriate employment means employment commensurate with a refugee's skills and abilities.</i>	explain what an "appropriate" offer of employment or job interview is, including that an asylee will not be penalized for refusing a job interview or an offer of employment that is a poor match for her skills and background. This amendment uses language from § 1523(b)(5) of the Refugee Act.
	Add the following definition to 45 C.F.R. § 400.2: <i>"Effective resettlement means that an individual has achieved economic self-sufficiency, as defined in this section, through appropriate employment, taking into account an individual's goals, mental and physical health needs, opportunities to acquire English language skills, appropriate educational opportunities, adequate and stable housing, safe living conditions, opportunities for civic engagement or participation, and strong social connections."</i>	"Effective resettlement" is a term left undefined by the Refugee Act. This definition should recognize that effective resettlement includes matching an asylee with appropriate employment for their individual skills and background and taking into account other integration factors, identified by the Integration Working Group. ²⁵⁰ The proposed definition focuses on long-term integration success, rather than immediate outcomes and further definitions for the proposed factors to consider could also be added.
	The ORR issues a notice in the Federal Register to announce that eligibility for anywhere from 1–36 months of cash and medical assistance will be determined on a case-by-case basis according to a specific financial formula. <i>And</i> Amend 45 C.F.R. § 400.211	To enable resettlement agency grantees to experiment with varying the time limits for Refugee Cash Assistance according to individual need, ²⁵¹ ORR should amend the regulations to allow for the time limit on case assistance to be waived.

250. See BROWN, GILBERT, & LOSBY *supra* note 48 and accompanying text.

251. NIGHTINGALE, *supra* note 215, at 17.

	to reflect that eligibility for between 1–36 months of benefits will be assessed on a case-by case basis according to a specific financial formula to be determined by the ORR director.	
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Aside from regulatory and legislative revisions, ORR should commission a study to examine the practices of other asylum receiving countries.²⁵² In some countries, for example, refugees are allowed two to three years to integrate, acquiring language skills, education, and job training, before undertaking employment.²⁵³ Further, it is critical that Congress appropriate additional funds to ORR to facilitate ORR grantees to provide meaningful assistance to asylees, at appropriate levels, as discussed above as needed beyond the existing short eight-month eligibility entitlement period.

2. *Provide Comprehensive Case Management for Asylees*

Interviewees consistently suggested that asylees need assistance navigating the post-grant benefits system, perhaps through a federally managed, centralized case management system; essentially a “one stop shop” where asylees could access resources, information, and referrals. ORR itself highlights the importance of client-centered case management. Indeed, in 2010, the agency released six guiding principles, which included client-centered case management. ORR described this as follows:

Resettlement services must be client-centered and responsive to the individual needs of the refugees. The resettlement program would be most effective if it assessed the diverse strengths, needs and goals of each person. By increasing case management,

252. This is also a logical avenue for academic exploration and the author hopes to undertake such an endeavor following this piece.

253. See DWYER, *supra* note 17, at 23. (“The welfare system in the European Union countries also provides an opportunity for refugees who are not willing to take any job, to wait and look for work that better matches their academic and professional credentials. For example, ‘policy makers in Finland indicated in separate research that one should expect a resettling refugee to take at least three years to be even ready to start thinking about employment. In Sweden, integration plans including a build-up to employment see to sketch out the plan for refugees for two and a half years.’”) (quoting GREGOR NOLL & JOANNE VAN SELM, MIGRATION POL’Y INST., REDISCOVERY RESETTLEMENT 20 (2003)). Comparing the U.S. resettlement program with its counterparts in Europe, Dwyer explains in Europe “more value is placed on job appropriateness and satisfaction.” *Id.*

ORR will ensure that refugees are receiving the hands-on care that is critical to their chances of success.²⁵⁴

The idea to create a federally managed case management corps—perhaps named the “Asylee Advocate Corps”—has benefits. Several interviewees suggested that the federal government was best positioned to function in a case management capacity because leaving it to state or local governments, or NGOs, would result in uneven implementation in terms of the assistance individuals would receive. Asylees in an immigrant-friendly county, for example, may receive more comprehensive assistance and generous benefits than asylees living in a less welcoming county. While this idea is tempting, the establishment of a new professional corps of individuals tasked with assisting asylees is no small ask; Congress would need to appropriate funds to ORR for the Corps and the hiring and training of the Corps would require a significant investment of time. Instead, then, ORR and private donors and foundations should fund local NGOs, with existing expertise in case management, to assist asylees post grant.

In reality, gaps in case management are currently being unevenly filled on an ad hoc basis by small organizations, operating on shoestring budgets, fueled largely by volunteer power. Two examples are found in Baltimore, Maryland, in the Asylee Women’s Enterprise (AWE)²⁵⁵ and the Episcopal Refugee and Immigrant Center Alliance (ERICA).²⁵⁶ Interviews were conducted with the directors of both programs. Both organizations mobilize local religious communities to provide resources for the asylum seeking community. These two organizations are discussed below as potential examples to fund and replicate nationwide.

254. See Off. of the Assistant Sec’y for Planning & Evaluation, *What We Do*, U.S. DEP’T HEALTH & HUMAN SERVS., <http://www.acf.hhs.gov/programs/orr/about/what-we-do> (last updated Dec. 18, 2015). ORR regulations define case management as “the determination of which service(s) to refer a refugee to, referral to such service(s), and tracking of the refugee’s participation in such service(s).” 45 C.F.R. § 400.2 (2015). The other guiding principles are: Appropriate Placement and Services, Newly Arriving Refugees, Health and Mental Services, Outreach, and Data-Informed Decision-Making. See Off. of the Assistant Sec’y for Planning and Evaluation, *supra*. While the client-centered case management principle is a step in the right direction, this guiding principle is in conflict with the other guiding principles – namely the guiding principle titled “newly arriving refugees,” which ORR explains: “ORR wants to front-load resettlement services so that refugees are empowered through early employment, reach self-sufficiency as soon as possible and become active, contributing participants in their communities.” *Id.* This highlights rapid employment as the key to resettlement and integration success, which is at odds with individually tailored case management. ORR cannot be critiqued for this focus—as discussed above, in Part V.A.1, legislative and regulatory revisions are necessary to permit the agency to focus on integration more holistically.

255. See *About Us*, ASYLEE WOMEN’S ENTERPRISE, <http://www.asyleewomen.org/about-us> (last visited Nov. 14, 2015).

256. See *Contact Us*, EPISCOPAL REFUGEE & IMMIGRANT CTR. ALLIANCE, <http://www.ericabaltimore.org/contact-us.html> (last visited Nov. 14, 2015).

Asylee Women's Enterprise, launched in March 2011, is primarily focused on providing housing to female asylum seekers.²⁵⁷ Asylee women are eligible to remain in the housing for up to two years after the asylum grant. The program also offers "community networking" to open up channels of communication with the Greater Baltimore community and facilitate connections with professional American women to increase access to employment opportunities. AWE also runs a cooperative group that meets two days a week, where the women receive a small stipend to engage in craftwork, which is then sold locally. One-on-one English classes are always available, as well as assistance with online job applications and thinking through long-term planning. AWE does all of this on a limited budget, derived from local religious communities and private individual donors and foundations.²⁵⁸

ERICA, which originated with assistance in the 1970s and 80s through the Episcopal Cathedral congregation assisting resettled Liberian refugees, provides various free services to the immigrant community, largely to asylees.²⁵⁹ Since 2004, ERICA has offered financial assistance in the form of zero interest loans to cover family reunification costs or costs associated with obtaining U.S. citizenship. ERICA also provides individualized client support, which the Director describes as a common-sense approach to problem solving—meeting with an asylee, taking the time to understand the challenges he or she faces, and working with that individual to remove barriers or solve the problems.²⁶⁰ ERICA also provides participatory community workshops, covering topics such as financial literacy, civil rights and workplace rights, starting a business, and parenting in the American school system.

Staff interviewed at resettlement agencies in the Bay Area and the D.C. metro area expressed that they needed more funding in order to provide effective case management to asylees. They felt that with a low enough staff to client ratio, staff could truly make a difference in assisting asylees in navigating services independently.²⁶¹ Interviewees also expressed that additional funding

257. Telephone Interview with Molly Corbett, Founder, Asylee Women's Enter. (Feb. 11, 2014). The organization now provides housing to twelve women through its partnership with religious entities. *Id.*

258. AWE's current budget is just over \$125,000, including salaries for one full-time and two part time employees. They depend on volunteers who are nuns, paid by their religious community. AWE pays a small amount in rent and food stipends per client. The funding comes from nine women's religious communities (accounting for roughly 45 percent of overall funding), individual donors (roughly 25 percent), and private foundations (roughly 30 percent). E-mail from Molly Corbett, Founder, Asylee Women's Enterprise (July 6, 2014) (on file with author).

259. Telephone Interview with Betty Symington, Exec. Dir., Episcopal Refugee & Immigrant Ctr. Alliance (Feb. 25, 2014).

260. *Id.*

261. Case manager to resettled refugee client ratios can be around 1:100. Adding in even a few asylees for case management makes an already challenging job much more difficult. Case managers need to be able to take on fewer clients and have the flexibility to meet each client's specific needs. REFUGEE CRISIS IN AMERICA, *supra* note 15, at 34 (explaining that voluntary agency staff have become responsible for increasing numbers of refugee clients, and may handle as many

would enable case managers to look beyond just employment to focus on other issues affecting long-term integration. Part V.A.5 provides an argument in favor of extending the Reception and Placement Grant to asylees, which would provide the necessary overhead to resettlement agencies to hire staff needed to provide case management to asylees, just as they do for resettled refugees.

3. Better Facilitate English Language Acquisition

Responses to the interviews conducted for this study confirm that the language challenge exists in the asylee population as it does for resettled refugees.²⁶² Despite the common perception that asylees have been here longer than resettled refugees and thus speak English with a higher level of proficiency, interviewees who work with asylees on a daily basis identified English language ability as a key barrier to true integration and appropriate employment. Previous studies on resettled refugees have shown that a push towards immediate employment upon arrival in the U.S. can undermine English language acquisition.²⁶³

The Immigration and Nationality Act's section on English language acquisition mandates the Executive branch to "[p]rovide refugees with the opportunity to acquire sufficient English language training to enable them to become *effectively resettled* as quickly as possible."²⁶⁴ In Part V.A.1 above, this

as 100 open cases). Telephone Interview with Joan Hodges, Acting Program Manager, Refugee & Asylum-Seeker Servs., Int'l Inst. of Conn. (July 28, 2014). At the time of interview, Ms. Hodges was the Program Advisor for Refugee and Asylum-Seeker Services at the International Institute of Connecticut. Previously, Ms. Hodges was a Program Officer with the U.S. Committee for Refugees and Immigrants and before that the lead Case Manager at the Program for Survivors of Torture and Trauma at Northern Virginia Family Services.

262. The refugee resettlement literature also clearly highlights the importance of English language acquisition to effective integration and focuses on the need for additional studies to examine how that is most effectively achieved. *See* REFUGEE CRISIS IN AMERICA, *supra* note 15, at 22 (citing 45 C.F.R. § 400.156(e) (2006)) ("[I]n reality, refugees have difficulty accessing English language training, the quality of instruction is poor, and there are simply not enough classes available for all refugees."); *see also* GAO REFUGEE EMPLOYMENT REPORT, *supra* note 16, at 27 (citing OFF. REFUGEE RESETTLEMENT, OFFICE OF REFUGEE RESETTLEMENT ANNUAL REPORT TO CONGRESS: FY 2007 (2012)) ("English proficiency was one of the most important factors influencing the economic status of refugees, with close to 90 percent of those who lacked earnings and received cash assistance living in a household where no one could speak English.").

263. Research has suggested the focus on rapid employment may undermine English language acquisition and ultimately slow down the integration process. After conducting a 2010 study, including five-day site visits in four refugee resettlement communities, an inter-governmental Integration Working Group concluded that "the *most important indicator* of and basis for integration is learning to speak English" (emphasis added). *See* GILBERT, HEIN & LOSBY, *supra* note 215, at 12. The report recognized the "inherent tension between the desire to go to work and English language acquisition. An issue for consideration is how taking a job soon after arrival in the United States can, and sometimes does, slow down English acquisition, which in turn compromises the integration process." *Id.* at 2. Interestingly, in 2013 U.S. began to pilot English as a Second Language classes for refugees selected for resettlement overseas, prior to their arrival in the U.S., and the State Department has continued funding this program in select locations. *See* PROPOSED REFUGEE ADMISSIONS 2015, *supra* note 12, at 4.

264. 8 U.S.C. § 1522(a)(1)(ii) (2012) (emphasis added).

article proposed a definition of effective resettlement to include English language acquisition as a factor to be assessed in analyzing effective resettlement. The regulations encourage the provision of English as a Second Language courses, but provides that “English language instruction and vocational training . . . must be provided to the fullest extent feasible outside normal working hours” and “must be provided in a concurrent, rather than sequential, time period with employment or other employment-related services.”²⁶⁵ This neglects to allow for individuals who are professionals or simply need to focus on English language learning *before* they can accept a job. While requiring a doctor to work in a “survival job” while she studies English and attempts to re-credential may make some sense, it is unclear that this facilitates the best integration outcome for that doctor that will allow society to ultimately benefit from her skills and training.²⁶⁶

Several changes proposed in the refugee resettlement literature should also be made to better facilitate for English language acquisition for asylees. This includes providing daycare during ESL classes for asylees with children,²⁶⁷ providing transportation to ESL classes, or offering ESL classes in easily accessible locations within asylee communities, or in their homes,²⁶⁸ experimenting with implementing ESL classes in the workplace,²⁶⁹ and maximizing opportunities for asylees to speak and interact with native-born English speakers.²⁷⁰ In addition to these proposals, the Office of Refugee Resettlement should revise the regulations to allow for the provision of ESL

265. See 45 C.F.R. § 400.156(a), (c) (2015).

266. COLUMBIA REFUGEE RESETTLEMENT REPORT, *supra* note 15, at 12 (recognizing that this is a question of resources, with “scarce resources. channeled to meet immediate needs to the detriment of recertification and training.” Further, the report explains that: “[w]hile the Refugee Act recognizes that ‘professional refresher training and other recertification services’ are necessary to attain jobs in line with a refugee’s skill set, limited funding means training provision typically stops at English language training during the early resettlement period. This disempowers highly skilled refugees and deprives their new communities of valuable human capital. A former resettlement caseworker cites many examples of this phenomenon including medical doctors working as cashiers and professors working as wait staff.”).

