WORKING THE PAPER:

NEPALI SUFFERING NARRATION, COMPASSION, AND THE U.S. ASYLUM PROCESS

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This ethnography documents the interconnections between asylum narrations and emergent Nepali migrant-community in the United States within the context of contemporary US immigration and political asylum process. It explores the social and politico-legal life of asylum narration, interpretation, and documentation that congeal the figure of a "suffering migrant" and/*as* an "asylum seeker" in the United States. The multifaceted elements involved in the asylum process—from initial stages of interpretation and documentation, including filing of the I-589 asylum application to the US state, recording of individual asylum narratives to the preparation of affidavits and expert-witness reports to the effective deployment of suffering accounts in the courtroom hearings—frame specific chapters in this dissertation.

This dissertation reveals that the socio-cultural work of and investment into asylum process extends beyond the legal realm that they are often consigned to. I examine how the characteristics involved in seeking political

asylum, including legal documentation and bureaucracy come to define the relationship, sociality, and imaginations in the formation of Nepali migrant communities in the United States. For Nepali transnational migrants and/*as* asylum claimants explain and self-reflexively critique the asylum-seeking process through the socio-cultural concepts of *kaagaz banaune* (literally, "making paper"), or legal documentation, and the everyday practice of *dukkha*, or suffering, being inseparable from socio-legal dynamics, emphasizing the basis for creating a peculiar mode of sociality and negotiating familiar ones anew. I ground these interests within the co-construction of what I call asylum "suffering narratives" by Nepalis, embedded in indeterminacy, intersubjective and political possibilities, which both contest and conform to their interlocutors'—asylum lawyers and human rights advocates—interpretation of the "work of compassion" as a hallmark of the US asylum system. An analysis of the US asylum-seeking process as a paradigmatic case for the production of a "suffering narrative," my dissertation takes into account how and in what specific ways asylum legal experts in turn employ, embody, and self-consciously reproduce rationales within the state-legitimized constraints and their practices—conflicting and sometimes inconsistent views, critiques, and beliefs—of compassion as an important extension of the everyday practice and performance of membership in a liberal, democratic state.

Nepalis' experiences of seeking asylum illuminate the infrequently explored workings of liberal subject making where individuals and migrant-community in question do not unconsciously reproduce suffering narratives without incisive internal critique of the process. Exploring the dynamics of suffering and victimhood as a necessary condition to the modern, subject making process, I argue that, contrary to the prevailing trend, the politics of recognition cannot be seen as an end for putative pathway toward citizenship in liberal democracies, empirically and theoretically. Rather, it is the beginning of a more complicated relationship between private-citizens and the making and managing of legal non-citizens. It shows that social and political suffering, both as a general phenomenon and in the context of political asylum offer a useful analytical site for an investigation into the relationship between compassion, suffering, and citizenship.

BIOGRAPHICAL SKETCH

Tina Shrestha was born in Kathmandu, Nepal, and moved to the United States at the age of 13. She completed her BA with honors at Berea College in 2002, with a major in Biology. She completed her MA at Columbia University in 2005 in Liberal Studies. She has taught in Cornell's writing program and the New School University's Graduate Program in International Affairs. She currently lives in Alexandria, VA, and teaches in the Department of Anthropology at Catholic University of America. Her current research concerns the contemporary politics of US immigration and asylum regime, bringing together theories of anthropology of institutions and bureaucracy, humanitarianism and critical refugee studies, and political theories of citizenship.

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The problem with starting at the beginning is attempting to remember how (and where) it all began in the first place. This dissertation from coursework to fieldwork and to its various re-embodiments in writing has taken me close to a decade. Over the past few years, when asked how I embarked on this journey, I have given a number of self-reflexive and anthropologically driven responses—claims that initially serve as crucial conversation points from which to locate my research and writing. But I am increasingly conscious that the bulk of my revelation comes from a less academically inspired and more improvised spaces and accidental encounters, developing various levels of intimacy with people over the years and leaving me indebted to more individuals than I can possibly name here.

My original fieldwork was funded by the Sage Fellowship in the Anthropology Department, the Institute for the Social Sciences, the Graduate student research grants in the American Studies. Subsequent work was funded by teaching assistantships in Anthropology, Cornell's Writing Program, and American Studies. Sections of this dissertation were presented in earlier forms as conference papers at the American Anthropological Association Meetings in New Orleans (2011), San Francisco (2012) and Chicago (2013), the South Asia Conference in Madison-Wisconsin (2012), and the Association of Nepal and

the Himalayan Studies (2012). Selected chapters were presented at a workshop on "Democracy, Citizenship, and Constitutionalism" at the University of Pennsylvania (Chapter 3) and as an invited talk/seminar at the South Asia Program at Cornell University (Chapter 2). I would like to thank the organizers and conveners of these events and workshops as well as fellow participants, panelists, discussants, and audiences for providing these opportunities to share my work in public-intellectual spaces.

At Cornell, the Department of Anthropology was my home for seven years. I would like to thank committee members—Vilma Santiago-Irizarry, Michael Jones-Correa, Viranjini Munasinghe, and Saida Hodzic—for their constant inspiration, mentoring and ongoing guidance. They were always generous with their time, allowing me to thoroughly relish in our intellectually stimulating conversations over the years. Thanks to Vilma, who continued to have faith in me—believing in my imagined "research" early on, long before its inception as a dissertation project—and who taught me to cue in on subtleties of "doing ethnography" long before I started fieldwork. Thanks to Viranjini for those lengthy meetings on Friday afternoons, asking me difficult questions and pushing me to make connections to broader social theories and concepts. Thanks to Michael, whose non-anthropological critiques and insights I came to value immensely and with whom I have enjoyed sharing particularities of doing

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In New York City, I must thank Luna Ranjit, executive director at the Nepali grassroots, worker's rights organization *Adhikaar* in Queens, where I was affiliated as a volunteer, board member and taught "English for Empowerment" classes on weekends during fieldwork. I am ever grateful to *Adhikaar*'s community organizer Narbada Chettri, whose work, determination, and sustained engagement with Nepali New Yorkers continue to inspire me. The fellow board members and colleagues—Susan Hangen, Amy Paul, Sukti Dhital, Mamata Gurung and —English class teachers —Prava Adhikari, Dhiraj Ghale, Sonam Ukyab, Bharati Rai, and Namrata Pradhan—and volunteers affiliated with the organization provided a steady source of support, joy and

community. There are so many people, who I came to know through *Adhikaar*, I wish to thank and from whom I have gained insights into Nepalis' experiences with the asylum-seeking process in the US, but whose names I cannot list. I am forever indebted to my students from Sunday English classes for their generosity, openness, and unconditional trust, and for especially entertaining my incessant, if oftentimes naïve, inquiry into their lives and work experiences in New York City. Indeed, it was through my accidental insertion as their "English teacher," sometimes participating in intense and engaging classroom-conversations, frequently interrupted by their shared silences and displaced laughter that sparked my initial interest and ultimately gave life to this dissertation.

I would like to thank all the participant-interviewees in the non-profit organizations and private law firms that provided pro bono legal assistance to Nepali asylum claimants in New York City. Thanks especially to the coordinators and human rights experts of the "Refugee Protection Program" and "Asylum Law Workshop" at the Human Rights First for teaching me so much about the US asylum process. Thanks to lawyers at Debevoise and Plimpton; Mayer Brown; Sullivan and Cromwell; and Simpson Thacher and Bartlett for speaking to me about their work related to advocating for and assisting asylum-claimants and beyond!

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I end here with my family and those who have become family in life and love. My extended family and relatives in Nepal and in the US have given me much needed space and unconditional love. My maternal grandparents Girija

Lal Shrestha and Mathuri Shrestha, now both deceased, and my paternal grandmother Tej Kumari Shrestha remain home to me no matter where I go. Thanks to my mother Minerva Shrestha—for asking me if and when I will finish—and to my father Prakash Lal Shrestha—for never asking the same question. Thanks to my sister Christie Shrestha and her husband Vijay Acharya for hosting me in Paris the summer of 2013! The trip gave me a renewed purpose and reason to finish. Thanks to my sister Priyanka Shrestha and her boyfriend Storm Cherry for entertaining me with theatrical performances when I began writing (both rehearsed and improvised) and predicting that we will all graduate in the same year! Thanks especially to Himal Shrestha, who listened to me over the years, offered encouragement without hesitation, and enthusiastically ventured on this journey with me long before I knew I wanted to become an anthropologist. Thanks to my dear friends Sameer Maskey and Prerana Shrestha for their steady support, without every having to ask, at times I most needed. Thanks to Martin Searle for skyping from Juba everyday during the later stages of writing: a "working draft" would not have quite materialized into "a dissertation."

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INTRODUCTION

Being "located" by my interlocutors

"*Bahini, America ma baseka Nepali haru ko barema bujhna ko lagi, Nepali haru yahan aayera kasari afno dukkha ra peedha bechara, kehi naboli, baseka chan bhanne kura bujhna jaruri cha*" [Sister, to *know* about Nepalis living in America, you have to first *understand* how Nepalis have been surviving here by selling their suffering, silently]." So argued my interlocutor and a community-activist Nirmala didi,[1] a charismatic and a perceptive woman in her late 40s, who worked with Nepali migrant workers in a Nepali grassroots, worker's rights organization in Jackson Heights, Queens, ever since she acquired asylum in the US.

I first met Nirmala didi in the fall of 2007, two years before I started my fieldwork in the city, back when I thought my research was about migration and settlement of Nepalis into U.S. society, rather than the uneasy relationship between migrant-community formation and the everyday practices of legal integration, as people's everyday experiences filled with dilemmas and contradictions. At the time, I simply thought that like every Nepali I met in the city, she too was sharing her

[1] *Didi* means older sister in Nepali. Addressing people, new acquaintances, usually a person older than you in kin terms is a sign of respect. The reverse is true, as well; referring to a younger person in kin terms is both a sign of respect and an endearment. I was everyone's *bahini*, younger sister, at the Nepali grassroots organization.

opinion with me about who and what Nepalis[2] were supposed to become in the US. Although I thought it somewhat odd, it was not the content of her statement that initially made me ponder as much as the dry, matter-of-factly way she stated it, almost expecting some kind of response from me without having posed a question. Still, collecting 'suffering stories' of Nepali New Yorkers or researching about people "selling suffering" was certainly not what I had imagined my research, which I started a year later, to be about.

One can only imagine my surprise upon repeatedly running into conversations with Nepalis about suffering, or *dukka,* that people indirectly spoke of, inevitably, in relation to creating and *being* created by a vibrant, Nepali migrant-community in New York City. To the extent that I was working with migrant workers in the grassroots, community-based organization *Adhikaar* (meaning 'rights' in Nepali) as a volunteer-ethnographer and accidentally *inserted* as an ethnographer-interpreter for political asylum claimants outside the greater Nepali migrant community, the multifaceted meanings of moral suffering materialized at different moments with people throughout fieldwork.

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[2] John Whelpton's observed two decades ago that "Being Nepali…means different things to different Nepalis" and insisted that scholars working among Nepalis and in the Himalaya region to constantly be wary of "the gap that may exist between official aspirations and the actual feelings of a population divided along ethnic, caste, and class lines." Other anthropologists like Joanna Pfaff-Czarnecka and Gerard Toffin (2011) have followed suit. See *The politics of belonging in the Himalayas: local attachments and boundary dynamics*, where Pfaff-Czarnecka and Toffi provide an analysis on the contested notion of belonging based on ethnicity and identity throughout the socio-political history of Nepal. Keeping this important critique in mind, I use "Nepali" in this dissertation primarily as people in the Nepali Diaspora living in the U.S. who identified themselves as Nepalis belonging to the greater migrant community as people speaking Nepali, and not necessarily how individuals or groups differentiated their Nepali-ness based on categories of caste, region, ethnicity, and religion in the Diaspora.

I first started volunteering at *Adhikaar* in late 2007, initially to document practices of cultural mediation within the setting of migrant grassroots community-organizing and mobilizing around worker's rights issues, and more broadly, to understand the relationship between emergent human rights and social-justice oriented approaches toward addressing im/migrant-related "issues"—employment, health-care, and education—and new conceptions of building migrant-community and migrant-identities. I was primarily interested in the work and service provided by 'ethnic brokers' or 'cultural mediators,' like Nirmala didi, who were positioned to *negotiate* between Nepali migrants and various representatives in state-institutional settings. I realized early on, however, that cultural mediation and language translation and interpretation were occurring in a wide-range of institutional and non-institutional settings throughout New York City. Whereas hospitals, schools, post-offices, refugee resettlement agencies, and banks were some of the most regular and readily visible sites for translation and interpretation, asylum offices and courtrooms were seemingly distant and unlikely institutional sites where Nepalis engaged in cultural mediation.

Over the course of two years (2009-2011) in New York City, I spent many hours in private law firms, human rights agencies, immigration courtrooms, asylum offices, sitting and speaking with and for Nepali asylum claimants as an ethnographer-interpreter. I became interested in the formation of a Nepali "migrant community" shaped by people's everyday experiences of legalization as recently arrived migrants escaping political instability in Nepal (Chapter 1) and settling into US society. I

learned soon enough, though, to simply explain to people that I was studying about Nepalis' experiences in the US.

This strategy for addressing people's curiosity as to what I "really" wanted to know always produced a satisfying response and, sometimes, resulted in an intense engagement. First, a straightforward answer about how long ago they migrated to the US, then a sigh and an awkward glance, followed by a comment about their legal status. Once people learned that I was a US citizen, the comments would become increasingly specific to the point of being a long list of inquiries. "So how long did it take you to *make* papers?" My Nepali interlocutors would often ask me, "Did you *make* it by yourself or go through the lawyers?" Or, some would bluntly say: "How much did you end up spending?" When I mentioned that my uncle, a US citizen, sponsored my family and we migrated almost twenty years ago, many nod their heads and others would say, "Oh you are one of those fortunate people." Many conversations would simply end there.

