

In continuing series of published articles, Immigration Attorney Magdalena Cuprys examines Deportation Defense Remedy

In the newest article in her Instruction Series, Immigration Lawyer Magdalena Cuprys reviews the Deportation Defense known as Withholding of Removal

MIAMI, FLORIDA, UNITED STATES, November 16, 2018 / EINPresswire.com/ -- In the most recently published article, a continuation of a series, Immigration Attorney [Magdalena Ewa Cuprys](#) examines a Deportation Defense Remedy. The complete article will be published on the Blog of [Ms. Cuprys](#) at <https://magdalenacuprysblog.blogspot.com/>

[Magdalena Cuprys](#) explains that Relief under the Convention Against Torture (CAT) is the third form of relief an individual fearing persecution may seek. As per another remedy, withholding of removal, Deferral of Removal may only be granted by an Immigration Judge (IJ), and not by an Asylum Officer. The individual applicant bears the burden of demonstrating that it is more likely than not that they will be tortured if removed to their country of origin.

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*Magdalena Cuprys,
Immigration Lawyer*

convicted of an aggravated felony may still make claims for relief if they do in fact fear torture upon their forced removal from the United States to their country of origin.

Additionally, as mandated by asylum laws, applicants seeking Deferral of Removal are not required to establish that their fear of torture is based upon an enumerated ground, i.e. on account of race, religion, nationality, political opinion, or membership in a particular social group.

Immigration regulations create two separate types of protection under CAT.

Magdalena Ewa Cuprys, Esq., Immigration Attorney in Florida



Services

Magdalena Cuprys is the principal of Serving Immigrants, a full-service [immigration law](#) firm offering a complete range of immigration services to both businesses and individuals. The law firm is uniquely qualified to manage the most contentious and unusual immigration needs. Swift resolution of immigration-related issues is integral to a client's ability to conduct business or reach their personal goals in the United States. Located in Miami and Clewiston, the firm's offices provide corporate and individual clients of foreign nationality with temporary work permits for the U.S., green card petitions, criminal waivers and representation in removal proceedings cases. With over a decade of experience, the law firm provides clients with the confidence that their cases will be handled by an expert who understands their needs and how to obtain their goals. Although the majority of the law firm's clients live in Florida, it represents people from all over the United States and several foreign countries.

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The first type of protection is another form of withholding of removal under CAT. Withholding of removal under CAT prohibits the return of an individual to their home country. This status can only be terminated if the individual's case is reopened and if the DHS (Department of Homeland Security) establishes that they are no longer likely to be tortured in their home country.

The second type of protection is known as "Deferral of Removal under CAT." Deferral of removal under CAT is a more temporary form of relief. Deferral of removal under CAT is appropriate for individuals who would likely be subjected to torture, but who are ineligible for withholding of removal, such as persecutors, terrorists, and certain criminals. This status can be terminated more quickly and easily than withholding of removal if the individual is no longer likely to be tortured if forced to return to their home country. Additionally, an individual granted deferral of removal under CAT may be detained by the DHS if they are deemed to be a threat to the community.

Like regular withholding of removal, the benefits to both forms of CAT relief are limited. An individual who is successful under a CAT claim cannot be removed from the United States to the country from which they fled persecution, but they can be removed to a third country if one is available. Further, an individual granted CAT cannot adjust their status to that of a Lawful Permanent Resident, however, they may apply to obtain employment authorization.

The standard of proof under the CAT is higher than the standard for asylum. The applicant must prove that it is "more likely than not" that they would be tortured if forced to return to their country. The evidentiary proof for torture is very similar to the proof for asylum or withholding claims.

Individuals seeking relief under the CAT must bring their claims before an IJ. The procedure for filing a claim under CAT will differ depending on certain factors, including the status of an individual's case. If the applicant is filing for asylum, they should request relief under withholding of removal and CAT in their Form I-589 and should include the following information:

1. The type of torture they are likely to experience if forced to return to his/her country;
2. Any past instances of torture that they have experienced;



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Magdalena Cuprys received her Juris Doctor from the University of Washington School of Law in 2002. She was admitted to the practice of law in California in 2003 and in Florida in 2006. Before law school, she completed two bachelor's degrees, one in Political Science and one in Latin American Studies, at the University of Chicago in 1999 (AB Degrees Political Science & Latin American Studies from the University of Chicago in 1999). Ms. Cuprys is a member of Kappa Alpha Theta and was Panhellenic President. - She is a Member of the American Immigration Lawyers Association (AILA). Magdalena Cuprys is admitted to the practice of law in Florida and California. She speaks Russian, Spanish and Polish, and is conversant in Russian and Italian.



Blog of Immigration Attorney Magdalena Cuprys

3. Any past instances of torture experienced by close family members and associates; and

4. Documentary support showing related human rights abuses by the government of their country, such as: the U.S. State Department's Human Rights Country Reports, Amnesty International Reports, Human Rights Watch reports, and reports from other human rights monitoring groups, etc.

If the applicant has already filed for asylum, but did not mention withholding of removal and CAT, they should supplement the application with the above information.

Remember that relief under CAT is not as beneficial as asylum or withholding. It is generally used primarily by those applicants with serious criminal convictions who may benefit from CAT relief. Thus, while most applicants file for asylum, withholding and CAT in the alternative, unless the applicant is statutorily ineligible for asylum or withholding, it is unlikely that the CAT claim will be a principal component of their case.

The complete article will be published on the Blog of Ms. Cuprys at <https://magdalenacuprysblog.blogspot.com/>

About Magdalena Ewa Cuprys

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