267. A 2008 study prepared for ORR examined three sites—Houston, Miami, and Sacramento. They identified a lack of childcare as a barrier to attendance of ESL and found that promising ESL strategies included providing childcare during ESL classes and transportation or bringing the ESL classes to where refugees live. MARY FARRELL, BRET BARDEN & MIKE MUELLER, THE EVALUATION OF REFUGEE SOCIAL SERVICE (RSS) AND TARGETED ASSISTANCE FORMULA GRANT (TAG) PROGRAMS: SYNTHESIS OF FINDINGS FROM THREE SITES, at ES-10 (2008); *see also* GILBERT, HEIN & LOSBY, *supra* note 215.

268. FARRELL, BARDEN & MUELLER, *supra* note 267; *see also* GILBERT, HEIN & LOSBY, *supra* note 215, at 12 (identifying transportation difficulties as a barrier to attendance of ESL classes).

269. See NIGHTINGALE, *supra* note 215, at 17–18; *see also* FARRELL, BARDEN & MUELLER, *supra* note 267, at ES-12 (recommending evaluating approaches to ESL, including sequencing and providing ESL instruction in the work place and programs combining literacy and ESL); *see also* GILBERT, HEIN & LOSBY, *supra* note 215, at 12 (interviewees expressed “strong support” for opportunities to learn English in “employer subsidized, on-site settings.”).

270. See GILBERT, HEIN & LOSBY, *supra* note 215, at 12 (interviewees expressed ‘strong support’ for creating opportunities to “speak to native-born English speakers.”).

classes for a period *prior to* employment.²⁷¹ This period should be determined on a case-by-case basis—when an individual has achieved a certain, and not necessarily uniform, level of proficiency, he or she can then transition to work.²⁷² Finally, ORR must ensure that asylees have sufficient access to higher-level English classes and low cost or free classes must be offered to optimize asylee access to English class.

4. Revise the Refugee Act to Facilitate Re-credentialing and Provide Additional Funding for Re-credentialing

Interviews with stakeholders frequently interacting with asylees revealed that additional focus on re-credentialing is important in facilitating asylee integration. Although it is difficult to know how widespread this problem is, all of the interviewees recounted that their professional asylee clients struggled to find work in their fields. The frustration that resettled refugees feel in being forced to take entry-level and manual work when their education and skills suggest more professional work is well documented.²⁷³ One scholar suggests that everyone loses when a qualified refugee is placed in low-wage employment unsuitable for her qualifications and that “credential evaluation need not interfere with the government goal of self-sufficiency in the short term. Short-term jobs in areas unrelated to skill/educational background might be more tolerable if credentials are being evaluated simultaneously.”²⁷⁴

Studies specifically focused on the resettlement experiences of Iraqi refugees are also informative. As the International Rescue Committee’s 2009 report explains, “many Iraqis are highly educated professionals who were practicing doctors, lawyers, scientists, or accountants in Iraq.”²⁷⁵ Indeed, several

271. The regulation currently reads: “English language instruction funded under this part must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.” 45 C.F.R. § 400.156(c) (2015). This section could be stricken entirely or revised to create an option for sequential English language instruction.

272. One evaluation of ORR programs supporting employability recommended evaluation of ESL programs, including varying their length and methods in order to understand which programs are most effective. *See* NIGHTINGALE *supra* note 215. Another study found results in Sacramento where there was a focus was on refugees engaging in ESL *before* moving into the workplace. *See* FARRELL, BARDEN & MUELLER, *supra* note 267, at ES-6, ES-12 24 (finding the largest wage increases over time in Sacramento and higher overall incomes for refugees, probably due to higher average public assistance and earnings).

273. *See* COLUMBIA REFUGEE RESETTLEMENT REPORT, *supra* note 15, at 9, 17 (suggesting that agencies need to tailor services for incoming refugees to their individual backgrounds and skillsets, finding that the focus on quick employment results in placement in jobs “inappropriate for their skill set, and [asylees] often do not have access to the supportive services that could improve their long-term outcomes”); *see also* Dawood, *supra* note 15 (“Most jobs accepted by refugees are low-wage, low-skilled positions with minimal benefits and job security.”).

274. Ives, *supra* note 15, at 61; *see also* GILBERT, HEIN & LOSBY, *supra* note 215, at 13 (“Some refugees voiced frustration over having to take entry-level and manual work when they aspired to more professional work based on their education and positions they held in their countries of origin”).

275. IN DIRE STRAITS, *supra* note 17, at 1–2.

years ago the Office of Refugee Resettlement searched their databases and learned that more than 300 Iraqi medical doctors had arrived as refugees in the United States.²⁷⁶ Like some Iraqi refugees, asylees on the whole tend to be a more educated and skilled population than the general resettled refugee population. Georgetown University Law Center's Human Rights Institute, in collaboration with the student group Human Rights Action, produced a report, also in 2009 examining the Iraqi refugee resettlement experience. They shared examples of educated and skilled refugees being unable to successfully integrate.²⁷⁷

Scholars and researchers have urged the U.S. to expand career development programs for resettled refugees and focus on recertification to ensure that professional refugees can enter the workforce as professionals.²⁷⁸ Indeed, the inter-departmental U.S. government Integration Working Group recommended nearly a decade ago that ORR develop "an initiative to support professional recertification and credentialing for qualified individuals," recognizing that "newcomers are better integrated when they are able to reach their employment potential."²⁷⁹ A July 2012 Government Accountability Office Report concluded "the focus on rapid employment makes it difficult to provide services that may increase refugees' incomes, such as helping them obtain credentials to practice their professions in the United States."²⁸⁰

Our international legal obligations compel the U.S. to ensure that foreign credentials are taken seriously in the U.S. The UN Refugee Convention provides

276. E-mail from Roland Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement (Sept. 11, 2014) (on file with author).

277. REFUGEE CRISIS IN AMERICA, *supra* note 15, at 21, 24–25 (describing an Iraqi couple as "overqualified" for the few jobs available and explaining difficulties in re-certification for professionals).

278. Dawood, *supra* note 15 (recommending expanding career development programs to increase support for recertification); *see also* IN DIRE STRAITS, *supra* note 17 ("To best make use of the talents and skills [Iraqi professional refugees] possess, funds needs to be spent on recertification programs to ensure that refugees can enter the workforce as professionals."); *see also* DWYER, *supra* note 17, at 21 ("programs targeting people with potential to become highly-skilled members of society should be explored and funded through programs to upgrade skills. ."); REFUGEE CRISIS IN AMERICA, *supra* note 15, at 25 ("The USRAP's focus on immediate employment incentivizes caseworkers to push Iraqi refugees towards lower-paying and less sustainable jobs, irrespective of the refugee's professional and educational accomplishments. Moreover, the limited duration of public assistance makes pursuing recertification, vocational training, and higher education untenable without financial aid from the government."); COLUMBIA REFUGEE RESETTLEMENT REPORT, *supra* note 15, at iv, 17 (emphasizing that employment services should be tailored "to match the diverse needs of resettled populations such as recertification, job-specific employment training and extended language training and that "[s]uch services would improve refugees' chances of long term economic self-sufficiency by building upon their knowledge and skills. This will also promote integration and contribute to the host community in a valuable way.").

279. *See* BROWN, GILBERT & LOSBY, *supra* note 48, at 12–13.

280. GAO JULY 2012 REPORT, *supra* note 13 (quoting from the summary preceding page i of the report).

that refugees have the right to “wage earning employment.”²⁸¹ With respect to professionals, the Convention specifically addresses re-certification and recognition of refugee credentials:

Every Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and in any event, not less favourable than that accorded to aliens generally in the same circumstances.²⁸²

Currently, the U.S. is not providing “treatment as favourable as possible” to refugees with diplomas. In a report for its sixtieth anniversary, the United Nations High Commission for Refugees (UNHCR) urged the U.S. to take action on a number of items.²⁸³ With regards to integration, UNHCR recommended that the U.S. “[e]xplore options for facilitating the acquisition of equivalencies/diploma recognition for refugees and asylees.”²⁸⁴ UNHCR believes that the current U.S. system treats refugees as gap fillers for undocumented low-wage workers, rather than harnessing the wide range of skills and abilities available within this population, which would provide greater benefit to U.S. communities.²⁸⁵

The ORR regulations and the Refugee Act must be revised to recognize the realities of professional recertification. Section 1522(e)(2)(B) of the Act provides that “cash assistance shall not be made available to refugees who are full-time students in institutions of higher education.”²⁸⁶ The regulations also make clear that Refugee Medical Assistance is limited to refugees who are “not full-time students in institutions of higher education”²⁸⁷ The regulations similarly provide that “if the individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice his or her profession in the United States, the training may consist of full-time attendance in a college or professional training program.”²⁸⁸ This program may not, however, exceed one year and individuals must remain employed to continue to receive benefits, including Refugee Cash Assistance. Grants made available

281. See U.N. Convention Relating to the Status of Refugees, *supra* note 29, art. 17(3): (“The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals.”).

282. U.N. Convention Relating to the Status of Refugees, *supra* note 29, art. 19(1).

283. See U.N. HIGH COMM’R FOR REFUGEES, PROPOSED PLEDGES FOR THE UNITED STATES TO ENHANCE PROTECTION FOR REFUGEES, ASYLUM SEEKERS, STATELESS INDIVIDUALS AND ALL PERSONS OF CONCERN TO THE UNITED STATES HIGH COMMISSIONER FOR REFUGEES (Jan. 2011) (on file with author).

284. *Id.* at 9.

285. *Id.* at 9.

286. 8 U.S.C. § 1522(e)(2)(B) (2012); see also 45 C.F.R. § 400.53(a)(4) (2015) (excluding anyone who is a full time student in an institute of higher education from receiving ORR benefits).

287. 45 C.F.R. § 400.100(a)(5) (2015).

288. § 400.81(a)(11)(b).

through the regulations to agencies to administer recertification programs limit the assistance to short-term only: “Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.”²⁸⁹

This limit on assistance to one year while pursuing professional refresher training, recertification, or higher education is counter-productive in terms of ensuring long-term refugee success and integration. For a doctor or attorney to re-certify, for example, she cannot undertake the required process part-time in less than one year. Further, the regulations do not allow a full-time student to access benefits, which hampers meaningful attempts to convert degrees and other qualifications and allow an individual to pursue a professional career. Revising the regulations to ensure meaningful opportunities for advancement for asylees and refugees will better ensure long-term integration and use of valuable human capital.

One of the challenges to re-credentialing for asylees is the federal system. For example, each state may have different requirements for the conversion of a university degree. To remedy this problem, the federal government may need to take action to harmonize re-credentialing procedures across states. Germany, for example, which also has a federal system with the centralized government and the *Länder* (like states), enacted federal legislation to address the re-credentialing issue in 2012.²⁹⁰

The following steps should be taken to ensure timely, effective, and affordable re-certification for asylees:

Actor	Proposed Action	Purpose
Congress	Strike Section 412(e)(2)(B) of the Immigration and Nationality Act, which currently reads: “Cash assistance shall not be made available to refugees who are full-time students in	This will allow individuals pursuing full-time education to remain eligible for cash assistance.

289. § 400.313. The language for grants made under Refugee Social Services is exactly the same. See § 400.146.