The more I revealed about the various aspects of my fieldwork in the city the more gratifying, if somewhat puzzling, responses I got from people. In particular, upon revealing that I also provided Nepali-English interpretation for asylum seekers, most interesting and troubling responses were expressed. While it managed to generate sarcastic laughter from close associates in the organization where I volunteered, most of the time my inquiries were met with dead silence and exchange of hesitant smiles and glances now and then. At the grassroots organization, where I

volunteered and facilitated English classes, my response elicited a story. *"Dherai dukha khayen pahile pani* (I had to *suffer* a lot in the beginning too)…*tara America bhaneko nai yehi ho bhanera thaha pai sakepachi chalchan. Kaam pani gardai garcham, tara kaagaz banauna ko laagi dukha garnu pareko samjhanda ajhai runa man lagcha ghar samjhera* (But once you realize this is life in America, you just go on. Work also keeps going, but every time you think about all the *suffering* you had to go through to *make* papers, I still feel like crying and miss home)." Another response in the form of question was, *"Tyo ta saubhabhik nai ho, America ma sukkha pauna ko lagi dukkha ta garnai paryo ni, hoina ra bahini?* (It is natural, to have a good life in America one has to *suffer*, isn't it true sister?). A man in his early 60s, who I call Ram dai, from Kathmandu, once casually declared: "*Nepalma Maobadi ko stithile garda Nepali harulai dherai faida bhairakheko cha yo deshma* (Because of the Maoist situation in Nepal, Nepalis are benefiting in this country)." The ESL participants, who were migrant workers in the city, and with whom I worked closely, shared with me their experience of obtaining asylum, or *kaagaz banaune* (literally: *making* paper) in the US.

In Sunnyside, Queens, where I lived, Nepalis often told me, "*Tapain le dherai ramro kaam gardai hunu huncha. Hami Nepali haru yaahan kasari baseka chaun bhanera thaha hunu paryo ni* (You are doing good work. One has to know how we Nepalis are suffering here)". My primary interlocutors, participants in my English classes at the organization, were extremely polite, gracious, and hospitable to me, for I knew that entertaining my inquiries about their early experiences of 'integrating' were far less

important or practical for them in the midst of dealing with their everyday anxiety caused by economic and legal insecurities. These seemingly unconnected comments and reactions made me wonder just what it was about interpreting for Nepali asylum claimants that demanded such measured yet lively responses and views from Nepalis.

My Nepali interlocutors, colleagues, and random strangers communicated quite a lot in their few words, awkward silences, and moralizing tones. What people initially said in response to my interest in learning more about asylum seeking process and declared involvement with Nepali asylum claimants and their legal representatives revealed little about whether (or not) they themselves went through the process or personally knew or assisted someone who had gone through the process. Nor did they shed much light on how Nepalis obtained information about the asylum process, or if an extensive, informal social networks surrounding "making paper" existed in the migrant community that I had yet to learn. For me, doing fieldwork among Nepalis claimants in New York City simply meant trying to understand something about their everyday legalization experiences and migrant social lives bounded by this concrete, material, activity of "making paper." This is turn led to a set of questions I then explored throughout my fieldwork, about the role of the asylum process, not only for the Nepali claimants but also for those—pro bono lawyers and human rights workers—assisting them with narrating, filing, and documenting their legal claims.

Unlike Nepali claimants, who described and drew parallels to seeking asylum as a basis for their continued and sometimes exacerbated conditions of suffering in the

US, pro bono lawyers and human rights workers who assisted them often spoke fondly of their experiences assisting Nepali and non-Nepali asylum claimants. As one of the pro bono lawyers I worked with on Nepali asylum case put it, "So much of asylum work is about compassion. You can be the best lawyer in town but without having an ability to sympathize you cannot continue this work." Another collaborator, a human rights expert, explained in a similar vein, "Although we provide pro bono legal assistance for asylum seekers, this work requires more than just legal expertise. That is the why we stay connected with private law firms even after transferring asylum cases for pro bono legal representation. We see it through each asylum case we accept and recommend to pro bono lawyers."

Lawyers and human rights experts are then critical social actors, mediators, articulating and translating asylum law to Nepali claimants and interpreters like myself. They are also resourceful individuals, working not only with their own professional codes and legal conventions but also with their own career interests and compassionate rationales and practices, sometimes oppositional, and other times, contributing, to their professional training and credential. Furthermore, their terms of engagement with and reasons for assisting asylum claimants represent a generation confronted with politically charged and contested debates on the contemporary US immigration laws and policies. These varied, animated, and differential responses provided by Nepali interlocutors and pro bono lawyers and human rights collaborators on the topic of asylum in the US revealed two important and

interconnected issues that form the basis of this dissertation: if seeking asylum, or in the words of many Nepalis *"*making paper*,"* was a work of suffering, then assisting asylum claimants equally required hard-work of compassion for those intimately involved and invested in the asylum-assistance process.

My argument in this dissertation is that, for various reasons, the asylum process in the US is one of the key sites for the production of suffering narratives among its claimants and, simultaneously, the materialization of compassionate practices among its advocates and legal collaborators. It is certainly an institution where legal documents (i.e. asylum-related in this case) shape and, in turn, are shaped by social interaction, intense engagement through interpretation, and active imagination of people occupying incompatible social positions. The incompatibility, ambivalence, inconsistency, and miscommunication, I show, are not obstacle to but central to workings of the US asylum system. I do so through the perspectives, experiences, and suffering narrative accounts of Nepali asylum claimants and their legal representatives and human rights advocates and experts—all deeply immersed in the asylum process, actively engaged with one another, yet invested in quite opposing experiences and worldviews.

Seeking asylum is a juridical process that entails a particular social relation to the state; as such, asylum claimant is a preeminently political identity. To conduct research related to asylum process in the U.S. not only from the perspectives of claimants but also from the unexamined perspectives of their legal collaborators and

advocates, especially those in relatively privileged social positions, involves an interesting double-bind research that is, fundamentally, anthropology's alleged aims as a distinctive mode of inquiry. As a Nepali-English legal interpreter rather new to the asylum-seeking process who accidentally immersed herself in and drawn into intense conversations, fervent controversies, and quite animated debate among Nepalis on the one hand, and equally dynamic engagement and endless discussion on the topic of asylum with/among pro bono lawyers and human rights experts, on the other, I can confirm that there is good deal for investigating its socio-legal and cultural significance in the US. A second reason to ethnographically document asylum-seeking and assisting *process*, rather than focus on the asylum law or policy-oriented debates, in the study of the US asylum as a salient institution follows from Nicholas De Genova's suggestion that insofar as policy-research on contemporary US immigration or undocumented migration are concerned they are only "effectively formulated and conducted from the standpoint of the state" which in the end reinforces "its [state] ideological conceits more or less conspicuously smuggled tow" (2002:421). De Genova's has particularly argued against making of "undocumented migrants" an "ethnographic 'object' of study" that unwittingly participates in the very production of those people's ""illegality"[3]—in effect, accomplices to the discursive power of immigration law" (423). In a similar vein, Susan Coutin characterized her

[3] The term "illegality" has been used by scholars like De Genova to denote the production and reinforcement of migrant legal categories, such as "illegal aliens" or "undocumented migrants," and how these socio-legal categories in turn shape the everyday lives of people.

research on the legalization experiences among Salvadoran asylum seekers in the US as an attempt to do "ethnography of a legal process" rather than of a "particular group" (2000: 23). Both Coutin and De Genova (2002) caution us about constructing individuals' legal identities that can have damaging political consequences. Inspired by these critical ethnographies of/in the United States, I trace the contemporary socio-legal life of the asylum process and socio-cultural consequences through the perspectives of Nepali claimants and their legal and human rights advocates and collaborators. Toward this end, I will investigate the relationship of some aspects of what one might call the American "asylum cultural process" to the socio-legal lives of differently situated people in the US at this particular political moment.

Asylum Seeking Experience of Nepalis in the US

This dissertation is as much about asylum seeking experience of Nepalis as their emergent socio-cultural realities intricately connected to legal-political landscapes of former, current, and potential claimants attempting to live through it and make sense of it. I focus on the asylum seeking experience not as an interruption from but a crux of people's everyday existence. As such, I document steps involved in seeking asylum not as an overview of the actual process as much as subjective and collective experiences of Nepalis I came to know, worked closely with, and provided interpretation within and outside the asylum context. In other words, seeking asylum for Nepalis ran parallel to their visibility as emergent migrant community in New

York City, where their individual lives are influenced by and shape the social life of seeking asylum.

I frame my work through two overarching and interconnecting approaches. First, this dissertation weaves together personalized accounts of seeking asylum with those of ordinary, everyday lives of claimants as migrants. I do not emphasize seeking asylum as the primary feature of their lives in the city. Instead, I discuss the multitude (and perhaps more intensified precisely because of its reach into every aspects of the everyday) experiences of the asylum process that is within and goes beyond the legal realm that it is often consigned to. Second, asylum-seeking process is often characterized within the contemporary immigration literature (Nyers 2003; Hughes 1998; Simon 1998; Welch 2002; Willen 2010) as either a necessary pathway of transforming "irregular" statuses of people to ultimately obtaining citizenship, or represented as an quintessential case of inhuman practices leading to differential forms of state control and governance (in the cases of deportation, and the refugee and asylum detention proceedings). Seeking asylum here is analyzed not in terms of the putative outcome of legal rights and socio-political belonging, but as a ground for examining the way of existing in the present—a form of sociality—in the US for legal non-citizens as always already an incomplete, conditional, and irreversible process. Toward these ends, I trace asylum-seeking steps experienced by Nepalis—from initial stages of producing "suffering narrative" during asylum interviews at human rights organizations to being represented by pro bono lawyers in private law firms, where

asylum interpretation and documentation of asylum story lead to preparation of witness testimony and merit hearings in the Immigration Courtrooms or Asylum Offices.

The individual asylum narratives I write about in this dissertation are self-conscious stories that span across two (or more) years of going through the asylum process. As such, some narratives are situated strictly within the legal context of asylum process—Immigration Courtrooms, Asylum Offices, and private law firms. Other narratives are situated in the midst of post-asylum documentation and prior to obtaining asylum, which include re-submission of claims, making appeals to the Board of Immigration Appeals (BIA) to revert rejected claims to awaiting decisions uncertainly. Still others are personalized reflections about and introspection into individualized experiences of seeking asylum or having gone through the process. I take these narratives as a collective commentary and critiques of the asylum-seeking process, which both provide a way of understanding its socio-political reach beyond the question of legalization and are characterized by the encounters with the asylum system to produce particular stories.

The first part of this dissertation is concerned with Nepalis' experiences of seeking asylum and the emergent sociality and relation they perceive among themselves and the US state. In short, the production of asylum legal narration and documentation feature centrally in their lives as Nepali migrants in the US. This approach grounds my ethnographic questions focusing on the asylum process shaping

socio-cultural lives and political engagement among Nepalis in New York City. The first set of ethnographic questions embark upon asylum-seeking experience through highlighting the emergent notions of work and suffering for people who are chronically positioned and in turn position themselves in the broad spectrum of legal ambiguities produced by the asylum system.

Then I move on to the second approach, where I attend to locate the perspectives of asylum advocates, pro bono legal experts and representatives, human rights workers as important facilitators, collaborators, and co-producers of what one might call, after Kleinman (1988), the "suffering narrative" in the asylum context. I explore in detail how the co-construction of "suffering narrative" works in concrete during asylum interpretation sessions, interviews, asylum legal documentary practices, and courtroom hearings and witness testimonies. These concerns about the practical dimensions of making asylum claims as 'suffering narrative' are braided into a second set of questions addressing the asylum system as a template to produce 'suffering narrative' and set parameters of social engagements between claimants and their legal representatives, enforcing compassionate rationales. I take this asylum template, so to speak, based on my own position as an ethnographer-interpreter and from the perspectives of those I provided asylum interpretation for—Nepali claimants and their pro bono lawyers, asylum officers, human rights workers, and expert witnesses. The final ethnographies center on the socio-cultural divergences produced by the asylum cultural template, rendering visible the fraught tensions with which socio-

legally ingrained ideologies and professional practices surrounding "claimant credibility" and "work of compassion" come to the fore and inform encounters and engagements between legal non-citizens and private citizens. It illuminates the US asylum system as a (socio-legal) template/process by broadly describing and assessing stakes of differently positioned social actors. On one hand, it is invested in detailing the impact of seeking asylum among Nepali claimants as they reflect on their subjective experiences of suffering. On the other, it tunes into equally vigorous and varied accounts of practicing compassion. These concerns are brought together and discussed through categories of asylum work and legal documentation, revealing people's imaginations, initiated by asylum-based lived experiences, of their present lives and future possibilities.

At the same time, since my most intense fieldwork and my primary sympathies were with Nepali migrants and claimants for whom I provided legal interpretation, I have been especially concerned with how particular individuals and the migrant communities both have been subjected to and have responded to the asylum legalization process and specific stages therein. In this dissertation I explore how they have enacted and made sense given their often-precarious socio-economic situations and legal positions and how they have internalized the process in their everyday lives of becoming "asylum seekers" and "migrant workers" in the United States. These are lives, in the US, for which, real limits rather than possibilities define their experiences of becoming desirable legal non-citizens. For these claimants whose experiences in

the U.S. have tended to be more through employment insecurity and exploitation, constant surveillance, constrained physical and social mobility than through the privileges of education, upward social mobility, income, I explore how the asylum-seeking experience and continued protracted legality only exacerbate their daily activities and suffering. I argue that the way claimants respond to and participate in the production of asylum 'suffering narrative' depends not only on specific claims based on past suffering and violence in Nepal but also their current experiences in the US as alternative meaning-making discourse and practices available through asylum seeking process.

Ethnography of an asylum process

There is a burgeoning interest within anthropology around asylum system as an object of study (see Good 2007), and I do not intend to revisit the nitty-gritty of the asylum legal and judicial procedures (see Kelly 2012 for a detailed analysis of the concept of "torture" as used in the UK asylum system). Here my interest is firmly rooted in the kinds of subjective limits and social possibilities, internal dissent and everyday life projects through and in seeking asylum in the United States. Asylum system is both an object of study only in so far as it offers a way of viewing an amplification of particular social process and life itself. For people I provided asylum-related interpretation and worked closely with, the asylum-seeking process was undoubtedly a different set of experiences from "pre-asylum seeking" days, for it had its own terms and conditions, and possibilities of distinctive sociality. Simultaneously,

the asylum process did not necessarily obliterate their parallel experiences and preexisting socio-economic conditions as migrants in New York City. Rather, it magnified and forced people to acknowledge with certainty the precariousness and the inherent contradictions of their existence—as migrant workers and asylum seekers. As such, asylum seeking experience brought to the forefront moments when social life was exaggerated, not necessarily by shared, collective experiences as much as individual's everyday encounters and imaginaries related to asylum 'suffering narrative,' structured by circumstances immediately out of grasp of individual claimants.

