

Continuing his article series, Immigration Attorney Godfrey Y. Muwonge publishes article on "Deferral of Removal"

In continuation of Instruction Series on "Relief from Removal," Attorney Godfrey Y. Muwonge examines the Deportation Defense Remedy "Deferral of Removal"

MILWAUKEE, WISCONSIN, UNITED STATES, December 13, 2018 /EINPresswire.com/ -- In his newest published article, continuing the Instruction Series on "Relief from Removal," Attorney [Godfrey Y. Muwonge](#) examines the Deportation Defense Remedy called "Deferral of Removal." The complete article will appear on the Blog of [Mr. Muwonge](#) at <https://GodfreyMuwonge.blogspot.com>.



On December 10, 1984, the United Nations General Assembly adopted the United Nations Convention Against Torture (CAT). It is intended to prevent torture, which is described as the infliction of severe pain and/or suffering, whether physical or mental, and other acts of cruel, inhuman, or degrading treatment or punishment. The torture need not be by government alone, it can be by private individuals or organizations, sanctioned or acquiesced to by the government. As a signatory to the Convention, the United States has incorporated the CAT into its regulations governing practice before the Immigration Courts where the immigration judges can grant a non-citizen (known there as "respondent") whom they have determined to be removable, relief from removal under the CAT.

“withholding of removal is open to those respondents who can prove that it is more likely than not that they would be subject to torture in the country to which removal is directed by the Judge”
Godfrey Y. Muwonge, Attorney in Wisconsin

[Godfrey Muwonge](#) explains that there are two forms of relief that the Immigration Judge can grant a respondent under the CAT. The Immigration Judge can grant (1) withholding of removal, which is open to those respondents who can prove that it is more likely than not that they would be subject to torture in the country to which removal is directed by the Judge, regardless of whether torture would occur on account of race, nationality, religion, membership in a particular social group or political opinion, if the respondent is not disqualified by certain bars to relief; and (2) deferral or removal, which is open to respondents who can prove that it is more likely than not that they would be subject to torture in the country to which removal is directed by the Judge, regardless of race, nationality, religion, membership in a particular social group, or political opinion, but the respondent is disqualified from withholding of removal by certain bars such as criminal convictions that include aggravated felonies (this category of crime does not

mean a regular felony under ordinary criminal law because a misdemeanor under regular criminal law can be an aggravated felony under immigration law, and one is advised to consult an experienced immigration attorney for the difference) and terrorism.

A recipient of deferral of removal has no right, necessarily, to release from custody, especially if the Department of Homeland Security determines that he or she is a threat in the his or her community. In addition, he or she, is not entitled to become a lawful permanent resident (LPR) which leads to citizenship. Finally, deferral of removal can end abruptly when, upon periodic review, it is determined by the Immigration Judge in what is known as a *de novo* (completely new) hearing that the respondent is no longer in danger of torture. The fact that a respondent is no longer in danger can be because the government in the country to which removal was directed has changed and the new government does not torture its citizens. Also, deferral of removal does not guarantee that the respondent will remain in the United States. If there is a third country willing to take him or her, the respondent will be removed to that country.

There are many ways a respondent can prove that a government tortures its citizens, or that private entities do with the acquiescence of government. The following are some of them:

1. Reports by governmental entities — the United States Department of State publishes a report on human rights on an annual basis which contains assessment of whether torture is an issue on a per country basis, and so do other countries of the world such as the United Kingdom.

2. Reports about torture in particular countries, by private human rights watch dogs such Amnesty International, Human Rights Watch and others, which are found at their websites on the internet.

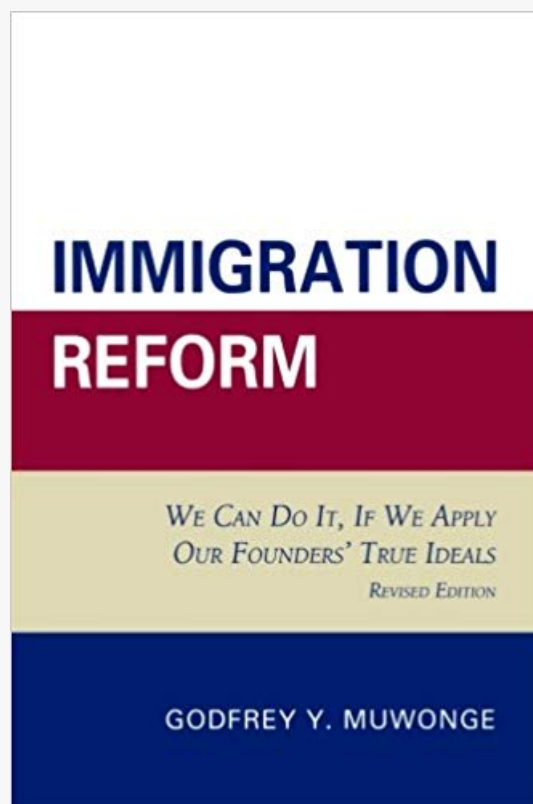
3. Past instances of the respondent's suffering of torture.

4. Torture that the respondent's family members have suffered, which can be entered into the record through affidavits of those family members.

5. Torture that persons who have been granted asylum, withholding of removal, and



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Godfrey Muwonge, Book on Immigration Reform, available at Barnes and Noble

withholding of removal under the CAT have suffered in the country to which removal is directed have suffered, which can be entered into the record through affidavits.

6. Expert opinions by college professors specializing in studies of particular countries, and others with particular knowledge of countries in which torture occurs.

There are countries in which it is presumed that a respondent will be subjected to torture. For instance, countries in which a criminal deportee is subject to imprisonment upon return are deemed countries in which respondents will suffer torture. One court has held that an HIV/AIDS sufferer whose removal was directed to Haiti would face torture there and, therefore, deserved relief because that respondent would die quickly upon return because the respondent would be imprisoned upon return. Another respondent was able to show a court that return to Nigeria would result in incarceration under that country's mandatory detention of citizens deported as a result of criminal conviction, and the respondent won deferral of removal on that basis.

Mr. Muwonge points out that this is a comment on the law and not legal advice. If the reader seeks legal advice on deferral of removal, the reader should consult with an experienced immigration attorney on the subject. - The complete article will appear on the Blog of Mr. Muwonge at <https://GodfreyMuwonge.blogspot.com>.

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