290. See BENDEL, *supra* note 51, at 18 (discussing the Law to improve the Assessment and Recognition of Vocational Education and Training Qualifications Acquired Abroad, known as the “recognition law” and explaining there is still a great deal to be done in terms of harmonizing qualification standards across the *Länder*). For an informative and practical study on recognition of immigrant qualifications in various countries, see MADELEINE SUMPTION, MIGRATION POL’Y INST., TACKLING BRAIN WASTE: STRATEGIES TO IMPROVE THE RECOGNITION OF IMMIGRANTS’ FOREIGN QUALIFICATIONS (2013), <http://www.migrationpolicy.org/research/tackling-brain-waste-strategies-improve-recognition-immigrants-foreign-qualifications>.

	institutions of higher education (as defined by the Director after consultation with the Secretary of Education)”	
Congress	Take legislative action to harmonize re-credentialing procedures across states and provide a baseline for recognition of education and skills acquired abroad.	Harmonizing re-credentialing procedures across states for key professions will allow asylees to better transfer their education and skills obtained abroad.
Congress	Create “a credible national body . . . [to] evaluate refugee credentials upon arrival.” ²⁹¹	This body will create a transparent process, harmonized and consistent across the nation, that is easy to navigate for refugee and asylees.
Office of Refugee Resettlement	Strike 45 C.F.R. § 400.53(a)(4) which limits Refugee Cash Assistance to those who are “[a]re not full-time students in institutions of higher education”	This will enable asylees to pursue full-time education while also receiving financial assistance.
Office of Refugee Resettlement	Award grants to organizations like Upwardly Global ²⁹²	This funding will support organizations assisting with asylee professional re-certification.
Office of Refugee Resettlement	Revise 45 C.F.R. § 400.81(b), by striking the language indicated: “If an individual is a professional in need of professional refresher training and other recertification	This ensures that re-certification for professionals can happen as quickly as possible in the United States by permitting individuals to focus solely on re-credentialing, rather

291. See Ives, *supra* note 15, at 60.

292. The non-profit organization Upwardly Global, with offices in San Francisco, Chicago, and New York, aims to: “eliminate employment barriers for skilled immigrants and refugees and integrate this population into the professional U.S. workforce.” *About Us*, UPWARDLY GLOBAL, <http://www.upwardlyglobal.org/about-upglo> (last visited April 14, 2014). The story of their founding is powerful: “As an Assistant Director in the refugee resettlement field, Jane Leu toured a New York poultry production plant that was considered a model employer for refugees. The owner introduced Jane to two of his best employees: a former engineer from Iraq and a surgeon from Bosnia. Disheartened by this waste of human potential, Jane launched Upwardly Global in 1999 from her kitchen table and began equipping skilled immigrants and refugees with the tools they needed to rebuild their professional careers and contribute their talents to U.S. employers.” *Id.*

	services in order to qualify to practice his or her profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training . . . does not exceed one year's duration (including any time enrolled in such program in the United States prior to the refugee's application for assistance) ; is specifically intended to assist the professional in becoming relicensed in his or her profession; and, if completed, can realistically be expected to result in such relicensing. This training may only be made available to individuals who are employed. "	than remaining employed, and allowing for re-certification programs that take more than one year.
Office of Refugee Resettlement	Continue existing efforts to work with state and professional bodies to understand requirements for professional certifications and to work to increase flexibility for asylees where possible. ²⁹³	This will remove financial and other barriers to asylee re-credentialing.
USCIS – Asylum Offices & NGO Community	Asylee Benefits Orientation sessions, offered at Asylum Offices and detailed below in Section b(ii), should highlight local opportunities for re-credentialing.	This ensures that asylees are aware of opportunities for re-credentialing.

5. Extend the Reception and Placement Grant to Asylees

Resettled refugees receive the Reception and Placement grant from the State Department's Bureau of Population, Refugees, and Migration through a

293. These efforts are underway. Interview with Ronald Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement, in D.C. (Nov. 19, 2013).

resettlement agency.²⁹⁴ As discussed above, this means that a case manager meets resettled refugees and special immigrant visa holders²⁹⁵ at the airport. From day one, that case manager orients the refugees and enrolls them in the benefits for which they are eligible.²⁹⁶ Case managers interviewed for this study noted that although their organizations desire to provide the same level of services for asylees as refugees, in reality this is a struggle because they do not receive any administrative funding to cover work for asylees. For refugees, the agencies receive \$925 through the R&P grant for administration and case management related to those clients. In order to hire and maintain sufficient staff and funding to serve asylees, the organizations are pressed to take on additional resettled refugees to access R&P funding. Resettlement agencies try to fill gaps with unpaid volunteers and interns, but this is often inadequate.

Several case managers interviewed in the D.C. area suggested extending the R&P grants to asylees. They emphasized that just because asylees are in the U.S. for longer before they gain status does not mean they are integrating well financially or otherwise. Interviewees highlighted that accumulated debt from the asylee's journey to the U.S., from the asylum-seeking period, and the cost of bringing family members from overseas means that asylees often begin their lives with refugee status in debt or financial distress.²⁹⁷ The Office of Refugee Resettlement and the State Department's Bureau of Population, Migration, and Refugees, along with civil society, should advocate before Congress for appropriations to extend the R&P Grant to asylees, and Congress should grant this request.

Our international legal obligations arguably require us to extend the R&P Grant to asylees. The Refugee Convention's focus is on requiring States to

294. As a reminder, the R&P grant comes from the Bureau of Population Refugees and Migration and for each resettled refugee the resettlement agency receives a total of \$1,925, which is: \$800 for the agency, \$925 for the individual, and \$200 in flex spending that may or may not be used for that individual refugee. See *supra* notes 55–56.

295. Special immigrant visas are available to the following groups: (1) Persons who worked with the U.S. Armed Forces or under Chief of Mission authority as an interpreter or translator in Afghanistan or Iraq (50 visas annually), (2) Iraqi Nationals under the National Defense Authorization Act of 2008 (up to 2,500 visas total), or (3) Afghan nationals under the Afghan Allies Protection Act of 2009 (up to 4,000 total visas). Bureau of Consular Affairs, *Special Immigrant Visas (SIVs) for Iraqi and Afghan Translators/Interpreters*, U.S. DEP'T STATE, <http://travel.state.gov/content/visas/en/immigrate/iraqi-afghan-translator.html> (last visited Aug. 20, 2014). Both of the last two programs are coming to an end or have ended. *Id.*

296. Programs also exist for Cuban/Haitian entrants, another ORR eligible population, through the Department of Homeland Security Cuban Haitian Entrant Program, run through two resettlement agency grantees in Miami. See *Cuban Haitian Entrant Program (CHEP)*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/humanitarian/humanitarian-parole/cuban-haitian-entrant-program-chep> (last updated Nov. 12, 2015). A similar program operates through the California Department of Social Services. See *Who We Serve*, CAL. DEP'T SOC. SERVS., <http://www.cdss.ca.gov/refugeeprogram/PG1265.htm> (last visited Mar. 24, 2014).

297. Others suggested that support should be provided before the asylum grant because ignoring asylees until the grant creates and prolongs some of the integration issues. See *supra* Research Findings Part IV.D; see also *AT LEAST LET THEM WORK*, *supra* note 59.

“accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.”²⁹⁸ Surely, then, contracting States like the U.S. should be required to treat all refugees equally and accord asylees the same public relief and assistance as other refugees.²⁹⁹

There is precedent for expanding the R&P grant. For example, in May 2014, the Bureau of Population, Refugees, and Migration decreed that R&P benefits are now available for Special Immigrant Visa Holders, the Iraqi and Afghani individuals resettled in the U.S. through the Special Immigrant Visa program as well as those admitted as refugees.³⁰⁰ Asylees, like resettled refugees and SIV holders, need assistance in starting their lives in the U.S. The R&P grant will help them to do so and will also enable resettlement agencies to provide case management to asylees as suggested above.

*6. Start Asylee Benefits on the Day that They Actually Access Benefits,
rather than the Asylum Grant Date; Provide Clear Documentation to
Facilitate Accessing Benefits and Integration*

Given the delays asylees experience in actually enrolling in benefits, discussed under Research Findings Part IV.D, if the period continues to be limited to eight months or another defined time period, that period should begin the day an asylee *actually begins receiving benefits*, rather than on the day of the asylum grant. This will assist in easier and faster integration and better achieve the Refugee Act’s goal of economic self-sufficiency as quickly as possible. To this end, ORR should issue a State Letter just as it did when it changed the start date of eligibility for asylees from the date of entry to the date of the asylum

298. U.N. Convention Relating to the Status of Refugees, *supra* note 29, art. 23.

299. One potential argument against harmonizing the benefits that resettled refugees and asylees receive is that the adjudication of asylee status is costly, involving two separate government agencies. *See supra* note 14 (discussing affirmative asylum applications adjudicated by the Department of Homeland Security’s United States Citizenship and Immigration Bureau and defensive asylum applications adjudicated by the Executive Office for Immigration Review within the Department of Justice). Similar costs, however, exist for resettled refugees. Although resettled refugees are recognized as such on arrival, the U.S. sends officers overseas to adjudicate these claims in conjunction with UNHCR, to which the U.S. makes substantial supporting donations. The U.S. has consistently been the largest donor to the UNHCR. When the U.S. donated approximately \$791 million in 2012, Japan, the second largest donor, contributed approximately \$185 million. U.N. HIGH COMM’R FOR REFUGEES, DONOR PROFILES (2013), <http://www.unhcr.org/51b1d62b0.html> (reporting on donor profiles from 2012). In 2013, the U.S. donated approximately \$1.04 billion, while Japan, the second largest donor, contributed approximately \$253 million. U.N. HIGH COMM’R FOR REFUGEES, DONOR PROFILES (2014), <http://www.unhcr.org/539809e80.html> (reporting on donor profiles from 2013). Adjudication of refugee status overseas, then, is not costless. Moreover, concerns about the costs of asylum adjudication provide support for proposals to make our immigration system more efficient, such as by increasing representation in immigration courts to decrease adjudication time and expenses.

300. *See* Bureau of Consular Affairs, *Special Immigrant Visa for Afghans – Who Were Employed by/on Behalf of the U.S. Government*, U.S. DEP’T STATE, <http://travel.state.gov/content/visas/en/immigrate/afghans-work-for-us.html> (last visited Jan. 3, 2016).

grant.³⁰¹ This letter should explain that asylee benefits begin on the day that benefits are first accessed, rather than the date of the asylum grant.

One potential argument against this change in eligibility date is that an asylee could wait for years to access benefits, and thus may not need those benefits by the time he or she applies for them. This is only an issue, however, if benefits are automatic, as Refugee Cash Assistance and Refugee Medical Assistance currently are, awarded to resettled refugees and asylees regardless of income level. As I propose above, under Part V.A.1, benefits should be awarded on an as needed basis, for as many months as needed up to thirty-six months. Under this system, only asylees who require help will access benefits, regardless of whether they access the benefits immediately after the grant or sometime later because of a lack of awareness or a delay in processing the required paperwork.

Further, asylees will be better able to quickly access benefits with clear documentation. To this end, the following three steps should be taken. First, the Executive Office of Immigration Review should work with the United States Citizenship and Immigration Services to ensure that individuals granted asylum in immigration court are automatically sent an employment authorization document. Currently, individuals granted asylum by an asylum office are automatically issued a two-year Employment Authorization Document (EAD), while court grantees must apply on their own accord and are often issued an EAD valid for only one year. The system should be harmonized such that those granted in court receive the same treatment as those granted through the affirmative asylum system. Second, to further harmonize treatment of court and affirmative grantees, EOIR should automatically issue an I-94 card as soon as possible after the grant of asylum.³⁰² Third, the Immigration Judge order granting asylum, currently vague and difficult to decipher, must be amended, or supplemental documentation provided, to make it clear that an individual has been awarded asylum.³⁰³

*7. Waive the Application Fee for Lawful Permanent Residence for Asylees
Just as the Fee is Waived for Resettled Refugees*

Interviews revealed that asylees who do not apply for permanent residence status, as they are allowed to do after one year, often fail to do so because of a lack of finances. Resettled refugees are exempt from the requirement to pay the

301. See *supra* note 19.

302. For cases where the government waives appeal when the asylum grant is announced, this would be immediately. For cases where the government does not appeal after thirty days, the I-94 could be issued at the thirty-day mark.

303. See *infra* Appendix F, a redacted order granting asylum in immigration court and an affirmative asylum grant letter. The immigration court order is vague and difficult to decipher, especially when compared with an affirmative asylum grant letter.

lawful permanent residence application fee;³⁰⁴ USCIS should level the playing field and create an exemption for asylees.

This recommendation is aligned with our international legal obligations. Regarding naturalization, the process of becoming a citizen, the Refugee Convention commits States to “as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to *reduce as far as possible the charges and costs of such proceedings*.”³⁰⁵ Although interviews in this study did not focus on naturalization and whether the fee is a barrier to asylees’ naturalizing, applying for permanent residence is required prior to applying for naturalization, so this initial hurdle should be lifted for asylees, just as it is for resettled refugees.³⁰⁶

8. Appropriate Funds to ORR to Provide Housing Assistance for Asylees

Interviews conducted for this study revealed concerns in both geographic locations regarding the availability of affordable, stable housing for asylees.³⁰⁷ As with case management, small non-profit organizations have sometimes stepped in to fill the gaps, providing housing on a temporary basis for an extremely limited number of individuals, but with positive results.

Given the pervasive problems that unstable housing poses for employment, mental health, and long-term integration generally, Congress should appropriate

304. It is actually unclear where the authority for this fee exemption for refugees comes from. Older versions of 8 C.F.R. § 209(b) included language that said “without fee.” 8 C.F.R. § 209(b) (amended 2011). This language no longer appears in the revised regulations, effective in November 2011, but as a matter of practice, they are still exempt from the fee. *Id.* The language is certainly not included in the Refugee Act, so extending the exemption to asylees would require agency, rather than legislative, action.

305. U.N. Convention Relating to the Status of Refugees, *supra* note 29, art. 34 (emphasis added). Naturalization seems to assist with better integration, including more positive employment outcomes. See THOMAS LIEBIG, NATURALISATION: A PASSPORT FOR THE BETTER INTEGRATION OF IMMIGRANTS? 17–18 (2011); see also Bollinger & Hagstrom, *supra* note 67, at 665–92 (finding that naturalized refugees use food stamps less than un-naturalized refugees).

306. Further, efforts should also be made to ensure that if an asylee has had a medical examination following a grant of asylum, the results of that medical examination can be used instead of an examination by a governmentally designated doctor, so that the asylee can avoid paying for a second medical examination in less than a year. This would further level the playing field because resettled refugees are not required to undergo a medical examination because they receive a free medical examination overseas, prior to arrival in the U.S. This expense can be particularly burdensome for asylees who, unlike resettled refugees, do not usually have a relationship with a voluntary agency and thus may also be paying an attorney to help file their application.

307. Both geographic locations have expensive housing markets so arguably this problem could be isolated to those markets and other similarly challenging locations. That said, many asylees have no income while they are seeking asylum and struggle to find employment that allows them to pay rent post-grant, so housing may be an issue in other geographic locations. See *supra* Part IV.H. Also, as discussed above, asylees are generally eligible, as “qualified aliens” for federally subsidized housing assistance, but the waiting lists for available units is so long that this eligibility is meaningless.

funds to ORR to replicate programs like AWE,³⁰⁸ discussed above at Part V.A, in communities where asylees live throughout the nation. While Congress could also consider making asylum seekers and/or asylees eligible for existing public housing programs, placement in such facilities would likely not facilitate integration as easily as housing provided through a non-profit organization with a case management focus, addressing their needs in a holistic manner. Asylees are also unlikely to make it to the top of public housing waitlists.