Anthropology of asylum system is currently being worked out. In an era where people seeking asylum and the use of legal documentation is on the rise in the United States as in most of the rest of the 'West'—what "actually happens" in the asylum interviews at Immigration Courtrooms and Asylum Offices is not well understood. Recently, we have been experiencing something of an asylum ethnographic revival (Delouvin 2000; Blommaert 2001; Coutin 2000; Corlett 2002; Williksen 2004; Fassin and d'Halluin 2004 and 2005; Good 2002, 2007, 2011a; Ticktin 2011; Kelly 2012; Pöllabauer 2004; Nickels 2007; McKinnon 2009). These studies are indicative of the significance of the asylum system in the U.S. and Europe and broader implications for anthropology that have opened up spaces to consider analytical concerns. Toward this end, my dissertation is a contribution to this burgeoning literature on asylum legal process in liberal democracies and, in particular ethnographies of asylum (Good 2007;

Kelly 2012; Fassin 2013; Cabot 2012). I draw on and attempt to expand anthropological engagement with the asylum process, albeit with a slightly different approach. The two major approaches to the study of asylum law and process, and the concomitant shift in focus between asylum legal procedure and the production of 'suffering' can be illustrated by Anthony Good's work in Britain (2007; 2008; 2009; 2011; 2012), and Didier Fassin (2002; 2005; 2007; 2012) and Miriam Ticktin's (2011) works. Good's interests in the asylum system arises out of his research positionality as a country-condition expert, writing reports and providing witness testimonies on behalf of asylum seekers and working for British Immigration court system. Didier Fassin focuses on the compassionate politics in the production of suffering narrative—not limited to the asylum context—based on his own vantage point as a medical practitioner and ethnographer, gathering and analyzing oral and written reports of suffering and trauma framed within the humanitarian logic.

In the case of asylum claimants in France, Miriam Ticktin (2011) has argued that it is a conglomeration of "humanitarian interventions" or "regimes of care" as part of the transnational organizations and private agencies, rather than the French state per se, involved in the management of undocumented migrants seeking asylum. An important strand to her argument is the centrality of moral imperatives driving the politics of immigration and governing of migrant lives in France. She reveals the particularity of anti-immigrant politics and universal ethics surrounding compassion

and care in the everyday governing practices of the lives of *sans-papiers*[4] (or, migrants without legal documents).

While I take inspiration from Good, Kelly, Fassin and Ticktin's study of asylum system in the UK and France, respectively, there are divergences between my approach and theirs. To some extent, emergent anthropological interest in the asylum process abandons the significance of the micro-political for understanding the asylum process and individualized experience of social actors positioned as potential grantees for asylum, facilitators in assisting with asylum claims, and finally grantors of asylum in liberal states. On one hand, studies (Good 2011a and 2011b; Cabot 2013) expanding asylum system as a legal-bureaucratic technology placed to tackle mass migration of people from post-conflict societies and settling in liberal democracies ends up effacing any political possibilities of those invested in the asylum process. On the other hand, studies (Fassin 2005; Kelly 2012) that fixate on the critique of "past-persecution" with extensive work on understanding legal and medical construction of victimhood based on violence overlook the specific terms and conditions inherent in the very making of asylum system for imagining, co-constructing, and simultaneously legitimizing asylum suffering narratives.

[4] Discussing in detail what she calls "the Illness Clause," she poses a rhetorical question: Why is it that illness can travel across borders while poverty cannot?" (95). Ticktin makes a case that discussion of *sana-papiers*' use of "the illness clause" to legalize their status need to be understood within the contemporary context of increasing anti-immigration sentiment against people of color coupled with myriad technologies of care regime and structural constraints in France.

In this dissertation, I make the case that closely engaging with and critically assessing the asylum legal practice allows us to unpack the seemingly arbitrary process of asylum making claims and give us insights into the cultural workings of the US asylum system. I take inspiration from Pierre Bourdieu's notions of "disposition," which refers to a "way of being" or "inclination" that collectively constitute the habitus. Habitus, Bourdieu writes, is "a system of dispositions," which structures action and everyday practices, and creates social worlds (Bourdieu 1990, 73-87, 214). Specifically, in directly investigating "how" and "what" rationale underpins workings of the asylum process and why particular components hold such explanatory power and naturalizing effect, I approach asylum system through the legal-judicial habitus of people invested in the process and their conception of themselves as benefactors of compassion to suffering asylum victims—indicative of a specific worldview and socio-political interests inseparable from their subjective positions, if somewhat elusive, rather than mere collection of objective facts. Myth, as Malinowski reminded us over six decades ago, does not exist separate from social practice: "an intimate connection exists between the word, the mythos, the sacred tales of a tribe, on the one hand, and their ritual acts, their moral deeds, their social organization, and even their practical activities, on the other" (1948: 96). I suggest that like Malinowski's notion of "myth," the contemporary US asylum system—through its established alignments with long-standing legal history entrenched in the post-civil rights cultural norms, on one hand, and the ongoing changes in the US immigration laws and policies, on the other—

evokes and reinstates victimhood as a basis for constructing a "suffering narrative" not separable from its liberal succession.

In a similar vein, to compartmentalize different aspects of the asylum process and document particular voices and perspectives therein, I juxtapose pro bono lawyers and human rights workers' narratives of "claimant credibility"' and "work of compassion" in the co-construction of asylum "suffering narrative" with those of their clients—Nepali claimants. Delineating the conflicts, contradictions, and contestations among the advocates and collaborators of asylum also provides an analytical space for unearthing universalizing and taken-for-granted assumptions informing their beliefs, behaviors, and interpretations of their actions, personal and professional. By unfolding the inconsistencies and contradictions between competing worldviews and practices associated with asylum "claimant credibility," I write against assumptions of a singular, static, all-encompassing set of ideas surrounding asylum-suffering narrative and victimhood status assigned to people positioned as claimants—evoking passionate debate on truth, evidence, and compassion. At issue is the task of describing and recapturing asylum process and how "suffering narrative" of Nepali claimants and legal representatives' emphasis on "compassionate actions" function in sustaining the workings of the asylum proceedings. It also illuminates in concrete how what is at stake for differently situated social actors and their corresponding, and starkly varied, experiences of the same socio-cultural process results in quite different notions of being and enacting in the same world.

Notes on ethnographic engagement

> "Ethnography throws one into a world where one cannot be entirely oneself, where one is estranged from the ways of acting and thinking that sustain one's accustomed sense of identity. This emotional, intellectual, social, and sensory displacement can be so destabilizing that one has to fight the impulse to run for cover, to retrieve the sense of groundedness one has lost. But it can also be a window of opportunity, a way of understanding oneself from the standpoint of another, or from elsewhere."
>
> --Michael Jackson ("The Scope of Existential Anthropology," 2013: 10)

As part of my ethnographic work on asylum process—legal interpretation, documentation, and hearing procedures—and the production of Nepali migrant legal subjectivities in the United States, I conducted interviews and collected data in two seemingly unconnected spaces (Nepali worker's rights grassroots organization *Adhikaar* and human-rights agencies and private law firms throughout the city) over a period of two years (October 2009—September 2011). The majority of the claimants in these distinct sites were working-class migrants, arriving to the U.S. from anywhere between one to nine years ago from Nepal, either going through asylum procedure or awaiting asylum decision. Those going through the process were in the midst of seeking asylum, which encompassed a wide-range of activities: attending initial screening and interview process at the human-rights agency; meeting pro bono lawyers once or twice a month to processing their asylum documentation—filing of I-589 *Application Form for Asylum and Withholding of Removal*; going over their documented affidavit for accuracy and consistency and ensuring that their asylum stories match the written affidavit; meeting expert witnesses, including doctors, psychologists or other

medical professionals and regional or country-condition experts; and meeting with pro bono lawyers as frequently as 3 or 4 times/week for two weeks to up to a month for interview and prep-sessions before their merit hearings at the Immigration Court in Federal Plaza. Although claimants anticipating decision on their asylum had already completed two-to-three yearlong asylum procedure, documentation, interview, and merit hearing, the waiting itself posed new and different set of challenges—intrinsic to protracted legal uncertainty that I discuss in some detail in the later chapters.

I spent many hours in law firms, human rights agencies, immigration courtrooms, asylum offices, sitting and speaking *with* and *for* Nepali asylum claimants as a legal interpreter, or what I would like to call an ethnographer-interpreter. Unlike many anthropologists studying asylum system in liberal democracies, I entered the asylum scene neither as an "expert" witness during asylum hearings nor consultant to legal experts for providing country condition reports on Nepal. Rather, I was asked to play the part of an informant—a distant but an informed insider—to lawyers at the human rights organizations, private law firms and asylum offices. The irony presented by this continuous switching from being a "native" ethnographer researching among Nepalis to becoming a sort of "native" informant translating and interpreting, and essentially, speaking on behalf of Nepali claimants was too viscerally uncomfortable and surreal to simply dismiss my own accidental insertion into a convoluted practices of seeking asylum in the US. My responsibilities neither began nor ended with providing legal interpretation per se. Although I primarily provided

Nepali-English language interpretation assistance and, at times, translated documents, it was often the beginning of a highly complicated, if convoluted, asylum process that I inadvertently became part of. Or, rather, it became part of me.

I never took notes during asylum interpretation sessions in various legal agencies, human rights organizations, and asylum offices. As an interpreter-observer and participant-interpreter, notes were written after each asylum interpretation session on the same or following day to reflect on moments of intense engagements, language tone and style, and the sheer impossibility of direct translation due to conflicting world views, and sometimes mutually incompatible opinions embedded in irreversible positionalities each one of us occupied during asylum interpretation process. Interpretations for Nepali asylum claimants and pro bono lawyers mainly took place in conference rooms, lobbies, and nearby cafes and restaurants of private law firms in Manhattan. More in-depth conversations and interviews with former claimants took place in the privacy of their homes, hospitals, parks and cafes in their neighborhoods in Queens. While it was not possible for me to "loiter with intent" (Raj 2003) in the lobbies or conference rooms of private law firms and human rights agencies, I seemed to be doing nothing but simply hanging around Jackson Heights, Queens, teaching English classes and volunteering with different programs and workshops in the grassroots organization. It was also where I lived. There, I spent most of my time waiting for, and, sometimes waiting with, former and current claimants—many of them were my ESL students, their family members, relatives, neighbors and close

associates from their villages in Nepal—discussing the recent development in their individual asylum cases.

I rarely met with claimants for whom I was providing asylum interpretation outside the law firms. It was only after my role as an official "interpreter" and their position as "asylum seeker" ended with filing of their claims to the United States Citizenship and Immigration Services or the Immigration Court that I sought out to formally interview them about their experiences with the asylum process. It was not something I had planned in advance necessarily. Each asylum interpretation meeting or session was simply too long—lasting anywhere from 2 to 6 hours—and in the period of 6 to 24 months these sessions would be as sporadic as once or twice a month to as frequent as 3 or 4 times a week. Naturally, both claimants and I would be exhausted after interpretation sessions to continue asylum or any conversation, for that matter, all over again. In a strange way, however, these asylum interpretation sessions themselves became a "deep hanging out" (Geertz 2000: 107) notwithstanding the guided and more controlled conversation around asylum process that I could pursue at a given time. After all, Geertz famously argued that legal rationale is a critical manner in which people make sense of and is constitutive of their world-views so far as the power of law can combine general concepts to specific cases. Law, according to Geerts, is "part of a distinctive manner of imagining the real" (1983:184).

Over time, there was a development of a fairly egalitarian relationship with a dozen Nepali claimants, with whom, more or less, I spent the full two years of

fieldwork, if by complete accident. At first, these exchanges, for obvious reasons, were never simply a dialogue between claimants and me; rather, these were ongoing three-way conversations, where my role as a cultural-mediator and interpreter did not end. Instead, my role as a participant would be more pronounced dominating the conversation and giving me very little chance to do any observation.

The fact that I could have been both potential (or former) asylum claimant from Nepal and naturalized US citizen played an interesting and strategic role in conducting research among Nepali claimants and their pro bono lawyers. I was included in the informal, everyday conversations among Nepalis about seeking asylum, making or having made papers. At the same time, many pro bono lawyers instructed me to strictly perform direct language translation from Nepali to English and back to Nepali at the beginning of each asylum assignment. While I was allowed on a more equal footing to assist with research in some of the asylum cases, in most cases I was expected to simply perform language interpretation throughout our meetings and interviews over the period of 6 to 22 months. As a result, the relationships I developed with pro bono lawyers and human rights experts ranged from being fairly egalitarian and amicable to strictly professional and distant. Clearly, the varying degree of relationships with lawyers and human rights experts contributed to ever-changing positionalities I ended up occupying, inadvertently, throughout fieldwork.

As a rule, when talking to both claimants and legal and human rights experts, I did not challenge either party on their personal, professional, or normative stances unless they explicitly asked for my opinion and views during interviews, which they sometimes did. When talking to legal experts I tried to take a non-judgmental position as much as possible, even though this became difficult in most cases as I gradually became an advocate for Nepali asylum claimants. Similarly, when claimants told me about their reasons for seeking asylum or migrating to the United State in the first place, I simply jotted down in my notebook without preempting them to offer an explanation of any kind—whether that of having a 'well-founded' or 'reasonable fear' of future persecution in Nepal or improving their socio-economic situations in Nepal or desiring a different life-style and legalizing their statuses in the US. Differently put, my conversations with claimants were not based on my expectation of claimants to provide sufficient evidence for traumatic past experiences or their continued suffering. As carefully dissected in the subsequent chapters, they are expected to do just that as it is.

It is important to emphasize what I am *not* trying to do in this ethnography. The construction of this ethnography should not be understood as some kind of linear progression from micro to macro-level analysis of the lives, work, and legalization experiences of Nepalis in New York City. It is also not a generalized account applicable to all Nepalis everywhere at all times or all Nepalis I came to know during my fieldwork in the city. For every time I thought I had a full grasp of the

people I worked with, interpreted for, taught and learned from, new conversations, information and insights did not cease to challenge and continually inspire me, if at different moments. As such, my ethnographic engagement with Nepalis in the city was never static. Above all, this should not be read as a neatly categorized social fact of locating and obtaining information or learning about Nepali migrants' homogenized experiences in the United States. My concern is not to offer a grand narrative about Nepali "culture" or "community" in the United States or anywhere for that matter.

At this stage, it is only fair that I mention some of the difficulties and challenges that I encountered, socially and intellectually, in undertaking this research and with which I continued to struggle while writing. In a metropolitan place like New York City where people are variously migrant workers and asylum claimants, there are infinite ways of knowing and self-fashioning oneself, individually and collectively. While there is a unifying ethos and worldview, offering some coherence to diversely structured lives, the possibility of dynamic ways of aligning and articulating multiplicity of views and experiences equally transform everyday lives into meaningful lived experiences. The city Nepalis have created and fashioned for themselves, the lives they continue to live, and social realities they become part of and imagine, all reflect, on a very basic level, unity counterpoised by a salient, if not always easily translatable, diversity.