9. Improve Mental Health Resources, including Access to Ongoing Treatment During and After the Asylum Seeking Period

Mental health is critically important to employment and long-term integration.³⁰⁹ The refugee resettlement literature recognizes the importance of mental health in securing long-term successful integration.³¹⁰ Indeed, physical and mental health services are one of ORR's six guiding principles. With regards to health and mental health, ORR states:

Refugee health and mental health play an integral role in the resettlement process. It is critical for refugees to receive expanded health screenings overseas so that we have better information on the types and level of care they will need upon arrival in the United States, and ensure that refugees are aware of and have access to the benefits of the new health care reform laws.³¹¹

While this is a step in the right direction, it does not go far enough. The language ORR uses considers only resettled refugees and refers to health screenings overseas, which asylees, by virtue of their independent arrival in the U.S., do not receive. Given that asylees represent a substantial portion of ORR's eligible population and have particular (unmet) mental health needs, ORR needs to expand their language and programs to apply equally to asylees and refugees.

Individuals interviewed for this study reported that existing mental health resources for asylum seekers and asylees are generally effective. The problem, however, is that there are simply not enough of these services available to meet asylee need.³¹² It is critical, then, that Congress appropriate sufficient funding to

308. Baltimore is also home to the Asylum Seeker's Housing Network, which provides housing to approximately sixteen individuals seeking asylum at any one time. *See About Us*, ASYLUM SEEKERS HOUSING NETWORK, <http://www.ashnetwork.org> (last visited Mar. 19, 2016).

309. Meeting basic needs, including housing, employment, and transportation, will do "little good if a refugee's untreated mental health condition keeps her from making the most of the opportunities provided by resettlement." REFUGEE CRISIS IN AMERICA, *supra* note 15, at 33.

310. *See* GILBERT, HEIN & LOSBY, *supra* note 214, at 14 (explaining the importance of health and mental health in the resettlement process); *see also* IN DIRE STRAITS, *supra* note 17, at 10 (explaining that those with "high degrees of trauma" need "greater support for an extended period of time.").

311. *See* Off. of the Assistant Sec'y for Planning & Evaluation, *supra* note 254.

312. *See supra* Part IV.J.

ORR to permit support for organizations throughout the nation to provide the culturally appropriate mental health care asylees need, for as long as necessary. In 2009, the Center for Torture Victims estimated that it would need an additional \$14 million dollars above President's budget to meet the severe mental health requirements of Iraqi refugees alone.³¹³ Significant funding increases in this area are likely required in order to adequately meet the needs of the asylee and refugee population. This funding should permit service provision to *all* asylees and not be restricted to survivors of state-sponsored torture. One local organization in the D.C. metropolitan area, providing mental health services to survivors of torture, estimated that they would need an additional \$600,000 a year to serve all the individuals seeking services.³¹⁴ A study should be commissioned to assess the need for mental health services for asylum seekers³¹⁵ and asylee survivors of torture and trauma nationally. The results of this study should inform appropriations for funding to existing service providers and funding to train providers at existing hospitals and other facilities to serve asylees.

10. Improve the System for Asylee Family Petitions and Create a Loan Program to Facilitate Family Reunification

In response to the challenges identified with family reunification for asylees, USCIS should improve that system, increasing transparency and accountability and eliminating delays wherever possible. As discussed above under Research Findings, Part IV.J, USCIS and the Department of State share responsibility for the administration of asylee family reunification. Accordingly, these two agencies should take the following three steps:

1. Establish clear channels of communication—each embassy processing follow-to-join asylee family petitions should have a designated individual whose contact information is publically available to all petitioners and beneficiaries.

313. REFUGEE CRISIS IN AMERICA, *supra* note 15, at 32 n.185.

314. In the past, Advocates for Survivors of Torture and Trauma had a budget of around \$900,000 to serve about 320 torture survivors, and had a waiting list of around 5–6 months and only had staff sufficient to see that number of clients. They estimate that they would need a budget of around \$1.5 million to see all the torture survivors seeking mental health services in the area. E-mail from Karen Hanscom, Exec. Dir., Advocates for Survivors of Torture & Trauma (Aug. 25, 2014) (on file with author). Unfortunately, as of May 2015, ASTT was closed due to a lack of funding to continue services.

315. These services should likewise be available for asylum seekers and asylees. As explained by interviewees under Research Findings, a period with a lack of provision of mental health services exacerbates symptoms and requires significant recovery once an individual is granted asylum and eligible for mental health care.

2. Endeavor to provide visa interviews in the country of origin rather than requiring travel,³¹⁶ particularly of children, to other countries in the region for interview. Where an interview outside the beneficiary's country of residence is required, an expedited decision should be made on a clear timeline, to avoid unnecessary, expensive, and potentially dangerous travel back and forth between countries.

3. Expand the pilot program launched in China in 2014 to have USCIS approve and process petitions from start to finish to avoid the problem of a complex petition being approved here in the U.S. (based on an adoption, for example) and then delayed or rejected overseas at the time of interview based on information that was readily available at the time the petition was filed.³¹⁷

As explained under Research Findings Part IV.J, mental health professionals interviewed universally agreed that prolonged separation from family members has profound psychological effects on asylees, impeding successful integration.³¹⁸ The Office of Refugee Resettlement, in conjunction with the Department of State's Bureau of Population, Refugees, and Migration, should explore the creation a loan program accessible by all asylees to facilitate family reunification, or the U.S. government should negotiate with the International Organization for Migration to facilitate a similar travel loan program for asylees as exists for resettled refugees. This would enable asylees to be reunited with their families more expeditiously, enabling them to take out an interest-free loan to be repaid over time to pay for the cost of their spouse and/or children to travel to the U.S., obtain a passport if necessary, and undergo the required medical examinations overseas. ORR may also consider funding local organizations, like ERICA, discussed above in Part V.A.2, to administer travel loans to asylees for family reunification.

B. Increase Asylee Awareness of and Access to Benefits

As discussed under findings above, in Part IV.D, asylees are accustomed to living in the shadows while their cases are adjudicated and many are unaware that their asylum status changes anything or may be fearful of accessing

316. According to the State Department, "[b]eneficiaries of I-730 petitions may be processed within their country of origin or in other locations." See PROPOSED REFUGEE ADMISSIONS 2015, *supra* note 12, at 14. The Foreign Affairs Manual, which gives consular officers overseas guidelines for processing these petitions, does not explain the authority for requiring beneficiaries to travel to posts outside of their region. See U.S. Dep't of State, Consular Processing of V-93 Beneficiaries, 9 FOREIGN AFF. MANUAL (2009), <https://fam.state.gov/FAM/09FAM/09FAM020306.html>.

317. See *I-730*, *supra* note 179 (explaining that, starting in China, interviews will be conducted abroad and biometrics collected before a petition will be approved by a USCIS field office) (last visited Aug. 23, 2014).

318. See *supra* Part IV.J.

assistance from authorities. Others try, in vain, to access benefits but often lacking English skills or familiarity with U.S. bureaucracy and administration, they find the complex system overwhelming.

When ORR first amended the date of eligibility for asylees from the date of entry into the U.S. to the date of the asylum grant, the agency recognized the difficulties asylees may face in accessing benefits. An August 2000 State Letter stated:

Asylees, unlike refugees, will need to learn about available programs and services and to locate the appropriate benefits offices without the aid of resettlement agencies. This can be a daunting task for individuals who have recently arrived in the United States, may not have English language skills and may not have family or other support networks.³¹⁹

The ORR regulations require that states and local resettlement agencies “establish procedures to ensure that eligible secondary migrant refugees, asylees, and Cuban/Haitian entrants have access to public/private [Refugee Cash Assistance] assistance if they wish to apply.”³²⁰ States and resettlement agencies, however, should not have to solely bear the burden of increasing general awareness of access to benefits for asylees. Certainly, those administering the benefits should not put up barriers to asylee access, but USCIS and EOIR, the agencies responsible for granting asylum, must work together with ORR to ensure that information about asylee benefits is made widely available to asylees and service providers.

One potential argument against increasing awareness of asylee benefits is that increased awareness of the benefits of asylum could increase fraudulent asylum applications.³²¹ Our adjudicative system, however, has various measures in place to detect and root out fraud.³²² Further, none of the changes I propose are to increase general awareness of asylee benefits, but are focused on increasing awareness among the population of individuals already granted asylum or those designated to assist them in the process.

319. LIMON, *supra* note 61.

320. 45 C.F.R. § 400.62 (2015).

321. For a clear history of the concerns about abuse leading to reforms in the 1990s, see David A. Martin, *Making Asylum Policy: The 1994 Reforms*, 70 WASH. L. REV. 725, 733–37 (1995) (discussing the abuse of the system caused by individuals filing asylum applications for the purpose of obtaining the then automatically issued employment authorization document).

322. See, e.g., Laila L. Hlass, Op-Ed, *Congress Cries Wolf on Asylum Fraud*, BOS. GLOBE (Mar. 8, 2014), <http://www.bostonglobe.com/opinion/2014/03/07/congress-cries-wolf-asylum-fraud/LpwsimgjQU2Ps8mQyIOCeJ/story.html> (explaining that the safeguards in place include: “mandatory biographical and security checks, a fraud detection unit, mandatory supervisory review of all asylum decisions, government-funded monitoring of translators, and extensive asylum officer training. Asylum-seekers must provide extensive corroboration that they face significant danger if they return to their home country, and any inconsistencies or even just the discretion of the adjudicator can be grounds enough to deny asylum under current law.”).

1. Increase Access Through Awareness, Development and Distribution of Informational Materials, and Attorney Training.

Interviews revealed that attorneys are largely unaware of the benefits for which asylees are eligible. The lack of awareness of benefits among attorneys handling high volumes of asylum cases is troubling. Although attorneys may not be ethically or legally obligated to inform their clients of the available benefits, practically, attorneys are often the primary contact outside the immigrant population for asylees. If an attorney is aware of the benefits package available for their asylee clients, their clients are more likely to gain awareness of and hopefully access to the benefits to which they are entitled. Interviews with attorneys also revealed that attorneys representing asylum seekers are often overburdened and have little time to spend with an asylee post-grant. They focus on the legal rights and obligations attendant with asylee status and lack the time to explain asylee benefits, even if they are aware of what those benefits entail and how they are accessed. Government agencies should take the seven steps outlined below to proactively increase attorney and thus asylee awareness of benefits eligibility, and to make this as simple as possible for busy attorneys who lack the time to master the details of the benefits system.

Given the Office of Refugee Resettlement's expertise and responsibility for refugee benefits, ORR should take the lead in providing comprehensive and understandable materials on asylees benefits for attorneys, asylees, and others assisting asylees. ORR should take the following seven steps to increase awareness of asylee benefits and to facilitate access to those benefits:

1. Re-establish and re-fund the asylee Hotline and work with USCIS and EOIR to include the phone number in all grant materials.
2. Provide periodic trainings on asylee benefits, via teleconference and webinar (which may be more economically feasible than in person trainings), to attorneys nationwide.
3. Create and distribute a one to two page document for attorneys explaining the asylee benefits and information needed to access the benefits in their geographic region.
4. Collaborate with the American Immigration Lawyers Association³²³ to provide information to attorneys handling asylum cases.

323. *See generally About*, AM. IMMIGR. LAWYERS ASSOC., www.aila.org ("The American Immigration Lawyers Association (AILA) is the national association of more than 14,000 attorneys and law professors who practice and teach immigration law. Founded in 1946, AILA is a nonpartisan, not-for-profit organization that provides continuing legal education, information, professional services, and expertise through its 39 chapters and over 50 national committees."). In June 2015, the author spoke on a panel at the AILA National Conference in D.C. to educate attendees about post-grant issues facing asylees, including access to and eligibility for benefits and services.

5. Collaborate with resettlement agency grantees to provide informational handouts for each state, and ideally each county, on benefits available to asylees within that locale. These handouts should be made available when asylum is granted at the asylum office *and* in court. They should also be available online at the ORR website and searchable by county or zip code. These handouts should be available in multiple relevant languages.
6. Appoint a staff person(s) in ORR responsible for handling asylee issues related to benefits specifically, liaising with voluntary agencies and state refugee coordinators to ensure asylee access and awareness of benefits and services available.
7. Maintain the ORR website with accurate and up to date information on where asylees can access benefits.³²⁴

2. USCIS and EOIR Should Actively Partner with NGOs to Implement Asylee Benefits Orientation Sessions at Asylum Offices and Immigration Courts Nationwide

The Asylum Office Benefits Orientation sessions (ABOs), discussed under Research Findings, Part IV.K, above, should be replicated and available throughout the nation. The remaining four asylum offices should quickly implement these sessions, but the Executive Office for Immigration Review should follow USCIS' lead and offer ABOs at immigration courts throughout the United States. Because asylum offices are only physically located in eight locations nationwide, offering sessions at these offices will only reach applicants living in the vicinity or able to travel the distance to their nearest asylum office. Providing this information at the fifty-eight immigration courts nationwide to individuals granted through the asylum office and the courts would greatly increase asylee awareness of benefits. Further work should be done to explore the potential cost-savings and efficacy of using technology to offer the sessions through online channels.

Regardless of where exactly the sessions are implemented, care should be taken to ensure that the sessions are structured in an effective manner. The following are important considerations to keep in mind.

First, the ABOs need to be held frequently—so frequently that an individual asylee does not miss the chance to apply for benefits for which she is eligible.³²⁵

324. Several interviewees expressed frustration with how difficult the website was to navigate and also that the information provided was not current. One resettlement agency staff member explained that it took months for the agency to update the website with the resettlement agency's new physical street address.

325. Mamadou Sy, Program Director for Refugee and Immigrant Services with Lutheran Social Services of the National Capitol Area, shared that ideally the sessions would be held every week. However, Sy shared that his organization understandably lacks the capacity to participate on weekly basis in the trainings. In the absence of weekly trainings, he suggested that the asylum

An asylee first must obtain an unrestricted social security card (or at least a receipt for their application from their local social security administration), and then approach a resettlement agency or the local county department of social services who processes their benefits. For one program at least, Matching Grant, asylees must enroll within thirty-one days of the asylum grant date. For every day that an asylee does not enroll in benefits, she loses the benefits for that day. As discussed above, the clock currently starts for the eight months of eligibility on the day of the asylum grant, rather than when the individual asylee successfully accesses his or her benefits.

For court grantees,³²⁶ access to benefits is further delayed because the immigration judge's order granting asylum is not final until thirty days pass, unless the Department of Homeland Security waives appeal. Once the grant becomes final, an asylee must make an InfoPass appointment with USCIS at least a few days after the grant (and subject to appointment availability) to obtain her new I-94 card, stamped to reflect that asylum has been granted indefinitely. It is easy to understand, then, how even where an individual has access to information about benefits, it can often take weeks or months to successfully enroll in asylee benefits. Offering ABOs once every few months, or even once every four weeks, is insufficient.

Second, asylum offices throughout the country should follow the San Francisco asylum office's approach to the ABOs as a model. In terms of the burden on the agency, the officer responsible for the program at the SF asylum office revealed that once up and running, the program requires little of the asylum office staff's time other than setting up the schedule, making copies of materials to be distributed, and securing a space for the presentation.³²⁷ It is the non-governmental organization partners who are responsible for presenting the relevant content and thus bear the brunt of the work. The asylum office staff does not even necessarily remain in the room for the presentation, but are on call in case any asylum law or procedure questions arise.³²⁸

Third, asylum offices currently offering the program and those designing their programs should explore ways to extend the ABOs to their circuit ride locations. San Francisco asylum officers, for example, "ride circuit" when they travel to various locations, including Portland, Seattle, and Alaska to conduct asylum interviews.

approval letter include information on the relevant resettlement agencies in the area or that the eligibility for benefits be changed, particularly the limited time period in which to enroll in the Matching Grant program (thirty-one days). He further suggested that information regarding asylee benefits be made available on ORR or USCIS' website. Telephone Interview with Mamadou Sy, Program Dir., Refugee and Immigrant Servs. (Feb. 3, 2014).

326. The two paths to asylum, affirmative and defensive, are outlined *supra* note 14.

327. Telephone Interview with Vincent Ferri, Supervising Asylum Officer, S.F. Asylum Off. (Mar. 11, 2014) (explaining that the work is frontloaded, but once the program is underway, the remaining work is "such a small investment," that it is worth it.).

328. *Id.*

Fourth, the asylum offices currently offering ABOs and those creating their ABOs should find ways to make the session linguistically accessible to each attendee. The current requirement that each asylee bring his or her own interpreter is an impediment to attendance. The asylum office can explore creative solutions with NGO partners to bring in volunteer or professional interpreters or arrange telephonic interpretation at the sessions.

Fifth, asylum offices and ORR should work to create electronically accessible ABOs. A self-guided presentation accessible on a computer, or even a phone, would enable widespread dissemination of information to many asylees.

In April 2014, ORR assisted in efforts led by advocates to encourage state refugee coordinators and their partner agencies to approach asylum offices throughout the country to institute these programs.³²⁹ These efforts should continue. Indeed, the resettlement agencies themselves who participate in the programs have expressed satisfaction with the program and have seen an increase in the number of asylees seeking assistance after holding an ABO.³³⁰ Further, the asylum grant letter, which should be written in a language in which the asylee is fluent, should be accompanied by an invitation to the ABO in the same language, along with a supplemental handout sharing basic contact information for accessing benefits locally in the event that the asylee is unable to attend the ABO itself.³³¹

ORR, USCIS, and EOIR must work together to publicize information about existing benefits sessions. Communication between the agencies on a local and national level needs to be more robust. Each immigration court and Office of Chief Counsel should have current information regarding when ABOs are held and that information should be communicated clearly to each asylum grantee.³³² Of course it is difficult to create consistency among the practices of immigration

329. E-mail from Ronald Munia, Dir. of Refugee Servs. Div., Off. of Refugee Resettlement (Sept. 11, 2014) (on file with author). Munia reached out to State Refugee Coordinators in Texas, Illinois, New Jersey, and Florida in April 2014 at the request of the author at the AILA National Asylum and Refugee Committee. *Id.*

330. Telephone Interview with Mamadou Sy, Program Dir., Refugee and Immigrant Servs. (Feb. 3, 2014).

331. Handout to Asylees from Newcomers Health Program, S.F. Dep't of Pub. Health (on file with author). This letter includes the contact information for the local resettlement agencies and department of social services, as well as six easy steps in response to the header "What to do after you are granted asylum." *Id.*

332. The author previously taught in a law school asylum clinic. In January 2014, my students successfully represented an asylum seeker in court. After the grant, the friendly Office of Chief Counsel trial attorney informed my students and the client that he could attend a benefits orientation session at our local asylum office. She did not know when the sessions were and had no information to give our client. Of course because this topic was of special interest to me, I was able to follow up with the Asylum Office—who informed me that they were no longer offering these benefits sessions because the information contained in the grant letter was sufficient. The Arlington asylum office has, thankfully, since re-instituted the benefits sessions, but this incident clearly reflects that the lines of communication between the court, trial attorneys, and Asylum Office need to be open and effective.

courts and judges (as recognized by the *Refugee Roulette* study)³³³ but simply providing an up to date hand out and current information is a minimal burden on immigration judges and trial attorneys alike.

C. Improve Data Gathering on Asylee Integration

Given the lack of attention paid to asylees as a specific population and their growing numbers as evidenced by rising numbers of asylum grants and credible fear interviews, now is the time to strategically consider how best to gather data on this population and their long-term integration. Information gathering must be improved to enable more robust analysis and an understanding of how asylees are faring under the current benefits system. Data Informed Decision-Making is a priority for ORR. It is included as one of the six guiding principles announced in 2010.³³⁴ The agency specifically says that it “plans to increase the use of technology to develop data-informed programs and to improve knowledge and communication amongst all stakeholders. ORR intends to develop a data system that can track initial placements, secondary migration, resettlement services rendered, and performance indicators; automate some case management functions; and interface with ORR’s many data sources.”³³⁵

1. Government Agencies Should Track Asylees to Provide a Better Assessment of Economic and Other Integration Factors

Some studies have found it important to differentiate refugees from other immigrants,³³⁶ but a more nuanced analysis and breakdown of various immigration statuses is essential to understand how various groups fare over the long-term. An asylum seeker, for example, has faced delays in receiving legal status after arrival in the U.S. that a refugee has not.³³⁷ An asylum seeker is unable to work upon arrival in the U.S. and receives no immediate cash assistance, medical insurance, or case management. Given the extreme backlogs

333. See generally, REFUGEE ROULETTE, *supra* note 26 (exposing the widespread inconsistent adjudication of asylum claims both within and between the immigration courts and asylum offices).

334. See Off. of the Assistant Sec’y for Planning and Evaluation, *supra* note 254.

335. *Id.*

336. See e.g., Kalena E. Cortes, *Are Refugees Different from Economic Immigrants: Some Empirical Evidence on the Heterogeneity of Immigrant Groups in the United States*, 86 REV. ECON. & STAT. 465 (2004) (“Given the distinct characteristics of refugee and economic immigrants, a natural question is to ask whether these differences have any economic implications.”). This study found that refugees (people fleeing persecution) fare better than the economic immigrant population (individuals searching for better jobs and opportunities) in the long run, although they start off worse—i.e. lower earnings and high use of public benefits. *Id.*

337. Of course, refugees have often faced serious delays overseas, with many of the refugees resettled in the U.S. only arriving here after being “warehoused” in refugee camps or settlements for years or sometimes even decades. U.S. COMM. FOR REFUGEES & IMMIGRANTS, WORLD REFUGEE SURVEY: 2009, at 26 (2009).

at the asylum office and at the immigration courts,³³⁸ asylum seekers face prolonged delays and the anxiety of not knowing if they will be returned to their country of origin.³³⁹ Delayed adjudication of their claims means that asylum seekers can accumulate debt while simultaneously trying to pay to bring their qualifying family members to the U.S. These significant structural factors indicate that asylee access and use of benefits may differ from that of refugees, who have a markedly different experience upon arrival in the U.S.

Capturing more detailed data would also lend to deeper analysis of asylees' access to benefits. For example, previous research has suggested that the existence of an ethnic community in one particular geographic region assists in ensuring that certain asylees are aware of the one year filing deadline for asylum.³⁴⁰ The research suggests that the existence of a robust ethnic community increases access and awareness of the asylum system and process. This same co-ethnic effect may be observed with regards to access and awareness to asylees benefits if ORR were able to track nationality *and* asylee status of the individuals accessed benefits. Data revealing low rates of asylee access to benefits among certain nationalities could facilitate targeted campaigns to raise awareness in those specific communities.

Practically, to improve data gathering on asylee integration, the federal government should require the states to report enrollment in federal benefits administered by the state by specific immigration status, rather than general categories that encompass refugees, asylees, and other vulnerable populations. As discussed in Appendix A, asylees must first establish that they are ineligible for federal/state benefits before they can access Refugee Cash Assistance or Refugee Medical Assistance.³⁴¹ Gathering data from the states on asylee enrollment in benefits is thus the only way to obtain a comprehensive sense of the numbers of asylees actually accessing benefits. The federal government should mandate that this information be consistently tracked and reported to ORR. This change, along with increasing the detail that the Census gathers, recommended above, will enable us to gain a more comprehensive picture of asylee economic integration and use of benefits.

338. See *supra* note 6.

339. See CTR. FOR VICTIMS OF TORTURE, ASYLUM FRAUD: ABUSING AMERICA'S COMPASSION? 1–2 (2014), http://www.cvt.org/sites/cvt.org/files/CVT_Testimony_HJC_Asyum_Feb2014.pdf (describing the fear and exacerbation of psychological symptoms caused by delays in the immigration system and prolonged separation from family members).

340. LIVES IN THE BALANCE, *supra* note 26, at 57–60, 86 (suggesting that “social networking with others who have experienced the challenge of seeking asylum may be a significant factor in filing a timely application.”).

341. See 45 C.F.R. § 400.53(a)(2) (2015) (individuals are only eligible for Refugee Cash Assistance if they “are ineligible for TANF, SSI, OAA, AB, APTD, and AABD programs”); 45 C.F.R. § 400.100(a)(1) (2015) (individuals are only eligible for Refugee Medical Assistance if they are ineligible for Medicaid or SCHIP).

2. *Expand the Office of Refugee Resettlement Annual Survey to Include Asylees and Track Long-Term Integration*

Each year the Office of Refugee Resettlement conducts an Annual Refugee Survey and includes the results in its Report to Congress.³⁴² A call to improve or supplement ORR's Annual Refugee Survey is not new. Those who have studied the refugee resettlement system posit that the response rate to the survey among resettled refugees is so low that the report is not credible.³⁴³ Critics suggest collaborating with the Census Bureau or with the Pew Center for Research to collect information on refugees.³⁴⁴ Further, if budget is a limitation, the survey could be performed only every two or three years to allow the investment of resources on obtaining a higher response rate and thus a more accurate reflection of the situation for all populations of concern to ORR.³⁴⁵

ORR must expand the Refugee Survey to include asylees, as well as resettled refugees. Given that asylees now represent more than a third of ORR's eligible population,³⁴⁶ they should be featured prominently in the report. The specific language of the Act that mandates Congressional reporting does not refer to asylees and references only refugee arrivals in the U.S. in the last five years (rather than status obtained or asylum grants within the last five years)—which may explain ORR's failure to highlight asylees specifically and to survey asylees along with refugees.³⁴⁷ As discussed above under Part V.A.1, the Immigration and Nationality Act should be amended to require reporting on asylees and other ORR populations of concern. Failing this legislative amendment, ORR should issue a new State Letter or other policy guidance clarifying that the agency interprets the Act to require detailed reporting on the asylee population.

One potential hurdle to including asylees in the ORR Survey is the difficulty of contacting asylees. It is arguably easier to keep track of resettled refugees, at least in the period after arrival, because their resettlement locations are at least initially determined and tracked by ORR and they maintain contact for a period

342. See ORR REPORT TO CONGRESS: FY 2013, *supra* note 74. The specific language of the Refugee Act does not refer to asylees and references only refugee arrivals in the U.S. in the last five years (rather than status obtained or asylum grants within the last five years)—which may explain why ORR's annual reports to Congress focus on resettled refugees, rather than asylees and why the agency does not include asylees in its annual survey. See Congressional Reports, 8 U.S.C. § 1523 (2012), Congressional Reports. Section 413(b) of the Act should be amended to require reporting on asylees and other ORR populations of concern. Failing this legislative amendment, ORR should issue a new State Letter or other policy guidance clarifying that the agency interprets the Act to require detailed reporting on the asylee population.

343. See NIGHTINGALE *supra* note 215, at 10 (suggesting that the current approach is not the most effective use of ORR's limited resources to obtain a response rate considered credible (e.g., over sixty-five percent)).

344. *Id.* at 11.

345. *Id.* at 10.