This posed many dilemmas for me to juggle my role as a "distant-insider" and an informed "outsider" simultaneously. My approach reflects the awareness of diversity among Nepali migrants although grouped as a Nepali migrant-community in New York City. Every migrant-community invariably contains multiple perspectives, a range of experiences, sometimes radically opposing dominant points of view, yet one also needs to emphasize the internal cohesion and the formation of a migrant community in the US notwithstanding its ever-changing elements even as an ethnographer attempts of "locate" it. In light of this, I have incorporated narratives of and testimonies of Nepali migrants from different ethnic, caste, educational, regional, and religious backgrounds. At the same time, however, I have run up against the difficulties of "representing" the points of view from those belonging to relatively privileged social positions in the United States. While I have made every attempt to not homogenize Nepali people I came to know in the city, I have not been able to incorporate that which would be considered as close to the full diversity of Nepali community in this ethnography. The voices not incorporated here are, paradoxically, the ones I am most familiar with as a result of my own socialization among Kathmandu Nepalis in Nepal and in the US. It is not a biased choice; but it is a choice, nonetheless. Like ethnographers working with one's "community" (however narrowly construed), the dilemmas of navigating through intimate social relationships and familiarity was unsettling not because of supposedly biased assumptions underpinning one's interpretation, which has generated quite an animated debate in

anthropology, particularly among feminist anthropologists, on the inescapability of multiple positionalities and registers in the field (Narayan 1993; Abu-Lughod 1991; Behar 1996; Vishweswaran 1994; Raj 2003). Rather, it was unsettling to me because of two interconnected issues: a) the voices of socially influential individuals in the Nepali migrant community, often speaking on behalf of and giving "voice" to migrant workers, represent a very small percentage of Nepalis in the U.S.; while b) their social privilege and cultural capital allow them to remain mute publicly on some issues of continued marginalization and ongoing disenfranchisement of the very people in the "community" they would like to represent.

Below I lay out analytical frames and ethnographic accounts alongside blueprints of the asylum system. Each chapter in the dissertation stands for a different set of perspectives and subjective reflections on the same experience of going through the asylum process. While all chapters tackle the frames mentioned above, some are more in congruent with particular inquiries and attuned to practical dimensions of seeking asylum. Thus I discuss individual chapters in the introduction as they are organized by thematic coherence rather than the process of asylum seeking and assisting sequence.

Chapter Outline

"Really, are there that *many* Nepalis in New York City? Have you gathered data that is representative of them?" I was often asked such questions by colleagues, friends, and scholars in New York City curious about my work, questions I usually

tried to evade. In writing this dissertation too, rather than trying to rationalize either the visibility or the representative-ness of Nepalis' experiences, I depict people's interpretations of their suffering stories in the present, if uneasily entangled with other aspects of their everyday lives as migrants and asylum claimants. The first chapter particularly attempts to address this concern by providing a brief background of why and how Nepalis are seeking asylum in the United States at this socio-political moment. Through what I call the invention of "Maoist Nepal" in Nepali asylum court hearings in the U.S., in particular, I use a rather unconventional method to bring together contemporary socio-political history of Nepal, the rise and fall of the Maoist civil war, and the mass migration of Nepalis to the U.S. in the last decade. In doing so, I connect the seemingly restricted visibility and significance of Nepali asylum claims and the claimants' "suffering narrative" with the broader questions pertaining to the U.S. asylum system, its contemporary political and institutional history, and the cultural logic of the asylum-seeking process. From there, I move to socio-cultural predicaments of Nepali claimants through the lens of "the post-conflict Nepal" and the emergent sociality among claimants based on their outlook on and description of asylum-seeking experience in the US as the dual practice of *kaagaz banaune*, or "making paper," and the work of *dukkha*, or "suffering." The other five chapters are organized as follows.

The second chapter outlines and further expands on the centrality of suffering and/*as* work of "making papers" in the asylum-seeking context for and among

Nepalis in the U.S. Acknowledgment and articulations of suffering are the preeminent ways in which Nepali asylum seekers and migrants workers imagine themselves and others in their social networks. This discourse of suffering, I argue, serves as a powerful incitement to articulate and make sense of socio-economic uncertainties added, if not always exacerbated, by legal insecurities. I describe its contemporary debt to an American ideal of work-integrity, one that has long associated desirability with the practice of becoming 'good' migrant-subjects. The process of seeking asylum and legal documentation therein, or, in the words of my informants, "making paper," is widely understood as a means of invisible work running parallel with and often times interrupting and even replacing their everyday labor activities. This association marks Nepalis as hard-working migrants as asylum claimants, an attribution that is the object of self-critique but also affirmation of shared suffering that is centrally visible and significant. In the context of seeking asylum, I suggest, suffering itself emerges as a measured contention beyond people's individual experiences.

The third chapter extends this line of reasoning—suffering as an issue of controversy—within and beyond the Nepali migrant communities and into the specific context of asylum narration, interpretation, and documentation. I follow an individual's case—Tshering—to document the numerous stages involved in seeking asylum: from the initial screening interviews at the human rights agency to interpretation sessions at a private law firm to prep-sessions prior to merit hearing.

While it is representative of Nepalis entangled in the asylum process, it is only one of the many possible combinations and outcomes of seeking asylum. More important, this case is meant to show how a certain convergence between a universal victim-subject and a culturally unique victim give way to the production of a specifically asylum victim, whose words, demeanor, and thought must correspond to suffering narrative appropriate in the asylum context. The "asylum seeker" emerges here as an inclusive and powerful category in which Nepali claimants must fit their diverse narratives of suffering. I show how the contradictory narration and interpretation of victimization is essential to legal documentation required for recognition as asylum claimants. In so doing, I introduce how legal-political space is in itself an instance of state power at large that, in the asylum process particularly, prescribes a certain framework: its (legal) language for filing claims produces a peculiar form of subjectification that is imposed on claimants, but through which their claims and they themselves also become legally visible.

Asylum interpretation and legal documentation is the subject of the fourth and central chapter, which juxtapose claimants' and their legal representatives'-- human rights experts and pro bono lawyers—ideas of suffering as a consequence of participating in the asylum process. I turn to the *I-589 Form*, *Application for Asylum and for Withholding of Removal* and the Instruction Manual, which are used by asylum lawyers to submit individual asylum claims with the United States Citizenship and Immigration Services (USCIS) or the U.S. Department of Justice. I trace in some

detail the making of "the document" as well as extra-legal documentation, or the legal life of undocumented episodes and activities, to illuminate fundamentals in the co-construction of asylum suffering narrative by lawyers, interpreters, and claimants. In particular, I track down pages 5 and 6 of the *I-589 Form* that consist of two important questions related to one's experience of "past persecution" and "well-founded fear of future persecution"—both grounds must be met in order to file a successful asylum claim. I approach the document ethnographically to explore three major issues: initiation of people as potential asylum claimants and their legal representatives; invocation and recording of specific incidents of "past persecution" and suffering appropriate to make asylum claims; and seamless switching and continuous overlap between asylum interpretation and legal documentation. Each of these activities lays bare an awkward, if not always disagreeable, ideas and imagination of asylum 'suffering narrative' at play.

The fifth chapter considers asylum process as a cultural template for producing "credible" asylum narratives through measured and meticulous, if as an unintended consequence, of active participation from those seeking asylum as well as those assisting asylum claimants in various legal-institutional settings. In this chapter, however, I move away from the Nepali claimants' asylum suffering narrative and focus instead on practitioners and professionals as part of the institutional and logistical aspects of the U.S. asylum system. It is here that I look closely at the preparation and anticipated outcomes orchestrating both the production and the

longevity of the asylum as a functional system, and the micro framing of credible asylum claims. The chapter confronts "claimant credibility" and "compassionate work" as organizing ideals and ideas that legal professionals and human rights advocates assisting claimants in the asylum system oftentimes employ in relation to what they describe and interpret as their job responsibilities of "alleviating suffering of asylum seekers." Legal experts and human rights workers assisting asylum seekers with constructing legal claims on the basis of past-persecution see suffering as a set of violent events and incidents (necessarily) experienced by claimants outside the US national-space and circumscribed within the legal definition of torture, mandated by the United Nations. In other words, the legal professionals have a working template for the type of suffering narrative required to make asylum claims. As such, claimants' asylum narrative of suffering is co-constructed in the legal spaces only so far to fill in the descriptive, detailed, and highly personalized account of asylum suffering. Tracking the concrete ways in which "claimant credibility" comes to materialize in everyday professional practice among lawyers assisting claimants, I also point toward a deep ambivalence and discrepancy between the discourse of claimant credibility and the practice of asylum hearing procedures. I suggest that this ambivalence, rather than presenting itself as an obstacle, is the very force central to the working of the asylum cultural system.

The sixth chapter, as a way of exploring, looks at the discourse and practice surrounding compassionate rationale and inconsistencies therein to highlight the

juxtaposition of the narrative of "compassionate work" with the "work of suffering" in contemporary production of Nepali legal subjectivity and socio-political recognition in the US. While using Nepali case as a specific example, I describe how compassionate action has emerged as a fulcrum of *potentially* bestowing citizenship to some so that many may remain legal non-citizens in contemporary America. Tracking the use of compassion as an instrument of legal practice and in turn a cultivable sentiment beyond the asylum process, I confronted a vibrant economy of compassion that is increasingly detached, although not completely disengaged, from social realities and material inequalities.

CHAPTER ONE

Un-silencing the Past: Nepali claimants and the U.S. asylum process

> For what history is changes with time and place or, better said, history reveals itself only through the production of specific narratives. What matters most are the *process* and *conditions* of production of such narratives. Only a focus on that process can uncover the ways in which the two sides of historicity intertwine in a particular context. Only through that overlap can we discover the differential exercise of power that makes some narratives possible and silences others.
>
> --Michel-Rolph Trouillot, *Silencing the Past* (1997: 25, emphasis mine)

Historicity, as Trouillot suggests, makes accessible certain narratives while simultaneously overlooking others at any given moment. In particular, his critical reflections concerning historical "process and conditions" as rendering visible certain narratives and "silenc[ing] others," I am encouraged to consider Michel-Rolph Trouillot's insights for thinking through asylum "suffering narrative" as a conceptual framework to interrogate contemporary history of US asylum process and its particular consequences for Nepali claimants. I find Trouillot's key concern about the historical production of "silences" particularly instructive to ground my own observation of the relationship between the two. In the same essay, Trouillot has eloquently argued: "silences enter the process of historical production at four crucial moments: the moment of fact creation [the making of sources]; the moment of fact assembly [the making of archives]; the moment of fact retrieval [the making of narratives]; and the moment of retrospective significance [the making of history in the final instance]" (26). The silence that Trouillot speaks of is in a double sense. On the

one hand, as historical actors, we are inescapably engaged in the everyday work of producing our own socio-political circumstances through narratives that serve our best interests, potentially silencing others that equally constitute the multi-faceted aspects of our social world. On the other hand, this process of silencing to a greater extent is inseparable from our distinct, lived-experiences within the already deeply enmeshed historical routes that we have taken over, thereby reproducing and reinforcing the enduring silences of the past. Throughout this dissertation, I will emphasize the socio-political specificity of the asylum legal process that prevailed (and continues to prevail) in the United States during the time of my research. This moment is characterized by liberal, compassionate, pro-immigrant movements and politics, seemingly facilitating legalization of undocumented migrants in particular, which manifested itself in the countrywide legal campaigns. I locate my own ethnographic work within this broader socio-political climate: I situate Nepali interlocutors at this decisive crossroads forming the ongoing histories—most prominently, the production of asylum "suffering narrative" and the reification of Nepalis as victim-subjects of their transnational condition as claimants from "Maoist Nepal" seeking refuge in the post-9/11 U.S. political context. At the same time, I locate my engagements with legal advocates and human rights experts (working with Nepali claimants) within this emergent and highly sensitized political circumstance where practicing compassion is an ethical imperative not simply a choice. In all of this, the global socio-political reach of the US has played a predictably influential and

incredibly important role. Having intensely focused on the "ethnographic present" of the contemporary moment in the twenty-first century, I situate my ethnographic fieldwork, now, from the vantage point of present purposes as my blueprint, I turn to the task of exploring multiply-layered, intersecting, and perhaps somewhat unconventional delineation of the two overlapping historical process and conditions. This, I propose, may most clearly frame some of the defining characteristics of suffering narratives among Nepali asylum claimants and compassionate practices among their legal advocates, activating the US asylum legal process. Such a recounting, if slightly eccentric, of contemporary Nepali migration to the United States and the asylum-seeking experiences of Nepalis, as will be documented in this chapter, is inextricable from both Nepali claimants' socio-political relation to the US state, and the real and imagined conditions of all Nepalis escaping "Maoist Nepal."

Through the lens of what I call "Maoist Nepal," I want to render an unconventional political history and knowledge about the relation of Nepali claimants to the United States Citizenship and Immigration Services (USCIS), overseeing asylum process, more accountable to a transnational historical process. A distant and unsafe Nepal imagined and produced in the US courtrooms in relation to Nepali migration to the US serves as a critical pivot orient the methodological underpinnings of the study of US asylum process as a salient cultural template for the production of suffering narrative and compassionate practice. When I invoke a "Maoist Nepal," what I am addressing is something more significant than the mere descriptive construction of a

distant place in the US state institutions, namely Asylum Office and Immigration Courtrooms.

This chapter is decidedly not interested in fashioning a narrative of post-conflict violence, whereby distinct transnational migration patterns and logic of "push and pull" are endlessly employed to distinguish between "economic migrants" and "displaced population." If the former configuration presumes mass migration of Nepalis as an outcome of victimhood based on political and socioeconomic statuses "back home," ignoring the continued, if not exacerbated, conditions of insecurity in the US, the latter reinforces victimhood based on political violence de-emphasizing any substantive sociopolitical participation and/or integration of migrants into US society. In one case, the migrants must feel grateful to an extent, as De Genova describes cynically, "they might as well get down on their knees to kiss the ground" (2005: 98). In the other, the gratitude supposedly arises from having received safe haven. As outcast victims escaping either economic insecurity or political violence, transnational migrants as claimants come to be represented by condition of displacement that merely reinforces their continued victimization while simultaneously re-inscribes the economic and political stability of the US nation space. Instead, I want to underscore the production of "Maoist Nepal" in the US Immigration courtrooms and Asylum Offices significantly differ from the context of contemporary transnational migration of Nepalis in New York City.