346. See *supra* text accompanying notes 23–25.

347. See 8 U.S.C. § 1523(b) (2012).

after resettlement with an ORR contracted voluntary agency. To contact asylees, who decide themselves where they settle within the U.S., ORR should collaborate with USCIS. By law, asylees, like all other immigrants, are required to submit a change of address form to USCIS within ten days of moving.³⁴⁸ These forms require an individual to disclose their immigration status. USCIS maintains information, therefore, for each asylee and their current address until they become naturalized U.S. citizens.

Gathering information from asylees will enable ORR to disaggregate all statistics within its annual Congressional Report by various populations it serves—including differentiating among resettled refugees, asylees, and other eligible categories of individuals. This will enable the agency to pin point problems in access to benefits and to understand whether the benefits offered are appropriately meeting the needs of the asylee and other eligible populations.

The data gathered should also focus on the long-term. Analyzing asylee integration for only five years after arrival, as is done with the current ORR Annual reports on resettled refugees, is insufficient. Scholars who have studied the issue of refugee resettlement uniformly recommend longitudinal studies of the effectiveness of ORR programs,³⁴⁹ which would assist in our understanding of refugee integration. Indeed, integration experts understand integration to be a long-term process, perhaps taking more than a generation to be truly achieved.³⁵⁰

Further, in 2011 the Government Accountability Office recommended further exploration of effective approaches to achieving refugee employment and economic self-sufficiency.³⁵¹ As discussed above, the inter-departmental Integration Working Group, created under President Bush, found that although employment and self-sufficiency is a “key to integration,” it is “not the only indicator.”³⁵² A July 2012 GAO report notes that neither the State Department’s Bureau of Population, Refugees, and Migration or ORR measure refugee integration as a program outcome.³⁵³ The GAO Report concludes, “Without some incentives to focus on long-term self-sufficiency in addition to short-term independence from cash assistance, refugees may be more likely to need government assistance again in the future, and it may take longer for both refugees and their communities to experience the benefits of integration.”³⁵⁴

348. INA § 265(a), 8 U.S.C. § 1305(a) (2012).

349. See NIGHTINGALE, *supra* note 215, at 2. (“There have been very few internal or independent evaluations of ORR programs, and those that have been conducted have not been adequate in rigor or scope. Strong program accountability requires solid monitoring, reporting, and evaluation strategies.”); see also Dawood, *supra* note 15, at 6 (recommending the U.S. refugee program “commission a longitudinal study to track long-term refugee outcomes.”).

350. See, e.g., JIMENEZ, *supra* note 45.

351. GAO REFUGEE EMPLOYMENT REPORT, *supra* note 16, at 35.

352. See BROWN, GILBERT & LOSBY, *supra* note 48, at 10.

353. GAO JULY 2012 REPORT, *supra* note 13, at 33.

354. *Id.* at 38. This report posits that the lack of long-term planning for refugee integration can dramatically affect local state governments and service providers: “[R]efugees who exhaust federal refuge assistance benefits and are not self-sufficient can strain local safety nets. Refugees

Thus, the Annual Survey should not only include asylees, but should be expanded to examine other integration factors beyond employment data and “economic self-sufficiency.”³⁵⁵

Obtaining survey data related to asylees and improving the survey as it currently applies to refugees will allow for a much needed comprehensive investigation into the functioning of the refugee resettlement system. The International Rescue Committee’s 2009 report on Iraqi refugees recommends “a comprehensive study of domestic resettlement to see what has worked and what has not.”³⁵⁶ The IRC points out that no thorough examination of the system has taken place since the creation of the resettlement program in 1980 and any new examination of the program must take into account the different needs of the various refugee populations.³⁵⁷

VI. CONCLUSION

Life for asylees after the approval of their asylum case is, as the research supporting this article confirms, challenging. From a humanitarian standpoint, the U.S. owes it to this population, whom we have chosen to protect according to our international law obligations,³⁵⁸ to make that protection meaningful and to truly offer an individual who has escaped persecution a second chance at life. U.S. communities also stand to benefit economically from the contributions asylees can make if given the opportunity. Further, a more proactive and flexible approach to integration, operationalized through the proposed Prescriptions for Reform, outlined in Part V of this article, will, over time, save resources for our state, local and federal governments and other institutions.

The current legal and regulatory framework hampers asylees from making these contributions because of the heavy emphasis on rapid employment and

who are no longer eligible to receive cash and medical assistance from ORR after 8 months but are unemployed, or working in low-wage jobs that do not provide sufficient income – may seek help from local service providers such as food pantries, organizations providing housing assistance, and even homeless shelters.” *Id.* at 19.

355. The GAO July 2012 Report also noted the lack of reporting on longer-term issues, including skills training, ESL, or mental health services, despite their logical contribution to long-term employment success. *Id.*; see also COLUMBIA REFUGEE RESETTLEMENT REPORT, *supra* note 15 (recommending that ORR should monitor and assess “indicators other than employment, such as housing, education, health status, mobility, social connections, and language skills” and that such monitoring should extend “significantly beyond 180 days” after resettlement).

356. IN DIRE STRAITS, *supra* note 17, at i.

357. *Id.* at 11.

358. Although our international legal obligation means that we cannot “refoulé” or return an individual to a country where he or she faces persecution, asylum itself is discretionary, meaning that while we cannot return an individual who meets the legal definition to the country of feared persecution, we do not have to award that individual with all the rights and privileges attendant to asylee status. For a comprehensive discussion of the discretionary aspect of granting asylum in the U.S. See Kate Aschenbrenner, *Discretionary (In)Justice: The Exercise of Discretion in Claims for Asylum*, 45 UNIV. MICH. J. L. REFORM 595 (2012).

economic self-sufficiency. This pushes asylees into survival jobs, where they do not earn enough to support themselves and their families, to secure adequate and stable housing, or to pursue the path to permanent residence available to them one year after the asylum grant. Working in these jobs, asylees lack the time to pursue professional re-certification or to focus on English language acquisition that may allow participation in the workforce in a way more aligned with their education and expertise acquired abroad or their individual potential. These problems are compounded by limited ongoing mental health services for asylees, delays in the family reunification system, a lack of awareness of the benefits to which asylees are entitled, and the inadequacy of those benefits.

Relatively simple revisions to agency regulations interpreting the Refugee Act, can, for the most part, remedy these problems and enable case managers working with asylees to more effectively tailor their services to an individual asylee's goals and needs. In the absence of legislative reform, providing definitions for two key terms ("effective resettlement" and "appropriate employment") under the regulations will meet this purpose. Other straightforward measures can be easily implemented to enhance asylee awareness and access to benefits. Some of the prescriptions for reform require Congressional appropriations to ensure that asylees receive adequate financial assistance and medical coverage, case management, access to mental health services, and stable and safe housing.

This article is intended to open up a dialogue, among advocates, attorneys, asylees, policymakers, lawmakers, case managers, psychologists, government officials, and others. It is time to focus our attention on life after the asylum approval so that this population of survivors may truly thrive in the United States.

* * *

VII. APPENDICES

*Appendix A: Benefits Available to Asylees and Refugees*³⁵⁹

Asylees and refugees are eligible for a number of benefits. These are outlined below:

Federal (Non-ORR) Administered Benefits for which Refugees and Asylees may be eligible:

Temporary Assistance for Needy Families (TANF) is available for families with children under age 18, but income and eligibility

359. Thank you to Thomas Pabst and Ronald Munia with the Office of Refugee Resettlement for reviewing this appendix and ensuring that the information is accurate. A version of this Appendix was published in the American Immigration Lawyers Association Asylum Primer. See DREE K. COLLOPY, AILA'S ASYLUM PRIMER: A PRACTICAL GUIDE TO U.S. ASYLUM LAW AND PROCEDURE 1457 (7th ed. 2015).

standards vary by state.³⁶⁰ TANF is available for the first seven years after status is granted, but individuals cannot receive assistance for more than five years in a lifetime.

Supplemental Security Income (SSI) is a means-tested federally administered program available for the aged (65 plus), blind, and disabled who meet income and resource requirements— for seven years after status is granted. Refugees and asylees can access SSI for up to nine years if they have applied for citizenship. States may choose to supplement SSI benefits.

Medicaid is available for seven years after status is granted. Medicaid is a joint federal-state program to provide health benefits to low-income children, parents, pregnant woman, elderly, and disabled individuals.

The **State Children’s Health Insurance Program (SCHIP)** provides for low to moderate-income children whose families had incomes just above Medicaid eligibility threshold for their states. Eligibility depends on the age of the child and the state they are living in and can range from 100 to 300% of the poverty line.

The **Supplemental Nutrition Assistance Program (SNAP)**, formerly known as “the Food Stamp Program” is available to low-income families. In FY 2016, SNAP was available to families with income below 130 percent of the federal poverty line.³⁶¹

When a refugee has exhausted all sources of federal assistance, states may provide assistance through “**General Assistance (GA) Programs**,” funded by the State, though few states actually provide GA. California and New York have some limited GA programs that asylees and refugees can access.

Medical Screening—Conducted by State or local health departments or their proxies for the diagnosis, treatment and prevention of

360. Eligibility criteria and the amount of assistance awarded depend on the individual state and their policies. This means that a refugee or asylees in one state may receive a higher or lower amount of financial assistance than a similarly situated individual in another state. One challenge to refugee integration is the federal/state system because having so many separate systems makes it difficult to “create one policy with the same benchmarks for the whole country.” DWYER, *supra* note 17, at 15; *see also* COLUMBIA REFUGEE RESETTLEMENT REPORT, *supra* note 15, at 13 (“Each state implements major assistance programs like [TANF, SNAP, and CHIP] through different mechanisms and at different levels of support.”). States also do not consistently track total enrollment in benefits by immigration status. According to ORR Director of the Refugee Services Division, Ronald Munia, refugees and asylees represent a “miniscule” population for the states, so their use of benefits is not tracked. The fact that refugees and asylees must first access state benefits for which they are eligible also means that ORR is unable to track asylee or refugee enrollment in benefits. Interview with Ronald Munia, Dir. of Refugee Services Div., ORR, in D.C. (Nov. 19, 2013).

361. *See Supplemental Nutrition Assistance Program (SNAP)*, U.S. DEP’T OF AGRIC., <http://www.fns.usda.gov/snap/eligibility> (last updated Oct. 27, 2015).

communicable diseases and other conditions of public health importance. This usually includes screening for tuberculosis (TB), parasites, and hepatitis B, as well as school vaccinations.

Women, Infants and Children (WIC)—Provides supplemental food packages for nutritionally at-risk, low-income pregnant, breastfeeding, and postpartum women; infants; and children up to five years of age.

One-Stop Career Center System—Department of Labor funded nationwide network of employment centers that provide information and assistance for people who are looking for jobs, or who need education and training to get a job. Services include training referrals, career counseling, job listings, and other employment services.

Job Corps—Department of Labor funded centers to help eligible youth aged 16–24 achieve employment, earn a high school diploma or GED and/or learn a vocational trade.

ORR Administered Benefits for which Refugees and Asylees may be eligible:

If a refugee or asylee is not eligible for mainstream federal assistance (TANF or SSI),³⁶² then ORR-funded **Refugee Cash Assistance** (RCA) is provided for eight months from date of grant of status.³⁶³ The RCA payment is based on the individual state's TANF assistance levels.

If a refugee or asylee is not eligible for Medicaid or CHIP, then ORR-funded **Refugee Medical Assistance** (RMA) is available for up to eight months. The RMA benefits are based on the state's Medicaid program.

Matching Grant—as an alternative to cash assistance through RCA, refugees and asylees can enroll in the Matching Grant program, which combines an initial grant of cash and health benefits with a work-oriented program emphasizing self-sufficiency within 120 or maximum 180 days through employment and ESL.³⁶⁴ The program requires voluntary agencies receiving grants from ORR to provide case

362. Federal assistance includes Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI). Generally, these refugees are singles, childless couples, and two-parent families in certain states with restrictive TANF programs.

363. See BRUNO, *supra* note 170, at 10. The length of eligibility for RMA and RCA is determined by ORR appropriations. INA § 412(e)(1) allows ORR to reimburse states for RCA and RMA for up to thirty-six months. Current funding allows for eight months of cash and medical assistance, and this has been the funding level since October 1991. *Id.* at 10 n.35.

364. *About the Voluntary Agencies Matching Grant Program*, OFF. OF REFUGEE RESETTLEMENT, <http://www.acf.hhs.gov/programs/orr/programs/matching-grants/about> (last visited Nov. 14, 2015); see also OFF. OF REFUGEE RESETTLEMENT, VOLUNTARY AGENCIES MATCHING GRANT PROGRAM: FY 2014 PROGRAM GUIDELINES 1 (2014) ("The purpose of the . . . Program is to help enrollees attain economic-self-sufficiency through the provision of comprehensive case management and services leading to employment within 120 to 180 days after the date of eligibility for the program."); *Id.* at 7–9 (describing employment services and core maintenance assistance services); *Id.* at 11–12 (describing English language training services and health and medical services).

management and ensure that the client has access to housing and adequate food.³⁶⁵ Voluntary agencies select the individuals they want to participate in the program, “based primarily, though not necessarily exclusively, on the refugee’s readiness to work – including his or her level of motivation, English skills, education or previous work experience, and physical and mental health.”³⁶⁶

Refugees and asylees are eligible for **Refugee Social Services** for up to five years after their arrival or the asylum grant. This includes employment and employability services, job training and preparation, assistance with the job search, placement, and retention, English-language and vocational training, skills recertification, job related daycare, transportation, translation and interpreter services, and case management.³⁶⁷ In reality, due to budgetary constraints, many resettlement agencies are unable to provide meaningful services beyond the first eight months of benefits eligibility for RCA and RMA.

ORR reimburses the states for RCA and RMA costs for refugees and asylees who are ineligible for TANF. Unfortunately, the TANF program does not have a unique identifier for refugees or asylees enrolled in TANF, so there is no way to determine accurately the breakdown of refugees or asylees receiving each type of assistance. ORR’s funding allocations among the states are made based on the number of refugee arrivals within the thirty-six months prior to the fiscal year in question and those actually residing in each state.³⁶⁸ While secondary migration is considered in the funding allocation among states, the funding “does not necessarily follow” the individual and ORR does not coordinate the continuation of services.³⁶⁹ Further, the structure of the annual grant cycle “may not provide ORR the flexibility to respond in a timely manner.”³⁷⁰

In determining the geographic distribution of refugees and providing assistance for those refugees once resettled, the law provides that ORR must consult regularly with and cooperate closely with local voluntary agencies and

365. *ORR Benefits-at-a-Glance*, OFF. OF REFUGEE RESETTLEMENT, https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_benefits_at_a_glance.pdf (last visited Apr. 14, 2014).

366. GAO REFUGEE EMPLOYMENT REPORT, *supra* note 16, at 13, 17. According to the most recent ORR Report to Congress, for 2013: “Refugees accounted for 77 percent of all enrollments [in the Matching Grant Program], Cuban/Haitian entrants 13.5 percent, asylees 7.5 percent, and SIVs 1.4 percent.” ORR REPORT TO CONGRESS: FY 2013, *supra* note 74, at 20.

367. *ORR Benefits-at-a-Glance*, *supra* note 365.

368. See 8 U.S.C. § 1522 (c)(1)(B) (2012).

369. GAO JULY 2012 REPORT, *supra* note 13, at 20–21. Secondary migration refers to moving from one community to another after initial resettlement. “[R]efugees relocate for a variety of reasons: better employment opportunities, the pull of an established ethnic community, more welfare benefits, better training opportunities, reunification with relatives, or a more congenial climate.” *Id.* at 20.

370. *Id.*

State and local governments.³⁷¹ No consultation system exists for asylees. Although the system and the actual consultation/cooperation between stakeholders for refugee resettlement may be less than ideal,³⁷² nothing comparable is even contemplated for asylees. Unlike refugees, who are initially resettled in a specific geographic location,³⁷³ often in a group, asylees settle more in a more random, haphazard fashion, presumably based on a host of individual factors.

ORR also provides grants to support various programs and services for refugees and asylees nationwide.³⁷⁴

Targeted Assistance Grants—This program provides supplemental funding to assist counties with large refugee populations. The program funds employment and other services to assist individuals secure employment within one year’s participation in the program. Most funding is allocated through formula.³⁷⁵ In FY 2013, of the \$47.6 million obligated for target assistance activities, \$42.8 million was award to twenty-nine states on behalf of fifty-eight counties. The remaining amount is award through discretionary grants.³⁷⁶

Discretionary Grants—ORR awards discretionary grants on a competitive basis to support individuals and communities with special needs. Refugees and asylees who have been in the U.S. more than five years may access the programs funded through these grants.³⁷⁷ These grants cover many different programs, including the Services for Survivors of Torture Program, authorized by the Torture Victims Relief Act of 1998 and implemented by ORR.³⁷⁸ This program provides

371. See 8 U.S.C. § 1522(a)(2)(a) (2012) (regarding the initial distribution and placement of resettled refugees); 8 U.S.C. § 1522(a)(1)(B)(iii) (2012) (regarding the provision of assistance to resettled refugees).

372. See COLUMBIA REFUGEE RESETTLEMENT REPORT, *supra* note 15, at 15 (recommending closer cooperation between States and the federal government regarding the needs and assets of refugee receiving communities). Some states have tried to address inadequate cooperation/consultation on refugee resettlement numbers. See, e.g., TENN. CODE ANN. §§ 4-38-101 to 4-38-104. For example, Tennessee passed the Refugee Absorptive Capacity Act, TENN. CODE ANN. § 4-38-101 to 4-38-104. See GAO JULY 2012 REPORT, *supra* note 13, at 18, 24.

373. Under 8 U.S.C. § 1522(a)(2)(c)(iii) the ORR Director must consider numerous factors including (i) the “proportion of refugees and comparable entrants in the population in the area; (ii) the “availability of employment opportunities, affordable housing, and public and private resources (including educational, health care, and mental health services), for refugees in the area; (iii) the likelihood of self-sufficiency; and (iv) likely secondary migration of refugees to that area, when considering where to resettle refugees.”

374. The GAO has noted that these ORR-funded programs focused on integration that provide services longer than eight months “may not be as widely available as cash and medical assistance.” See GAO JULY 2012 REPORT, *supra* note 13, at 32.

375. ORR REPORT TO CONGRESS: FY 2013, *supra* note 74, at 13.

376. *Id.*

377. *Id.* at 35.

378. *Id.* at 55. ORR grants to non-profit organizations in FY 2013 totaled \$10.5 million. *Id.* at 57.

funding for direct services and technical assistance to institutions delivering direct services to torture survivors.³⁷⁹ According to the 2013 ORR Report to Congress, other programs covered include the Preferred Communities Program and various programs to support refugee health, education, employment, efforts in microenterprise, starting a home child care business, and agriculture.³⁸⁰ A July 2012 Report discusses ORR “micro-enterprise assistance and individual development accounts . . . designed to facilitate integration by helping refugees start business in the communities where they live”³⁸¹ These grants are not, however, available in all communities.

Some of ORR’s grants are awarded to **Mutual Assistance Associations**, community-based organizations usually created and run by former refugees, to help people from same region integrate into the U.S.³⁸²

Preferred Communities Program—ORR awards grants to “support the resettlement of newly arriving refugees with the best opportunities for their self-sufficiency and integration into new communities; to support the development of the national voluntary agencies’ capacity to address refugee cases with special or unique needs that require more intensive case management; and to develop new capacity and provide resources for national voluntary agencies to cover the costs of changing community placements so that refugees, including those with special or unique needs, are placed in a particular site where they will have the best chance for integration.”³⁸³

379. *Id.* at 55; *see also About Service for Survivors of Torture*, OFF. OF REFUGEE RESETTLEMENT, <http://www.acf.hhs.gov/programs/orr/programs/survivors-of-torture/about>.

380. *Id.* at 44–46 (detailing the Preferred Communities Program); *Id.* at 35–58 (detailing other programs funded under the discretionary grants).

381. GAO JULY 2012 REPORT, *supra* note 13, at 32; *see also* ORR REPORT TO CONGRESS: FY 2013, *supra* note 74, at 39–40 (discussing funding for the Microenterprise Development Program in FY 2013).

382. *See* DWYER, *supra* note 17, at 24.

383. ORR REPORT TO CONGRESS: FY 2013, *supra* note 74, at 48.

Appendix B: Table of Interviews Conducted—San Francisco Bay Area

	Name	Title/Affiliation	Method and Date of Interview
ATTORNEYS/LEGAL REPRESENTATIVES:			
1	Niloufar Khonsari	Director; Pangea Legal Services; San Francisco, CA	In person, 12/13/13
2	Linda Tam	Immigration Director/Supervising Attorney; East Bay Community Law Center; Berkeley, CA	In person, 12/13/13
3	Lynette Parker	Clinical Supervising Attorney; Santa Clara University Katherine & George Alexander Community Law Center; San Jose, CA	In person, 12/17/13
4	Justin Skinner	Managing Attorney; San Francisco International Institute for the East Bay; San Francisco, CA	In person, 12/17/13
5	Michael Smith	Paralegal; East Bay Sanctuary Covenant; Berkeley, CA	In person, 12/18/13
6	Kaveena Singh	Attorney; East Bay Sanctuary Covenant; Berkeley, CA	In person, 12/18/13
7	Lydia Lopez	Attorney; East Bay Sanctuary Covenant; Berkeley, CA	Phone, 1/6/14
8	Liz Pelligrin	Private Practitioner; Oakland, CA	In person, 12/18/13
9	Ruby Lieberman	Private Practitioner; San Francisco, CA	In person, 12/19/13
10	Robin Goldfaden & Silvia Contreras	Senior Attorney & Asylum Paralegal; Lawyer's Committee for Civil Rights; San Francisco, CA	In person, 12/19/13
MENTAL/PHYSICAL HEALTH PROFESSIONALS			
1	Samira Causevic	Clinical Service Coordinator, Newcomers Health Program – Refugee Medical Clinic; Community Health Equity and Promotion Branch, San Francisco Department of Public Health; San Francisco, CA	Phone, 1/17/14
2	Dr. Sahar Bhaloo, Psy. D	Center for Survivors of Torture; San Jose, CA East Bay Sanctuary Covenant;	Phone, 1/31/14

		Berkeley, CA International Rescue Committee; Oakland, CA	
3	Joshua Rose	Licensed Clinical Social Worker; Family Works Community Counseling; Richmond, CA	Phone, 1/16/14
4	Dr. James Livingston	Senior Staff Psychologist; Asian Americans for Community Involvement – Center for Survivors of Torture; San Jose, CA	In person, 12/16/13
CASE MANAGERS/OTHERS			
1	Sead Eminovoc	Employment Specialist; International Rescue Committee; San Jose, CA	In person, 12/16/13
2	Igor Radulovic	Case Manager; International Rescue Committee; San Jose, CA	In person, 12/16/13
3	Lina Chernyak, MSW, LCSW & Basia Leaffer, MSW, LCSW.	Clinical Services & School Consultation; Jewish Family & Children's Services; San Francisco, CA	In person, 12/17/13
4	Christopher Martinez	Senior Program Director & BIA Accredited Representative; Refugee and Immigrant Services, Catholic Charities CYO; San Francisco, CA	In person, 12/19/13
5	Clarisa Sanchez	Accredited Representative; Refugee and Immigrant Services, Catholic Charities CYO; San Francisco, CA	In person, 12/19/13
	Joe Sciarillo	Paralegal/Case Manager; Dolores Street Community Services; San Francisco, CA	Phone, 3/12/14
GOVERNMENT OFFICIALS			
1	Emilia Bardini	Director; San Francisco Asylum Office; San Francisco, CA	In person, 12/17/13
2	Vincent Ferri	Supervising Asylum Officer; San Francisco Asylum Office; San Francisco, CA	Phone, 3/11/2014

*Appendix C: Table of Interviews conducted—
Washington, D.C. Metropolitan Area*

	Name	Title/Affiliation	Date and Method of Interview
	ATTORNEYS/LEGAL REPRESENTATIVES:		
1	Alberto Benitez	Professor of Clinical Law; The Jacob Burns Community Legal Clinics, George Washington University Law School; Washington, D.C.	In person, 11/15/13
2	Jonathan Bialosky	Attorney; The Jacob Burns Community Legal Clinics, George Washington University Law School; Washington, D.C.	In person, 11/15/13
3	Steven Schulman	Partner, Pro Bono Practice; Akin Gump Strauss Hauer & Feld LLP; Washington, D.C.	In person, 11/11/2013
4	Kristina Campbell	Associate Professor of Law and Director, Immigration and Human Rights Clinic; University of the District of Columbia David A. Clarke School of Law; Washington, D.C.	In person, 11/18/13
5	Vanessa Allyn	Managing Attorney; Human Rights First; Washington, D.C.	In person, 11/18/13
6	Jocelyn Dyer	Attorney; Human Rights First; Washington, D.C.	In person, 11/18/13
7	Isabel Toolan	Senior Paralegal; Human Rights First; Washington, D.C.	In person, 11/18/13
8	Jason Dzubow	Private Practitioner; Washington, D.C.	Phone, 1/23/14
9	Danielle Beach Oswald	Private Practitioner; Rockville, MD	Phone, 1/31/14
10	Dree Collopy	Private Practitioner; Washington, D.C.	In person, 2/7/14
11	Jennifer Bibby	Immigration Attorney;	Phone,

	Gerth	Catholic Charities of the Archdiocese of Washington; Washington, D.C.	2/4/14
12	Tori Andrea Babington	Director of Legal Services; Northern Virginia Family Services; Falls Church, VA	Phone, 2/11/14
MENTAL/PHYSICAL HEALTH PROFESSIONALS			
1	Sheetal Patel, Ph.D	Clinician; Advocates for Survivors of Torture and Trauma; Washington, D.C.	Phone, 2/11/14
2	Mary Cogar, Ph.D	Clinical Director; Advocates for Survivors of Torture and Trauma; Washington, D.C.	Phone, 2/10/14
3	Sabine Fajon	Bilingual Mental Health Therapist and Co-coordinator of the Program for Survivors of Torture and Trauma; Northern Virginia Family Services; Falls Church, VA	Phone, 3/14/14
4	Saara Amri	Co-Coordinator of the Program for Survivors of Torture and Trauma; Northern Virginia Family Services; Falls Church, VA	Phone, 3/11/14
CASE MANAGERS/OTHERS			
1	Mamadou Sy, Ph.D.	Program Director for Refugee and Immigrant Services; Lutheran Social Services of the National Capital Area; Silver Spring, MD & Arlington, VA	Phone, 2/3/14
2	Lauren Goodsmith, M.P.H.	Founder; The Intercultural Counseling Connection; Baltimore, MD	Phone, 2/10/14
3	Molly Corbett	Executive Director; Asylee Women's Enterprise; Baltimore, MD.	Phone, 2/11/14
4	Sarah T Zullo & Ileen Khamooshi	Executive Director and ECDC Special Programs Officer; Ethiopian Community Development Council; Arlington VA	Phone, 2/7/14