In his seminal piece, "Cultural Identity and Diaspora," cultural theorist Stuart Hall advocates that we need to think of "identity as a 'production', which is never complete, always in process, and always constituted within, not outside, representation" (1990: 222). This view of identity questions both the authority and authenticity that the term, "cultural identity" invokes (Ibid). While the specificities of Hall's arguments are derived from a particular case of the Caribbean history, his elaborate discussion of the two ways of thinking about "cultural identity" is valuable and relevant to advancing my theoretical concern in this paper. Hall describes the first type of "cultural identity" as "a sort of collective one true self, hiding inside the many other, more superficial or artificially imposed 'selves', which people with a shared history and ancestry hold in common" (223). In contrast, the second type of "cultural identity," according to Hall, encompasses "critical points of deep and significant difference which constitute 'what we have become'" (225). The two definitions of "cultural identity" that Hall provides are, however, two sides of the same coin. The first definition of "cultural identity" reflects on the narratives of the past that form "common historical experiences and shared cultural codes" that present us with somewhat fixed, "unchanging and continuous frames of references and meaning" (223). The second one, far from being grounded on the revival of the past as something pure or authentic, is about "becoming and being" that takes into account, Hall notes, the "different ways we are positioned by, and position ourselves within, the [specific] narratives of the past" (225).

Following Hall's proposition of the dual production of diasporic "cultural identity," the argument of this chapter is not simply that the category of "Maoist Nepal" is a profoundly useful one that effectively serves to create and sustain legal vulnerability of Nepali claimants—hence reasonably interpretable and documentable—but also an important construction for asylum "suffering narrative." The proposition of asylum victimhood as either "authentic" or "fake" and accompanying legal vulnerability of *some* and *not all* asylum claimants in the US is the one that needs careful evaluation upon extensive ethnographic research—cutting across asylum seekers from different nationalities, judicial hearing proceedings, and respective asylum decisions—which is beyond the scope of my arguments in this dissertation. This is undeniably a critical insight not only into the consequences of the asylum production of "suffering narrative" and inquiry into degrees of victimhood, but it is also the fundamental origin of the juridical procedure in the asylum law itself that produces what I call here asylum claimants' "protracted legality."

This chapter, therefore, discerns the political specificity of contemporary Nepali immigration during and in the aftermath of the decade long civil war in Nepal as it has come to be understood in the legal process of the U.S. nation-state, and an object of the asylum law in the last five years. More precisely, this chapter interrogates the history and ongoing changes in the making of "the US asylum system" through the specific lens of how these changes have had a distinct impact upon Nepali migration and those seeking asylum in particular. Only in light of the

socio-political specificity of the US asylum law and legal process does it become possible to develop a critical and non-complaint perspective of the naturalization of Nepali claimants' victimhood as a mere fact of life, the presumably apparent consequences of violence-induced outmigration of all Nepalis.

How "significant" is the number of Nepali asylum claimants out of the total population of asylees in the US?

In 2012 out of 44,170 asylum applications, roughly 11,978 were granted asylum at the Immigration Courts in the United States (Appendix I). The applicants ranged from all countries around the world. Nepali applicants were among the top eight countries to have filed for and granted asylum: out of 750 asylum applicants received by the US Department of Justice, 403 were granted asylum. What is significant about this number is that Nepal was the only country from which more that 50% of the applicants were granted asylum. While asylum applicants from countries like China (10,985), Mexico (9,206), El Salvador (2,991), Guatemala (2,895), India (1,703), Honduras (1,257), Ecuador (847), superseded Nepali applicants (750), the number of people granted asylum from these countries were less than 50% except from China (5,383). I also want to highlight for the purposes of this dissertation the intriguing, if not unusual, trend in the Nepali asylum applicants in the United States and the outcomes during the active years of my fieldwork (2009-2011). In 2009, out of 779 Nepali asylum applicants, only 172 were granted asylum. In 2010, 231 (out of 829)

applicants received asylum, and in 2011, 323 (out of 871) claimants were granted asylum (Appendix II). While the number of Nepali asylum claimants did not significantly change between 2009-2011, the number of applicants granted asylum gradually increased, resulting in more than 50% receiving asylum today. This official data from the US Department of Justice alone makes us realize the importance of exploring the production of Nepali asylum claimants in the contemporary sociopolitical climate in the U.S. and sustaining its asylum legal process.

PART I: The cultural logic of the U.S. Asylum System

Asylum system appears to be a distinctive and central feature of contemporary political life for many migrants as claimants in liberal, democratic states. Currently, every liberal state deploys the institution of asylum as the political means by which it publicly identifies its potential subjects as future citizens, tests them through probationary period for desirability and deservingness, assigns them legal status as "refugees" and "asylum seekers," and gradually disburses to them certain and not all rights, entitlements, and responsibilities. In this way, a state survey particular population by enclosing them in a socio-legal space, bounded within its territory, and continue to extract labor. Asylum seekers are thus characterized to occupy "liminal status" (Coutin 2003) in a liberal state. Arguably, most states legitimize their declared liberal stance through act of benevolence and compassion inherent to various technologies of including supposed outsiders, foreigners, and non-citizens, and in turn, the states' continued power over those very people rests precisely upon the

condition of them self-identifying as "refugees" and "asylum seekers," comprising a so-called liberal state. In short, this production of "refugees" and "asylum seekers" not so much disrupts the imagined coherence of the nation (Anderson 1991) as it continually distinguishes and redefines its ever-changing liberal values and practices. As such, modern liberal states continually need people to be categorized as "asylum seekers" and who are perpetually in a "legal limbo" (Cabot 2013) underscoring "the temporalization of [their] presence" (Coutin 2000) for it to justify its power over them.

If the asylum system in liberal democracies has been fashioned as a paramount means of defending, enacting, and verifying individual human rights on the basis of "past persecution" and "well founded fear of future persecution," then it cannot be apprehensible as merely the incidental but compassionate rationale for preemptive 'illegal' migration. Seeking asylum tends to be profoundly intrusive and plainly debasing for those immediately caught up in the protracted legal process. And yet there is indubitably something greater at stake in such a practice of compassion--notably, the formulation of ethical reaffirmation of liberal values and democratic state itself.

If the institution of asylum defines a kind of probationary membership to the state and so appears within liberal states such as the United States to be broadly defined toward calibrated inclusion through protracted legality, it is always also a condition by default of those who occupy the status of neither "foreigners" nor

"natives," and thus "suspicious" not-yet-citizens. It is no surprise that asylum process and allegedly "fake" asylum claimants has widely become the central and often constitutive preoccupation of contemporary immigration politics and policy debates in liberal democratic states. The practical effect of asylum policy-making has not only meant that "asylum seekers" are increasingly mistrusted (E. Valentine Daniel 1998; Malkii 1996; Mahmood 1996; Fassin 2012), but also that the specific deployments of asylum law enforcement have rendered narrowly defined frames and ever more highly particular procedures for establishing "credibility" and claimants' "truth claims" based on victimhood, ultimately producing protracted legality. But the asylum system—the containing of those subjected to repeated and indefinite legal insecurity—is seldom recognized to be a distinct option with its own sociopolitical logic often with far-reaching effects. Whereas asylum system is considered, and reasonably so, as merely one conceivable response to protecting or defending human rights of qualified claimants, it has come to stand in as the apparently singular and presumably proper retribution on the part of liberal states to distinguishing "innocent victims" from the alleged "fake" claimants. Furthermore, it is presumed to provide anti-dote to the apparent problem of mass detention and deportation. Yet individual applicants and claimants living and most commonly working "illegally" never present a state with such a severe crisis or pose such a dire threat that immediate granting or sudden denial of asylum is seen as a logical response. How precisely does the asylum system in the United States come to be ubiquitously regarded as a self-evident recourse of

liberal democracies and immigration law enforcement? How, indeed, has asylum-seeking become effectively distinct, enforced, and lived as a more or less legal vulnerability for those engaged in the process in the US? The section below addresses these concerns.

The U.S. asylum system

The United States was a signatory of the 1967 Protocol, and not the original 1951 Convention Relating to the Status of Refugees. Between 1967 and 1980, asylum as a system did not exist and the ad hoc system was primarily a political instrument during Cold War, granting asylum to people fleeing from communist regimes around the world. It was the Refugee Act of 1980, codified by the U.N. Refugee Protocol's definition of the refugee, including provisions for asylum, that the US finally adopted. Under §208 of the Immigration and Nationality Act (INA) law, a refugee is defined as an "alien displaced abroad 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." The law also defined "asylees" as people in the United States or at a port of entry who meet the definition of a refugee. Thus, this was the first legislative determination to grant asylum in the United States, and in effect, the first official recognition of certain population as "refugees" and "asylees." Revealingly, it passed with little debate or dissenting views at the time and the asylum system mostly accommodate "the

affirmative asylum"[5] claims and it managed by a confederacy of Immigration and Naturalization Service (INS) district representatives. In 1991, the Asylum Corps expanded to professionalize the field of asylum with trained employees on the human rights and political conditions of states from which refugees and asylum claimants fled. Interestingly, the "defensive asylum"[6] frame emerged in mid-1990s that was established because of the dissatisfactions and accusations that the INS decisions were too "arbitrary," and the defensive structure established thereafter allowed for the appeal process in the case of asylum denials by immigration inspectors. This meant the denied cases were reviewed and handled by immigration judges, providing opportunity for potential reversal of the denied asylum cases and even re-appeal in some cases at the level of the Board of Immigration (BIA).

For the past decade or so, expansion of the deportation system, and, detention[7] in particular, has worked hand-in-glove with asylum system in the mission to manage and discipline unwanted migrants/foreigners within the U.S. territory. Indeed, the post-9/11 policies and the institutionalization of the Department of Homeland

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[5] "Affirmative asylum process" refers to asylum seekers who directly file for asylum—submit Form I-589, Application for Asylum and for Withholding of Removal—with the USCIS without legal representation. Individual asylum officers evaluate applicants' claims and oral testimonies and look for "credibility of their claims." The outline of seven steps for this process is outlined under the heading of "The Affirmative Asylum Process" on the following website: www.USCIS.gov

[6] "The Defensive Asylum Process" refers to claimants, already in the removal proceedings, and are seeking asylum from an immigration judge. An immigration judge hears both an applicant's claim and concerns and claims raised by the DHS, Immigration and Customs Enforcement attorney—representative of the U.S. government in the courtroom hearings.

[7] There seems a difference between asylum decisions among detained vs. non-detained claimants (see CITE for an extensive ethnographic account). However, most Nepali asylum claimants (for whom I provided legal interpretation and with whom I closely worked and interviewed) were not detained, I do not speculate here the specific differences between the two, both qualitatively and quantitatively.

Security has planted many entirely new (legal and judicial) features in the socio-political landscape of the United States—ranging from restrictive immigration laws and increase in everyday policing of migrants to the general increase in the anti-immigrant sentiments, resulting in the heightened sense of "national security" to determine "citizens" from "non-citizens" (Maira 2010; Coutin 2010; Talavera et. al 2010). It had a direct effect in the disbanding of the INS on March 1, 2003 by the Homeland Security Act of 2002, and the Immigration and Customs Enforcement, and Customs and Border Protection started handling the asylum cases. In short, the indiscriminate detention of migrants, under conditions that seem to flagrantly violate some of the very values that supposedly underpin liberal democracies, is somehow neutralized through systematic practices of asylum system.

First, although conventionally considered a compassionate and ethical response on part of the liberal states exercising their benevolence, and not necessarily an obligation, to providing safe haven and regulating "refugees" and "asylum seekers" based on "authentic" claims, asylum is in fact the expression of a complex sociopolitical regime inextricable from the manifestation of dominant notions of citizenship, national identity, and cultural homogeneity. Second, the practice of asylum in liberal states and the socio-legal production of asylum claimant populations must be comprehended as a necessary, and an effective, response and anti-dote to any and all issues related to contemporary immigration law enforcement. In the United States, for instance, all procedures regarding migrant eligibility for legal residence,

asylum, and citizenship arise out of the imperatives of counterterrorism and Homeland Security. It should not come as a surprise that the booming U.S. national security complex (De Genova and Puetz 2010) with the advent of the post-September 11, 2001, provided fertile ground for reconfiguration and diversification of political subjectivities, including "economic migrants," "illegal aliens," "refugees," and "asylum seekers."

The Department of Homeland Security (DHS) oversees asylum documentation and juridical procedures since 2003.[8] Asylum claims constitute across degrees of victimhood measured according to the Article 1A(2) of the United Nations Convention Relating to the Status of Refugees, which defines refugee as a person suffering from a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" (UNHCR [1967] 2010: 14). The socio-political condition of asylum claimants, therefore, must be understood as a preeminently victimized one, in which the victimhood as a result of "past persecution" produced and sustained by liberal state (the US in this case) is reproduced in the specific socio-legal statuses ascribed to "refugees" and "citizens," or "natives" and "migrants." As such, focusing on the asylum system as a cultural process—for the production and reinforcement of 'suffering narrative' and compassionate practices—has a broader implication for expanding the scholarly debate on contemporary US immigration and migrant-integration processes in

[8] It used to come under the U.S. Citizenship and Immigration Services (USCIS)

particular (Levitt 2001; Levitt and Waters 2002; Hondagneu-Sotelo 1994; Basch et al. 1994; Glick Schiller et al. 1995; Glick Schiller 2003; Jones-Correa 1998). Rather than follow a conventional theoretical and methodological divides between the socio-political conditions of "host" versus "home" countries, however, I focus on parallel and interconnecting sociopolitical histories of the U.S. and Nepali nation-states at this particular moment.

In particular, I draw on an unorthodox connection between, or an overlap of, the contemporary, albeit elusive and convoluted, socio-political processes and historical specificities of the post-Maoist Nepal and the post-9/11 United States. My primary interest here is to situate "suffering narrative" and self-identification of victimhood as an individualized and collective Nepali claimants' experiences and accounts within the context of seeking asylum in the U.S. in the post-9/11 political climate. While I exclusively focus on the particularities of suffering narrative that Nepalis associate with fellow Nepalis in the migrant-community (I document the detailed and extensive ethnographic analysis in chapter 2) as a basis of their emergent sociality, what I want to highlight in this chapter is that self-identification of victimhood and creation of "suffering narrative" both have a much longer and quite convoluted socio-political history for Nepalis in Nepal and in the U.S.

As such, I locate the asylum "suffering narrative"—while specifically co-constructed with the aide of legal and human rights collaborators and advocates—simultaneously interrupting, dislocating, reinventing, and sometimes simply expanding

the already assumed experience of suffering among Nepalis given the last two decades of socio-political uncertainties in Nepal. Highlighting this interconnection, I suggest, is one of the primary reasons why Nepali claimants seem to fit the profile of an ideal "asylum seeker" in the U.S. at this particular sociopolitical moment. The imposition and translation of the "suffering narrative" into asylum legal narrative, likewise, is the condition for smooth functioning of the contemporary US asylum process and its regeneration as a set of culturally specific codes for informing behaviors, attitudes, and wide-ranging practices for both claimants and their legal representatives and human rights advocates.

PART II: Why (and how) are Nepalis seeking asylum in the U.S.?