5	Augustin Ntabaganyimana, M.P.A.	Program Manager; International Rescue Committee; Silver Spring, MD	Phone, 2/3/14
6	Michelle Giezeman	Casework Supervisor; International Rescue Committee; Silver Spring, MD	Phone, 2/3/14
7	Aerlande Wontamo	Resettlement Manager; Lutheran Social Services; Arlington, VA	Phone, 2/24/14
8	Laurel Smith-Raut, LGSW	Case Manager; Advocates for Survivors of Torture and Trauma; Washington, D.C. & Baltimore, MD	Phone, 2/27/14
9	Flavia Guerra Sanchez	Social Services Program Manager; Tahirih Justice Center; Falls Church, VA	In person, 2/10/14
10	Betty Symington	Director; ERICA; Baltimore, MD	Phone, 2/25/14
GOVERNMENT OFFICIALS			
1	Ronald A. Munia	Director, Division of Refugee Services; Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health & Human Services; Washington, D.C.	In person, 11/19/13
2	Thomas Pabst	Refugee Services Program Specialist; Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health & Human Services; Washington, D.C.	In person, 11/19/13
OTHER:	Rashmi Jasrasaria	Medical Student at Stanford University, who conducted research in summer 2013 with asylee and refugee women in Baltimore, MD.	Phone, 3/13/14

*Appendix D: Asylum Seekers Represented vs. Pro Se by Asylum Office,
FY 2011-2013*

Asylum Office	ZAR Arlington	ZCH Chicago	ZHN Houston	ZLA Los Angeles	ZMI Miami	ZNK Newark	ZNY New York	ZSF San Francisco	All
2013									
Represented ³⁸⁴	2144	2072	1413	7333	1847	4226	6792	3559	29386
Pro se ³⁸⁵	1656	1001	768	3777	2479	1354	2059	1830	14924
Total filings	3800	3073	2181	11110	4326	5580	8851	5389	44310
Percent represented	56%	67%	65%	66%	43%	76%	77%	66%	66%
2012									
Represented ³⁸⁶	1877	1741	1282	7018	1572	3703	8997	2994	29184
Pro se ³⁸⁷	1308	810	601	3238	1928	1110	1928	1428	12351
Total filings	3185	2551	1883	10256	3500	4813	10925	4422	41535
Percent represented	59%	68%	68%	68%	45%	77%	82%	68%	70%
2011									
Represented ³⁸⁸	1336	1419	745	5664	1208	2852	8385	2242	23851
Pro se ³⁸⁹	1046	613	466	2968	1935	979	1648	1147	10802
Total filings	2382	2032	1211	8632	3143	3831	10033	3389	34653
Percent represented	56%	70%	62%	66%	38%	74%	84%	66%	69%

384. The data used comes from statistics released by USCIS in response to the author's request prior to the Asylum Division Quarterly Stakeholder Meeting. This is now available online. See *Additional Statistics, Affirmative Asylum Cases Represented by Filing Year, Asylum Division Quarterly Stakeholder Meeting – April 2014*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/sites/default/files/USCIS/Outreach/Notes%20from%20Previous%20Engagements/AdditionalStatisticRequestedApril2014AsylumStakeholderEngagement.pdf> (including numbers of asylum seekers represented and filing *pro se*, i.e. without an attorney, by asylum office).

385. *Id.*

386. *Id.*

387. *Id.*

388. *Id.*

389. *Id.*

*Appendix E: San Francisco Asylum Office – Attendance of Asylum Benefits
Orientation Sessions, FY 2008-2014*

	2014	2013	2012	2011	2010	2009	2008
Affirmative applications granted³⁹⁰	887	1904	2319	1865	1779	2157	1985
Attendees, total³⁹¹	Unknown	Unknown	438	488	593	502	305*
Attendees, from court³⁹²	Unknown	Unknown	68	58	66	24	Unknown
Attendees, affirmative grants	Unknown	Unknown	370	430	527	478	Unknown
Percentage affirmative grantees attending	Unknown	Unknown	16%	23%	30%	22%	Unknown

*Please note that only six ABOS were held in FY 2008, so only asylees granted in the second half of the year had the opportunity to attend the ABOS.

390. *Additional Statistics, Asylum Applications Granted by Asylum Office, FY 2008-FY2014 Q2, Asylum Division Quarterly Stakeholder Meeting – April 2014*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/sites/default/files/USCIS/Outreach/Notes%20from%20Previous%20Engagements/AdditionalStatisticRequestedApril2014AsylumStakeholderEngagement.pdf>.

391. E-mail from Vincent Ferri, Supervising Asylum Officer, S.F. Asylum Off. (Mar. 19, 2014) (on file with author).

392. *Id.*

*Appendix F: Redacted Order Granting Asylum In Immigration Court and
Affirmative Asylum Grant Letter*

In the Matter of

Respondent

IMMIGRATION COURT
1901 S. BELL STREET, SUITE 200
ARLINGTON, VA 22202

Case No.: A [REDACTED]

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on April 3, 2015.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

- ☐ The respondent was ordered removed from the United States to
or in the alternative to .
- ☐ Respondent's application for voluntary departure was denied and
respondent was ordered removed to or in the
alternative to .
- ☐ Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of \$ _____
with an alternate order of removal to .

Respondent's application for:

- ☒ Asylum was ☒ granted () denied () withdrawn.
- ☒ Withholding of removal was () granted () denied ☒ withdrawn.
- ☐ A Waiver under Section _____ was () granted () denied () withdrawn.
- ☐ Cancellation of removal under section 240A(a) was () granted () denied
() withdrawn.

Respondent's application for:

- ☐ Cancellation under section 240A(b)(1) was () granted () denied
() withdrawn. If granted, it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- ☐ Cancellation under section 240A(b)(2) was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- ☐ Adjustment of Status under Section _____ was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- ☒ Respondent's application of ☒ withholding of removal () deferral of
removal under Article III of the Convention Against Torture was
() granted () denied ☒ withdrawn.
- ☐ Respondent's status was rescinded under section 246.
- ☐ Respondent is admitted to the United States as a _____ until _____.
- ☐ As a condition of admission, respondent is to post a \$ _____ bond.
- ☐ Respondent knowingly filed a frivolous asylum application after proper
notice.
- ☐ Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated.

Other:

Date:

April 3, 2015

Rodger C. Harris
RODGER C. HARRIS
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

ALIEN NUMBER: [REDACTED]

NAME: [REDACTED]

CERTIFICATE OF SERVICE
THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: ☒ ALIEN ☐ ALIEN's ATT/REP ☐ Custodial Officer ☐ COURT STAFF ☐ Other
DATE: 4/23/2015 BY: [Signature] P DHS
Attachments: ☐ EOIR-33 ☐ EOIR-28 ☐ Legal Services List ☐ Other

U.S. Department of Homeland Security
1525 Wilson Blvd.
Mailstop 2500
Arlington, VA 20598-2500



U.S. Citizenship
and Immigration
Services

Date: JUN 18 2012

[REDACTED]

RE: [REDACTED]

Asylum Approval

Dear Ms. [REDACTED]

This letter refers to your request for asylum in the United States filed on Form I-589.

It has been determined that you are eligible for asylum in the United States. Attached please find a completed Form I-94, Arrival-Departure Record, indicating that you have been granted asylum status in the United States pursuant to § 208(a) of the Immigration and Nationality Act (INA) as of 6/01/12. This grant of asylum includes your dependents listed above who are present in the United States, who were included in your asylum application, and for whom you have established a qualifying relationship by a preponderance of evidence.

You have been granted asylum in the United States for an indefinite period; however, asylum status does not give you the right to remain permanently in the United States. Asylum status may be terminated if you no longer have a well-founded fear of persecution because of a fundamental change in circumstances, you have obtained protection from another country, or you have committed certain crimes or engaged in other activity that makes you ineligible to retain asylum status in the United States. See INA § 208(c)(2).

Now that you are an asylee, you may apply for certain benefits, which are listed below. You are also responsible for complying with certain laws and regulations, if such laws and regulations apply to you. These responsibilities are also explained in this letter. We recommend that you retain the original of this letter as proof of your status and that you submit copies of this letter when applying for any of the benefits or services listed below. You may obtain any of the U.S. Citizenship and Immigration Services (USCIS) forms mentioned in this letter by visiting a local USCIS office or by calling the National Customer Service Center at 1-800-375-5283. You may also download any USCIS form from the Internet on the USCIS website at www.uscis.gov.



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Benefits

1. Employment Authorization

You are authorized to work in the United States for as long as you remain in asylum status. Your dependents listed above are also authorized to work in the United States, so long as they retain derivative asylum status. In order to work in the United States, every employee must show to a prospective employer certain documentation as proof of employment authorization. That proof may consist of, among other things, an unrestricted social security card and a state-issued driver's license. It may also consist of an unexpired employment authorization document issued by USCIS. For a list of all documents that can be accepted by an employer as proof of employment authorization, consult the USCIS Form I-9, *Employment Eligibility Verification*, available on the USCIS web site at www.uscis.gov.

You and any qualifying dependents are each entitled to immediately receive an employment authorization document issued by USCIS. Please see the attached sheet entitled "Notice Regarding Employment Authorization Documentation" to find out how you can receive your employment authorization document.

2. Derivative Asylum Status

You may request derivative asylum status for any spouse or child (unmarried and under 21 years of age) who is not included in this decision and with whom you have a qualifying relationship, whether or not that spouse or child is in the United States. To request derivative asylum status, you must submit a Form I-730, *Refugee and Asylee Relative Petition*, to the Nebraska Service Center, P.O. Box 87730, Lincoln, NE 68501-7730. **The Form I-730 must be filed for each qualifying family member within 2 years of the date you were granted asylum status**, unless USCIS determines that this time period should be extended for humanitarian reasons.

3. Social Security Cards

You may immediately apply for an unrestricted Social Security card at any Social Security office. To get an *Application for a Social Security Card* (Form SS-5) or to get more information about applying for a Social Security card use www.ssa.gov on the Internet, call the toll-free number 1-800-772-1213, or visit a local Social Security office. When you go to a Social Security office to apply for a Social Security card, you must take your I-94 card showing you have been granted asylum status. If available, you should also take some kind of photo-identity document, such as an EAD or your passport. For directions to the Social Security office nearest to you, call the Social Security Administration toll-free number or visit the website listed above.

4. Assistance and Services through the Office of Refugee Resettlement (ORR)

You may be eligible to receive assistance and services through the Office of Refugee Resettlement (ORR). ORR funds and administers various programs, which are run by state and private, non-profit agencies throughout the U.S. The programs include cash and medical assistance, employment preparation and job placement, and English language training. Many of these programs have time-limited eligibility periods that begin from the date of your grant of asylum. Therefore, if you wish to seek assistance, it is important that you do so as soon as possible after receipt of this letter. To find out what programs are available and where to go for assistance and services in your state, **please call (800) 354-0365**. You also may sign on to the ORR website at www.acf.dhhs.gov/programs/orr.


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5. Employment Assistance

You are eligible to receive a variety of services under Title I of the Workforce Investment Act of 1998. Such services include job search assistance, career counseling, and occupational skills training. These and other services are available at local One-Stop Career Centers. To obtain information about the Center nearest you, please call 1-877-US2-JOBS. The information is also available on-line through America's Service Locator at www.servicelocator.org.

6. Adjustment of Status

You may apply for lawful permanent resident status under section 209(b) of the Immigration and Nationality Act after you have been physically present in the United States for a period of one year after the date you were granted asylum status. To apply for lawful permanent residence status, you must submit a separate Form I-485, Application to Register Permanent Residence or Adjust Status, for yourself and each qualifying family member to the Nebraska Service Center, P.O. Box 87485, Lincoln, Nebraska, 68501-7485.

Responsibilities

1. Departing from the United States

If you, and/or your qualifying family members with derivative asylum status, plan to depart the United States, you must each obtain permission to return to the United States before you leave this country by obtaining a refugee travel document(s). A refugee travel document may be used for temporary travel abroad and is required for re-admission to the United States as an asylee. If you and/or your qualifying family members do not obtain a refugee travel document in advance of your departure, you may be unable to re-enter the United States, or you may be placed in removal proceedings before an immigration judge. You and each qualifying family member may apply for a Refugee Travel Document by each submitting a Form I-131, *Application for Travel Document*, with the required fee or request for fee waiver under 8 C.F.R. 103.7(c) to the Nebraska Service Center, P.O. Box 87131, Lincoln, NE 68501-7131.

2. Changes of Address

You must notify the Department of Homeland Security (DHS) of any change of address within ten days of such change. You may obtain a Form AR-11, *Alien's Change of Address Card* at your nearest post office or USCIS office, or online at www.uscis.gov, to comply with this requirement.


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3. Selective Service Registration

All male asylees between the ages of 18 and 26 must register for the Selective Service. To obtain information about the Selective Service and how to register, you may sign on to the Selective Service website at www.sss.gov or obtain a Selective Service "mail-back" registration form at your nearest post office.

Note: Please write your full name, date of birth, and A number on any correspondence you have with the DHS.

Sincerely,


for Ron M. Rosenberg
Director
ARLINGTON ASYLUM OFFICE

CC: LINDSAY M HARRIS
6402 ARLINGTON BLVD
FALLS CHURCH, VA 22042

Enclosures: ☒ I-94 Card(s)
☐ Form I-688B, Employment Authorization Card

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

Departure Record
Admission Number
194491780 26

ASYLUM STATUS
Granted Indefinitely
Section 208
Immigration and Nationality Act

JUN 01 2012
Signature: [Signature]
A0037 222 No. 152
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

20 Day Period: [Blank]
[Blank]

See Other Side

CBP Form I-94 (05/08)
STAPLE HERE

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

Departure Record
Admission Number
194491770 26

ASYLUM STATUS
Granted Indefinitely
Section 208
Immigration and Nationality Act

JUN 01 2012
Signature: [Signature]
A0037 222 No. 152
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

20 Day Period: [Blank]
[Blank]

See Other Side

CBP Form I-94 (05/08)
STAPLE HERE