"Why are Nepalis seeing asylum in the US?" many have asked me, and those particularly familiar with the country's history and contemporary socio-political conditions have inquired, "How is it that the end of the Maoist civil war resulted in more Nepalis seeking political asylum in the US?" To some degree the answer lies in the question itself: Nepalis are increasingly *becoming* "asylum seekers" since their entry into the US, escaping decade long (1996-2006) civil war between the Maoists guerilla group and the Nepali state that involved the destruction of physical and human infrastructures, longstanding socio-economic insecurity and political instability, and displacement of thousands of people. Rendering this paradox is a necessary starting point for this dissertation. How does the anthropologist navigate the difficulties of representing Nepalis' stories and experiences of seeking asylum without reinforcing

static socio-political conditions in Nepal and of all Nepalis living in the United States? Can one discuss the problems of interpersonal dilemmas and hardships of continued displacement, inseparable from, but not solely exclusive to, past political violence and present insecurity affecting people's choice to migrate and settle? These concerns, while providing a necessary backdrop, are not central to the arguments I make in this dissertation. Firstly, it is not ethnography of "political violence" in Nepal or even the accounts of "past persecution" or violence experienced by Nepalis in the United States per se. It is as much about Nepalis' individualized and collective experiences of seeking asylum as it is about becoming 'a migrant community' in the United States. Second, ethnography at such a scale would have required an extensive fieldwork and sustained engagement with Nepalis not only in the US but also in Nepal. A transnational research was, thus, beyond the scope of my dissertation project. Below I provide a brief account of the contemporary political history of the Nepali civil war that resulted in internal displacement and mass migration of Nepalis overseas, including the US.

Civil War, Displacement, and Movements of Nepalis

What began as rural uprisings against the Nepali state in the Western districts (Rolpa and Rukum) of Nepal in 1996, the Maoist guerrilla war quickly spread throughout the country and resulted in a nationwide civil war claiming thousands of

lives (see Thapa and Sijapati 2004;[9] Thapa 2003; and Hutt 2004 for a comprehensive study of the political and social history of the growth of the Maoist armed conflict). The protracted civil war and political instability in Nepal had decisive and irreversible infrastructural and human damages. The spread of the Maoist movement from rural to hill areas made the capital of Kathmandu valley increasingly porous and interconnected with the rest of the country. Constant movement, rather than settlement or integration, became the norm for Nepalis. First, the increased movement as a consequence of militarization of locals and aggressive recruitment of young people by both the Nepal army and the Maoist rebels (ICG 2004, 2005; Kumar 2003; Bhattarai 2003) transformed patterns of sociality and contributed to new ways of relating among people and places. The oppositional categories of people as either "Maoists" or "civilians" increasingly became part of the mainstream political and academic discourse and a powerful state instrument throughout the civil war years. Second, movement due to internal displacement was reported to be around 200,000 across the country and 100,000 in the capital of Kathmandu alone (Global IDP 2003), resulting in yet another categorization of people as "internally displaced people" (IDPs). Third, and equally important, the collapse and co-optation of local and rural grievances—a consequence of historically marginalized and structural inequalities

[9] This study offers an analysis of the Maoist insurgency and argues that a combination of the weak centralized Nepali government, mutually incompatible political ideologies and factions, and the strength of the radical left politics provided a formidable terrain for the Maoists agendas to quickly materialize and spread throughout the countryside.

based on class, caste, and ethnicity—into the Maoist armed conflict (Sharma 2002; Murshed and Gates 2003; Tamang 2006) took hold, reigniting and mobilizing indigenous and ethnic political movements that began in the early 1990s (Gellner et al. 1997). Fourth, overseas migration by Nepalis increasingly matched internal displacement. Since 1997, Nepalis have been seeking asylum in not only in the United States, but also in the United Kingdom, Australia, Canada, New Zealand, Denmark, Norway, and the Netherlands (UNHCR 2010). Significantly, the increasing diaspora meant the conflict became globalized.

The Rise and fall of the Maoists and the building of "new" Nepal

The Nepali civil war reached its peak of brutality in 2001-2002, coinciding with the aftermath of September 2001 events, which brought Nepal into the limelight of international media (Metz 2003). Ironically, along with it came together international military and humanitarian assistances for initiating co-lateral and multi-lateral dialogue between the Nepali government and the Maoist rebels, who were then listed as "terrorists"[10] (Mage 2007). The events leading up to numerous ceasefires in 2002, 2003, and 2006 and the establishment of the interim government in 2007 brought the United Nations (UN) supported peace accords and in particular, the United Nations Missions in Nepal (UNMIN), to draft a new constitution. In collaboration with several local and international non-governmental organizations (NGOs), including the

[10] In his report, Mage provides a good overview of the significant sequence of events leading to the US security officials' arrival in Nepal in 2004 and the emergence of US-India military assistance to manage "counter-terrorism." There existed formidable US military presence until general election in 2008.

International Crisis Group (ICG), Nepal had its parliamentary, Constituent Assembly, election in 2008. The peace process facilitated the Maoist Party to enter into the Nepali government through democratic, electoral process. The victory of the Maoist Party in the Constituent Assembly election and their entry into the mainstream politics initiated debates over social justice and human rights juxtaposed with continued economic stagnation and question of political violence. The continued power struggle between the Nepali Army and the Maoists led to the withdrawal of the Maoist Party from the government in May 2009 leading to more political uncertainty. In August 2009, the ICG published a sensationalized report titled "Nepal's Future: In whose hands?" as part of the UN-sponsored peace accords and exactly two years later, in August 2011, Nepali state found its "future" in the hands of the Maoist Party under the leadership of Dr. Baburam Bhattarai from the Unified-Communist Party of Nepal- Maoist Party.

The reentry of the Maoist Party in the mainstream political scene, controlling the Nepali state government, has spawned a difficult 'reconstruction' and post-war period. In no time did this led to national and international collaborative projects, initiated by a number of Human Rights NGOs, including the International Commission for Transitional Justice (ICTJ) addressing issues of 'reintegrating' war 'victims' and 'perpetrators' and promoting local notions of justice and healing (USIP Briefing 2007). The emergent social and political spaces in the construction of "new" Nepali society—framed within the globalized language of national development,

economic policies, ethnic identity politics and human rights—have increasingly made possible new forms of sociality and afforded once again opportunities for many, but not all, Nepalis. In particular, it has once again facilitated in outmigration of Nepalis to the Middle East, Australia, the UK and the US. It is within this much longer, contested history of political development, and the continued process of building 'new Nepal' with the assistance of both international framing that I situate the contemporary migration of Nepalis to the US and integration into US society. For the question of who or what Nepalis ought to become in the US is then intrinsically linked to what place Nepali state and 'Nepali people' occupy in the contemporary socio-political imagination of the US state.

The Maoist conflict, followed by the ambivalent post-conflict context (2006-present) continues to introduce and redefine social and political landscape—ranging from talks on national "peace and security" to "reintegration" of army and the Maoist cadres into Nepali society, from rewriting a national constitution to debating ethnic vs. non-ethnic federalism, from instituting Truth Commission to building a unified Nepali nation. An urgent need to build a national society dominates most popular and political debates in Nepal. This is in no way to undermine the significance of ongoing reconstruction and reintegration work and relatively peaceful period in Nepal, nor do I question the intentions and motivations of national and international efforts to offering more or less promising alternatives to coming to terms with the recent violent history, and to understanding, evaluating, and effectively engaging

Nepalis in the context current socio-political realities in Nepal. Rather, it is to emphasize what Stacy Pigg (1992) argued two decades ago concerning the "unintended consequences" of national and international political agendas and policies exacerbating existing, if not creating new, structure of inequalities and sustaining unequal institutional relations within people in Nepal. "For Nepal," Pigg has argued, "development—rather than the residues and scars of imperialism—is the overt link between it and the West" (1992). Drawing on her study of development institutions and its ideological impact in particular, she writes,

> Development is an industry in its own right in Nepal. It requires bureaucrats, foreign advisers, office staff, professionals, extension workers, program directors, project coordinators, trainers, trainees, interviewers, and survey enumerators, secretaries, drivers, and tea fetchers, both within His Majesty's Government and in international aid organizations. The middle-class that has emerged in the last four decades sustains itself in large part from development-related employment (172).

Similarly, public discourses and practices, such as "Right to Truth is Not a Political Issue," surrounding reconstruction of a post-conflict nation dominate the international language, aide scene, and contemporary politics in Nepal. There has been a joint proposal to establish a Truth and Reconciliation Commission (TRC) and a Commission of Inquiry on the Disappearance of Persons (COID) (ICTJ briefing 2012). However, the interconnection between international aid language and everyday

politics in building a "new" Nepali society is far from being "new." If being Nepali meant "seeing [oneself] as a citizen of an underdeveloped country" (Ibid) two decades ago, it increasingly means seeing oneself as a suffering subject of an uncertain state whose national identity has been in halt since the end of the civil war. Most people over the age of 30 recall quite vividly the change in the socio-political climate and the experience of realizing the precariousness of their lives if they are unable to leave the country. This is not to suggest, in any way, that out-migration from Nepal is solely dependent on unstable political or degrading economic situations. But in popular consciousness among Nepalis in the US "suffering asylum seeker" best describes the current status of all Nepalis who have left home, perpetually displaced, and are claiming political asylum in the U.S. Becoming asylum seeker, for Nepalis in the U.S., is about occupying a position of legal-victimhood from which they are expected (and even instructed in some cases) to speak and, in turn, to be recognized for suffering immaterial to specific asylum claims.

The predicament of "post-conflict Nepal" for claimants in the US

For Nepali asylum claimants in the US, post-conflict Nepal is not simply a distant political reality at home. It is a powerful process to reorient one's belonging anew and render meaningful emergent social positions, individual and collective, in concrete through everyday engagement in the contemporary political practices of recognition in the US. More precisely, the paradox of the "suffering narrative" in the recognition of Nepalis as asylum seekers is simply inescapable: the idea of "Maoist

Nepal" holds a powerful social imagination for Nepalis seeking political asylum in the U.S. at the same time the institutional forms and reconstruction work in the post-conflict period are shaping the Nepali society itself. There are, of course, many interrelated socio-political and transnational histories behind this seeming contradiction depending on which part of history and social memory one focuses on and to what end. For my purposes here, I have highlighted the contemporary "suffering narrative" among Nepalis in the context of the last two decades of Nepali social history and political struggle, which in turn have allowed them to align and re-appropriate their asylum 'suffering narrative' as per the U.S. asylum process.

If war disrupted social lives among Nepalis then the post-conflict or transition period modified it and constructed its own unique sociality among Nepalis in and outside the Nepali state. This new sociality is quite inseparable from the construction of a conceptual space for both "First World and "Third World." Especially in categorizing and defining people arriving from the former and settling in the latter as in the case of Nepali migrants in the US. Now that the war is officially over in Nepal, whether or not Nepalis can still appeal for political asylum in the US based on their experiences of past-persecution and suffering remains unanswerable. For Nepali New Yorkers I worked with and interpreted for, it has become a source of constant anxiety. They are forever caught in the moral web of having to wish for political instability in Nepal to stabilize their legal statuses by appealing asylum in the U.S.

As one of the current asylum claimants Tshering succinctly put it to me, "*Khai ke garne, bahini? Hamro desh ko haalat ramro bhako bhaye yahaan aunu parne thiyena. Aba yahaan ayera teen barsa pariwaar bina basisake ani dukkha paunu paisake pachi....tyahaan rajneeti byawastha ramro bhayeko khabar sunda kushi pani lagcha tara yahaan afno kaagaz bandaina bhanne daar pani cha* ("Well, what to do, Sister? If our country's situation had been better I would not have come here. Now that I have been here for three years without my family and have already *suffered* so much...I am happy to hear things are getting better there politically but I am fearful that my *papers* may not be *made* here anymore." This moral dilemma shared by Tshering is typical of many asylum claimants currently awaiting their asylum verdict while toiling away everyday without a sense of direction or secure future. The post-conflict period and the changing political situation in Nepal, paradoxically, is also producing uncertainty for Nepali claimants that migrating to the US was supposed to have resolved.

The practice of *kaam*-work and *kaagaz banaune*-making paper

For Nepali asylum claimants and migrants in New York City, a distinct concept of *dukkha*, suffering, in relation to their active participation in the asylum process through *kaagaz banaune* (literally: "making paper" but in this context legal and, particularly, asylum documents) delineate a poignant experience and engagement of their everyday social activities. Nepalis seeking asylum continue to show anxiety toward living and working in the US. While those who have gone through the process and obtained asylum communicate ambivalence in terms of what was gained

and lost during the process, those anticipating asylum decision express sheer frustration created by protracted legality. People reinvented themselves in the manner suitable to claim asylum in order to continue living and working in the US. There exist internal critiques among Nepalis in the migrant community. On one end of the spectrum, people debated endlessly about whose asylum claims were valid and who presented "good" asylum stories. On the other end of the spectrum, people refuse to engage in any kind of conversation around asylum seeking process; only silence prevailed.

This is not to simply list an empirical description of people's experience upon seeking asylum. By asserting that those I worked closely with, interpreted for, and interviewed saw asylum seeking experience as a thing in itself, I want to pay close attention to their stories and accounts of how individualized asylum narration and documentation process inform this collective socio-cultural assessment of *kaagaz banaune*, "making paper," which in turn *made* them as certain kind of individuals in contemporary America.

Among Nepalis in the U.S. then discussion about what one *does* for living—*kaam* or work—and how one legalizes his/her status—*kaagaz banaune* or *making* paper-–are intricately connected and a contentious issue. In contextualizing the emergent Nepali migrant community in New York City, I foreground the dual aspects of *becoming* migrant workers and simultaneously *self-identifying* as asylum seekers: the interrelated notions of *kaam* (work) and *kaagaz banaune* (making paper/legal

documentation). On meeting Nepalis in the city, questions related to work or legal status are seldom (directly) asked, at least in the first few meetings. It is only upon being well acquainted, as I learned, that Nepalis ask each other: "*kaagaz ko kaam bhayeko ho tapaile?*" ("you have already *done the work of* paper or legal documentation, yes?"). *Kaagaz*, which literally means paper, is often referred to legal document/paperwork, and by extension, the legalization process to obtaining a valid (read: legal) status. As such, Nepalis talk about the act of *making* paper (*kaagaz banaune*). To ask someone if they had already made paper, as I gradually learned, is more an affirmative statement than a direct question, seldom exchanged among strangers or newly acquainted Nepalis. As a distant-insider, I was intrigued not by the apparent silence surrounding the issue of legal status, or *kaagaz*, for more than fifty percent of Nepalis (or any marginalized migrant community) living and working in New York City is undocumented. What convinced me to pursue this issue further was how and in what specific ways *kaagaz banaune*, or *making* (legal document) paper, had become a basis for sociality—a topic for unity and of contention—among people with whom I worked closely.

I, thus, write about the emergent construction of a Nepali 'migrant' personhood and legal subjectivity, whose sociality is contingent and continually mediated, (re)created and negotiated anew by knowing, first and foremost, what *not to know* and subsequently, maintaining silence about the *kaazaz banaune kaam,* the work of 'making paper.' In fact, work and paper existed separate but in parallel terms for

those I facilitated English classes, worked closely with, and provided Nepali-English legal interpretation. The ideas about *kaam* and *kaagaz* were entangled in their lives, invoking an acute sense of the self and the community. One of the early ESL classroom conversations that I had with the workers illuminates this entanglement most lucidly. The topic of discussion for one of the ESL sessions was learning about different household cleaning supplies and the daily chores that workers were responsible for. The answers varied from doing dishes and laundry to cleaning bathrooms and kitchen floors. The conversation gradually transformed into serious issues about hardship and struggle they faced on a daily basis. Then one of the ESL female participants in her early-50s Pelki didi broke the rhythm of our discussion and casually declared that she did not work as hard as she had to when she first arrived in the US. I automatically assumed that she was referring to her work situation, so I inquired if she had to work long hours or received inadequate[11] payment previously. For I had known that the Nepali migrant workers taking ESL classes at the grassroots organization, where I taught English, were receiving information on minimum wage requirement in the US and, particularly, exposed to workers' rights issues.

However, I was left utterly confused when Pelki didi responded in the following way: "No. I still do the same work and get paid the same as I did five years ago. But I had to *work* very hard to *make* papers." At the time, I understood her to be

11. I use inadequate here to delineate wage that is under New York City's minimum-wage requirement although I am not sure what would be an "adequate" pay or the logic behind adequacy in general.

referring to various paperwork—from applying for a social security number to filing out a W-2 forms for work—that all newly arrived migrants were engaged in during the early stages of 'integrating' in the city. I was quite aware of the anxiety among people in the migrant 'community' who did not speak/understand English and/or had received little or no formal education prior to coming to the US. As I started to steer the ESL conversation to related topics about filing out papers and forms, she mumbled under her breath, "*Kaagaz banauna 2 barsa lagyo mero ta. Dherai kaam garnu pareko thiyo. Dherai dukkha pani khayen.*" ("It took 2 years to *make* my paper. I had to *work* so hard. I *suffered* a lot."). Her remark that generated complete silence and abruptly ended my class that day was one of the many early incidents in the field that compelled me to 'observe' and further inquire into this peculiar interconnected activity of *kaam* and *kaagaz*.

Making paper, or *kaagaz banaune*, is a type of activity, so to speak, strictly enforced upon (and often prior to) migration and integration into US society, occupying a parallel imaginative and practical ground as that of ideas about *kaam*, or work. Nepali claimants with whom I worked with spoke of them together, or in relation to each other. Thus, I suggest, *kaam* and *kaagaz banaune* function as an "articulated discourse" (Hall 1980)[12]. General inquiries about work, or *kaam,* alone has the possibility to be used across different ethnicity, class, caste, and gender,

[12] According to Hall (1980) "articulated discourse" reveals the relationship between two concepts that work together, never quite interchangeable or irreplaceable, to express and emphasize certain images, assumptions, and ideologies attached to the core of each formulation.

although it will be naïve to posit that questions related to one's *kaam* in social terms, revealing structured, hierarchical, relationships among Nepalis in the US have no real consequences to how one may be perceived, treated, judged, or even excluded from social activities.

The second chapter documents how and what specific ideas about work and/of "making paper," spoken of in relation to each other, structure and subsequently inform individual and collective lives and experiences of Nepali claimants in New York City. I focus on the specific concerns and experiences related to integration that people participated in the field, which in turn shaped their ideas about *kaam* and *kaagaz banaune*. More important, the way language of *kaam* and *kaagaz* came to concentrate within it varied, poignant, narratives of who they were supposed to be, who they were becoming in the US, and how that *becoming* is shaped by suffering individuals forming a migrant-community. All those I talked to, taught English, worked with, and interpreted for imagined that every adult Nepali goes through some kind of *kaagaz banaune* ritual within the first couple of years of their stay in the US. It is during and upon learning and having gone through the ritual of *making* paper that one becomes somewhat 'integrated' into US society. This activity that leads people from obtaining jobs to having greater participation in social and cultural activities in the migrant-communities to uniting with their families in Nepal and/or India was also an initiator of many conflicts, controversies, and contradictions in their lives.

Depending on varying level of intimacy I developed with individuals in the field, many interlocutors, but not all, shared with me their own experience about the process.

People I had known for a long time (prior to conducting fieldwork in New York City), and especially those with whom I shared similar social and educational experience, often spoke of the 'right' and the 'wrong' way of *making* paper. Many newly arrived Nepali migrant workers in the city were often seen by those who boasted about having acquired documentation the 'right' way as participating in an unethical or illegitimate ways of *making* paper. The potency with which people often discussed the two interrelated issues revealed to me, early on, the precariousness that accompanied the silence surrounding *kaam* and *kaagaz*, generating contradiction among Nepalis in the migrant 'community.' Rather than placing the interconnected issue as an expected outcome and a consequence of migration and integration, this chapter points to the specific ways that Nepalis integrate into US society is by learning about the rather arbitrary process of *making* paper for work and *working* hard to make *paper* for continued sustenance. It is through the process of seeking asylum that individuals constantly sought to make sense of their *be(com)ing* migrants and asylum seekers and *belonging* to the greater Nepali migrant-community.

The discourse on *dukkha*—suffering

The Nepali word *dukkha* or suffering has several connotations. It can convey pain, sorrow, hardship, grief, sadness, or misfortune when used colloquially about

one's state of mind and/or body. In a conversation between people, it can also convey feeling sorry for or sympathizing with another person's suffering. Another meaning, and most interesting for my argument here, is the intersubjective experience that the word *dukkha* conveys—sharing one's *dukkha,* suffering, with another person can potentially open up an intimate space—for establishing social relationship based on moral obligation. In this sense, sharing one's *dukkha* is then intricately linked to conveying moral conviction in another person. The person who acts as a witness or listens to another's suffering is morally accountable. In sum, *dukkha* as a shared social practice and a moral responsibility, in concrete, rather than adherence to abstract, existential, question is of particular interest to me here. To the extent that I was working with migrant workers and accidentally *inserted* as an interpreter for Nepali asylum seekers in the city, the multifaceted meanings of suffering materialized at different moments with people during fieldwork. Like most social phenomenon, they reflect a collective experience of people as a consequence of a historically specific position and sociality while contingent on ever-changing present context and the lives of individuals. In the following chapters, I describe and explore some of the many ways people engaged with me and reflected on the question of suffering and asylum seeking experiences—former as a condition of Nepalis living in the US and latter as everyday practice that structured their lives in the city—depending on the diverse contexts I interacted and the varying level of intimacy I developed with individuals in the field.

People use the word *dukkha* in many different senses as well. Community organizers and volunteers at the grassroots organization often say that migrant workers have lots of *dukkha* in addition to being away from home and family members. They do not know English and do not have legal documentation so they can seldom defend themselves at work. "Our *dukkha*," Pelki didi once said to me during our ESL session, "will never go away even if we speak 'good' English well." The context of our conversation was negotiating at their workplaces and with potential employers and I was teaching people about minimum wage requirement and negotiating for wages. What she meant was that learning to speak 'good' English does not guarantee better pay as a live-in maid. She went on and explained that as undocumented workers she and others in the ESL class had very few options and was destined to suffer at work everyday. Suffering in this context meant actual, physical, labor that cannot be reversed, as she related to me. In yet another ESL classroom session, Sanju didi declared in distress, "*Kahan ko time cha dukkha liyera basna hamilai? Hamro dukkha kasle bujhlan ra? Hami ta khali chup laagera dukkha matra sahana sakchaun* (When is there time for us to be sad? Who will listen to/understand our suffering? We can only suffer in silence.)" Then she ended with laughter, "that is why we talk a lot in your class, Miss." In this context, the usage of *dukkha* was to articulate emotional pain and suffering. Further, posing a rhetorical question about having no one to listen/understand 'our suffering' and suffering in silence meant that they could not share their *dukkha* with anyone but among themselves. In all their conversations,

suffering was used to express and emphasize their individual and collective victim-subject status. More importantly, it was employed as their fate in relation to their everyday living and working conditions as migrant workers in the US.

I cannot claim that such appropriation of suffering is widespread among all Nepalis at all times in the migrant communities in the U.S. Even if this usage is not commonly shared among Nepalis from different social strata, it is crucial to think about the rationale that makes this appropriation of suffering possible and meaningful for the speakers. As I learned to cue in with the way those around me used the word *dukkha* alerted me to the connection between work and making paper and, in particular, Nepali' relation to and understanding of 'suffering.' But it also drew me closer toward voices I had seldom heard or allowed to exist in their own terms in the Nepali migrant community.

One can only be a suffering Nepali if one hides his/her suffering, hesitant to share their 'real' suffering publicly, and even if they are positioned to do so, voicing one's suffering entails ambiguity about one's agentive position. To understand the varied meaning associated with suffering-victim and its usage in different social contexts among Nepalis, one must turn to the meaning of *dukkha* in Nepali and its relation to the English word "suffering." I noted at the beginning that Nepali word *dukkha* can mean misfortune—caused by something that is beyond one's control—and also pain or grief resulted by concrete material conditions and life choices. The notion of suffering is also ambiguous in other ways as well. Assertions of 'suffering'

stake out speaking positions in a dialogical context. It is quite impossible not to relativize the meaning of 'suffering' even if one asserts it to put forth certain convictions. It is also true so far as the development of anthropological usage of suffering goes in relation to competing notions of agency. The concept of suffering arranges competing notions of agency in a relativistic framework. Suffering-victim marks individuals by positioning them in opposition to those others with "capacity to act."

I combine two established trends in anthropology of suffering as a subjective experience with a basis to understanding sociality (Kleinman 1988; Kleinman, Das & Young 1997; Mattingly and Garro 2000; Biehl 2005) and for interpreting life-experiences and representations of our interlocutors' world-views particularly through phenomenological approaches (Throop 2010; Desjarlis 1992, 2003). Following these two lines of thinking of suffering—as sociality and as a cultivated individual virtue—I ground my argument of suffering to document its materialistic concerns among Nepali migrants, who treat *dukkha*, or suffering as an attribute that connected their individuals' lives to those of others with similar experiences of seeking asylum and as a way to creatively construct and, in turn, collectively identify as Nepali migrants and asylum seekers in the United States. *Dukkha* then connotes individual's fate as much as collective or shared experience both a consequence of and the very condition to social relationships and not set of ideas. While the Nepali word *dukkha*, also extends across the ambiguities as the word suffering, it encompasses both agentive and

victimhood roles that people play as social actors. However, Nepali language itself inflects the word in distinct and differently situated ambiguity. It allows speakers to indicate degrees of suffering along seemingly opposing ends of agency and victimhood. *Dukkha* communicates one's social position, more or less permanent and yet amenable to change. Articulations of one's *dukkha*, more often than not, tend to position people and simultaneously their recognition as suffering-victims. Any statement of suffering then shows that the speaker has made a conscious and discriminating choice among other possibilities to do so and to be acknowledged as a victim notwithstanding physical or metaphysical understanding of suffering. In other words, *dukkha* is a measured and thought-through response, pointing inevitably, by its assertion, to not the ambiguous slot between agentive or victimhood status. Depending on specific social and dialogical contexts it can mean one or the other. It is only in elite discourse that suffering/*dukkha* is often used to categorize people as solely victims.

As I document (Chapter 2) extensively, in the context of asylum seeking process, people often referred to inaccurate representation of the real suffering of Nepalis and giving voice to suffering victims. Nepali asylum claimants, former and current, did not blur the performative aspects of their suffering but went through great lengths to convince their suffering-victim positions as a form of victimhood and not agency. It is suffering that is not in question. In one sense, being a suffering-victim is having too much *dukkha* that requires recognition by others in the social

networks to be seen credible. In another sense, being recognized as a suffering-agent can be potentially seen as a suspicious asylum claimant, learning to negotiate or, in Nirmala didi's words, "selling suffering." One learns to position oneself as, and become, a suffering-victim and/or a suffering-agent depending on a given context and ever-changing moment. The suffering that Nepalis value, interpret, represent are based on this cautious judgment. To be a suffering person is to be conscious of one's victimhood as much as being a thoughtful agent. In sum, recognizing one's "capacity to act" is not outside but within one's capacity to suffer.

There may be people misappropriating suffering to make papers but not me, you know my story, asylum seekers for whom I provided interpretation often say, if I appear or show signs of being skeptical, inadvertently. Positioning oneself as a suffering-victim for asylum seekers signified their ability to legitimately claim political asylum and make papers in the U.S. The point is not whether Nepali asylum seekers are credible victims or agents of suffering. Neither position is inherent to being an asylum seeker or experiencing real suffering. The suffering is real only in the sense that an individual is expected to justify his/her position as an asylum seeker if and reveal his/her suffering of seeking asylum in the U.S.

Discussion about suffering in this context is as much about the ambivalence of individual's social position as it is about collective experience of protracted legality in the U.S. In the accounts of upwardly mobile social elites and political leaders, suffering Nepali is used as a frozen category that is perceived to being disrupted due

to emerging political claims made by asylum seekers. In these circumstances, they position themselves as asylum seekers and community organizers who choose to empathize with migrant workers as suffering-victims of economic injustices in Nepal and the US while resisting to identify people seeking asylum as credible victims of political injustices. Whereas community organizers and activists working closely with un/documented migrant workers are concerned their assertions of suffering Nepalis indicate acute sensitivity toward socio-economic conditions of people as both migrant workers and political asylum seekers. Their refusal to engage publicly and silence surrounding people's experience seeking asylum signify acknowledgment of irremediable dilemma of belonging to Nepali migrant community. Yet among migrant workers and asylum seekers, former or potential, some fear being identified as asylum seekers and others are very much vocal about their uncertain legal status. Those who are ambivalent of being recognized as an asylum seeker insist on (re)counting their suffering as 'real' and correspond to the general suffering of Nepalis *making papers*. Still those unafraid to self-identify as asylum seekers emphasize their actual suffering to *make papers* and unchanging social positions even after having repeatedly shared their *dukkha* with strangers. Among Nepalis, narrative of suffering and asylum experiences are being reformulated as much as the narrative itself is refashioning them in various ways that serve larger socio-economic and legal purposes.

Intense engagement and conversation about suffering is then an activity that enables people to construct local meaning attached to be(com)ing migrants and/or asylum seekers. The suspicion around the figure of asylum seeker, for instance, is built into the very relationship informing migrant collective ambiguity toward articulation of suffering. No one is questioning whether an individual is or is not a suffering Nepali migrant. The moral discourse surrounding suffering and, in particular, representation of oneself as suffering-victim and/or suffering-agent is about productive ambiguity. It is also about emergent sociality among Nepalis—signs and spaces of cultural intimacy, shared silences, constructive social meanings and interconnections. Socially privileged speakers, each with their own outlooks and opinions about others as suffering Nepalis, are not in complete opposition to those less likely to voice their opinions in public or be dismissive of others' suffering all speak the same language and become deeply enmeshed through active socialization. The complex realities and miscommunications create the very conditions to the migrant 'community' formation. It is to non-Nepalis then this complex social reality is packaged and translated into simple, coherent, and agreeable rationale. What is gained in return?

As a way of addressing this question, I do propose under the rubric of *dukkha*—suffering—expressed, interpreted, and enacted by and among Nepalis in relation to seeking asylum in the U.S. is not an argument for Nepali "culture," diasporic or otherwise, in the conventional sense of a stable and coherent symbolic

norm or moral code. Nor do I mean to suggest a uniquely socio-cultural attribute—grounded in shared social system, worldview, belief, and everyday practice—imported from "homeland" into host society in an axiomatic manner. With suffering I gesture instead toward a language of shared experience of anxiety, uncertainty, and protracted legal insecurity having gone through and/or anticipating going through a type of invisible labor of "making paper" in the US required of people without legal documentation. It is then about a language of powerful and persuasive means of articulating and representing the condition of il/legality itself using familiar socio-cultural idioms and categories, one that casts the suffering of being in "legal limbo" (Cabot 2012) or "permanent temporariness" (Mountz *et al* 2002) as an organic process aided by piles of legal documents and non-remunerated work. The next chapter closely engages with the two concepts, discussed and debated among Nepali migrants and claimants, specifically emanating from the context of their asylum seeking process.

CHAPTER TWO

"Making paper, selling suffering": The hard-work of seeking asylum

"The narrative forms known to humanity are finite and ubiquitous. Yet in the ways we adopt and engage with these master narratives, we communicate experiences that we feel are singularly our own. As for other human beings, we see them simply as faces in a crowd, as an anonymous mass, until we enter into dialogue with them. Forthwith a stranger suddenly possesses a voice, a history, a name—and what transpires between us may change our lives forever."
--Michael Jackson (*Lifeworlds: Essays in Existential Anthropology*, 2013: xiv)

"Truth is simple, my story is not"

At the time of the interview recorded below, Maya didi had been granted asylum a year ago. She was recounting to me her asylum experience: narrating multiple asylum stories as well as multiple ways of narrating a given traumatic story. She seemed still visibly disturbed by the asylum seeking experience despite favorable outcome.

"Truth?" Mina didi said in a measured tone. "No one wants to hear it but everyone *knows* it already," she continued, "everyone wants to hear a good story in this country." After a long pause, she said, "We work hard in people's houses, cleaning bathrooms, cooking, and taking care of other's children. That is the truth. It is very simple. If you do not have papers or know English in this country you continue doing the work because you need the money. Even if you make paper and learn some English you still do the same work. Maybe you get lucky and find a good

boss who treats you well, but you will not get good money. If you get lucky and get more money the boss will not be nice."

> *I first met Mina didi almost three years ago at the grassroots organization, where I taught English as a Second Language (ESL) classes on weekends. She was the first ESL participant whose incisive remark during one of the sessions made me question and reflect on my own social position as an ethnographer, an ESL teacher/volunteer, and a member of the growing Nepali Diasporic community in New York City. As a teacher herself in her hometown in Manang, Western Nepal, she had taught different subjects to young and old people in her village for ten years. Indeed, she often compared the ESL class in Queens with proudh-sikchya, or adult education/literacy, in her village that was part of the development programs and policies,[13] in the late 80s and late-90s until she migrated to Kathmandu and started processing paperwork to come to the US in 2005. "This English teaching you do," she would often tell me, "is like what I used to do in my village. Teaching Nepali to elderly people in our village who only spoke Manange or Tibetan. At least in our village the old people did not have to work. It was only to kill time in their old age. Here, we work like donkeys for 6 days and take English classes to feel more dumb."*
>
> In relating how and in what specific ways she narrated her asylum story, Mina didi broke several of the unwritten codes of the asylum seeking process:
>
> I had to work so hard. I spent so much money to make Nepali passport and obtain Nepali citizenship in Kathmandu before coming to the US. I am still sending money home to my brother to pay the middleman. I thought the days of hardship and difficulty was over and I had bought happiness when I came to the US.

13 Began in the late 60s as government promulgated projects, under the rule of King Mahendra during the Panchayat era and went well into the 90s, created an important space for the establishment of various international agencies and non-governmental organizations, including USAID, to transform, educate, and 'integrate' 'villagers' into Nepali nation. Implementation of adult literacy programs, information about education and preventative health in the rural areas were some of the key features not unconnected to representing a unified, 'modern,' Nepali nation (see Stacy Pigg for a comprehensive study and expanded discussion on the "unintended consequences" of the development ideology in Nepal).

Our conversation takes place in a cafe located halfway between her apartment in Woodside and mine in Sunnyside. It is interrupted every couple of minutes by the 7 subway line tracks running directly above the restaurant, as in every Nepali neighborhoods in Queens—Sunnyside, Woodside, Elmhurst, Northern Blvd. and Jackson Heights. It is an interesting art that one picks up in this part of the city, as I eventually did, when the train interrupts your train of thought constantly. There is no point trying to compete with the loud noise of the train; it only sucks energy and leaves your throat dry. You simply cannot win. Rather than follow your train of thought, you learn to follow the train's schedule. You start a conversation and stop, quite naturally, every time you hear the train. Then (try to) utter a sentence or two, while people are getting on and off the train. Once you hear the train doors shut or the announcement--"Please don't hold the doors. There is another train right behind us"-- you wait a few seconds for it to leave the station. Then you continue your conversation from where you left off. The way one learns to discipline his/her thoughts to follow the rhythm of the track is a particular skill that city-dwellers can distinctly relate to. Not to mention, it gives conversation a unique character.

Doing interviews in Nepali neighborhoods in Queens, I either appreciated the interruption or became increasingly impatient and annoyed depending on the context and the topic of conversation with my interlocutors. Noisy trains can be a welcome disruption to divert unwanted silences and awkward moments in the field, but, at the same time, it can be a nuisance when you are deeply immersed in a conversation with someone and especially learning new information about your interlocutors, colleagues, and collaborators. This also means that the person sitting in front of you can change his/her mind in that split second—between the arrival and the departure of the train—whether or not to continue discussing what they were talking to you about right before the train arrived. Or worse, they may decide to simply cut off the conversation and not dwell on the subject matter further. Having conversations in local parks, cafes and restaurants, in the Queens neighborhood, you always had to factor in this possibility.

I was getting anxious as to what direction Mina didi's story was taking. Would she decide to cut it short as she had done on a number of occasions in the past or would she continue with her story. Luckily, for me, that day Mina didi had come prepared to tell me her story of making papers, which she began almost a year ago but never completed it.

She took a deep breath and looked outside the cafe window. After few seconds, she continued, "*Kahan ko sukkha paunu ni ho hamiharu jasta lai ta?* (Is happiness ever possible for people like us?)." Mina didi raised her eyebrows and her right hand—a gesture not untypical for Nepalis to make when asking a rhetorical question or simply making a general statement. She was, however, speaking of her particular experience. Her sharp and biting remark held me hostage, unable to respond in time. She continued without waiting for my response,

> I was already home sick and working hard as a live-in domestic worker with an Indian family in Connecticut. It had not even been a year when I was asked to get my Tibetan citizenship card and papers from Chinese government to *make* another *paper* to stay here. For that my brother (in Nepal) and I had to go through so much trouble and hard-work to keep paying so many people to get all the right *papers*. And the most difficult part here is that you have to say your story in front of the immigration officer. I went to Jamaica office first with the lawyer that the Chinatown people got me. After working so hard and memorizing everything for almost a year, I did not get asylum! I had to tell my asylum story twice…can you believe that?

The more she shared the details of her story the more confused I became. Mina didi applied for asylum as a Tibetan refugee. When asked if she knew what she had to do to apply for asylum, she responded, "No, I was just told by my cousin that I will have to work hard for the next couple of months to learn the story to make papers to live here. But I did not know what kind of story was needed from me. I did not know the system here. My cousin took me to the woman in Chinatown and she recommended that I could make papers because I am Buddhists like Tibetans. But the woman asked me if I could read and write Tibetan. I was worried because I could only speak Tibetan language. All those years of studying and leaning Nepali in the government school and passing SLC was useless here. I was sad at first. Then the Chinatown woman told me that she would make me a tape of my story in Tibetan that I needed to listen to everyday at work."

I was completely immersed in her story and became quite entangled in it myself. Upon asking what kind of story she ended up telling, she said, "The same story that everyone knows. I was born in Tibet and all my family members had to leave and come to Nepal because of the Chinese government. We lived in Nepal as refugees and suffered a lot in the hands of the Nepali government. You know they want all the proofs of us being Tibetan and the upper Manang is near Tibet. But it is not really Tibet and Mustange Tibetan is similar to Tibetan culture and language. I got all the photos of my Tibetan dress, my house, and the area we lived in Manang. I asked my brother to send me everything."

Mina didi showed me some photos of herself in Tibetan outfit, her house, and the photographs from Loshar celebration with her family. While showing the photographs, Mina didi took a deep breath and continued, "You know all these photographs and papers of my Tibetan citizenship were not enough to make papers here?"

I nodded, not entirely sure what she meant.

"You see my new story was that my cousin and I were carrying a Tibetan flag during a protest in Kathmandu. The woman in Chinatown said that Tibetan flag was now allowed to be carried in Nepal, so the Nepali officials arrested us after one of the protest marches we attended and they put us in jail for a week." She went into details about where and when she was carrying the Tibetan flag—near Bouddha[14] one time and another time near the palace, she explained. "I spent days and nights listening to the Tibetan tape that Chinatown woman made for me. She said I will have to describe the prison life, how it looked from outside, inside, and how many people were arrested in that protest. I also had to remember how many people were put into our cell and what they did to us—all the beatings, scolding, and torture. It was not enough that I had to ask my brother to get more papers from the prison. The date I was arrested, the name of the prison, the photo of the jail…everything. I kept calling

[14] It is one of the important pilgrimage sites for Tibetan and Nepali Buddhist Monks. There is a famous Buddhist monastery—the name of the place Bouddha comes from that.

my brother in Kathmandu to send me all the photos of the jail nearby and the papers from the Nepali government officials."

"And that is how you got the asylum," I asked Mina didi.

"Asylum? Oh yes, I finally made papers," she said, and continued with her story, "I had no idea that I would also have to remember the images of the jail, the color of my cell, for example, and other detail description of the officers who arrested us in Kathmandu. The Chinatown woman recorded everything for me in a tape. I don't think I worked so hard like that in my entire life. But it was still not enough."

I thought the story was over; she had gotten asylum. Obviously, I was mistaken.

Mina didi's voice got louder in the café and people started staring at us. She did not seem to care. "After I studied and listened to the tape that the Chinatown woman gave me for almost three months, she told me that I would have to practice answering questions of my story on the tape. But you see I had to learn again not to remember the story exactly the way I had listened and memorized. Can you imagine my surprise?"

I was beyond disbelief but the initial shock and confusion was slowly giving in to my anticipation of more twists and turns in Mina didi's story—to a point where I could no longer *imagine* anything.

"Yes, I had to learn to forget that story after four months of practicing so hard," Mina didi said softly.

"Forget that story?" I asked utterly confused.

"You see the Chinatown woman said that I couldn't answer lawyers' questions directly because it would look like I had rehearsed my story. But that was the truth: I had rehearsed that story and quit my job for two months to memorize that tape. I did not have any money left with me. If only I knew English I probably would have gotten asylum the first time." She fell silent.

"And that is how you got asylum," I tried to continue our conversation although there was no need to pretend to fill the silence.

"I did exactly what the Chinatown woman told me. I worked hard to forget--not my story but how I had remembered it the first time. I finally learned another different ways to tell the same story and answer different questions. The Tibetan interpreter at the courtroom translated my story well. She understood what I had said. She helped me." Mina didi said.

"What about the Chinatown woman?," I asked her.

"She made me work hard. She was strict but she helped me and other Nepalis make papers. I paid her money, too. *Bahini*, no one understands your *dukkha* (suffering) for free in this country," she said sarcastically. "See I told you the truth is simple. My story is not," she teasingly added.

There are several elements in Mina didi's convoluted asylum narrative which taken as a whole reveal a peculiar connection between 'making paper' and 'working hard.' Indeed, work was the central component of her asylum experience. She told a

story about an initial asylum interview gone wrong even after "working hard for a year;" about having to learn a completely new story and being able to recite it in Tibetan—language that is close to her mother tongue but not the one she necessarily felt comfortable speaking because of all those years learning Nepali; about working hard to memorize every single detail of the story which she had to then "learn to forget" so the story would appear believable. Throughout recounting her asylum narration and experience narrating the story at different moments as "work hard." Her realization of "working hard" in the US is directly informed by her asylum seeking experience. Interestingly, she did not explicitly relate to me her frustration about the absolute absurdity of learning 'the asylum story' in different languages and the logic behind remembering-and-forgetting the same story.

Mina didi's story is then about a particular experience with the asylum process that ultimately made her realize the 'truth' about living and working in the US: the fact that working hard, learning to narrate her 'story' in different ways that finally granted her asylum afterward did not substantially change her life. Having to "work hard," as she pointed out, for *making paper* is the simple truth. The point is not to establish that the Nepali migrant is not an 'authentic' asylum seeker and an unruly migrant-worker, but to examine how she has come to occupy this particular (social) position within the space of the US nation-state, and even positions herself, alternately as one and the other.

This kind of candid discussion of the relationship between *working hard* and/for *making paper* among Nepalis, particularly former asylum claimants, is common in my data. Still what makes this relationship comprehensible is the opposite (and standardized) rationale that must be simultaneously upheld by current asylum claimants: *making paper* would result in obtaining better *work* and life in the US. While knowledge and public acceptance of this relationship is hardly new for claimants I worked with and interviewed, one-on-one conversation with claimants often revealed convoluted and complicated views and dilemmas. Take, for instance, my conversation with Kumar dai for whom I provided asylum interpretation for a year and half. Contrary to my expectations, Kumar dai's reflection on asylum seeking experience is a mixture of haunted relief and anxiety.

Working hard to make papers

"*Bahini* (sister), I passed finally," I could hear excitement in Kumar dai's voice when he called me on the phone after his merit hearing, "I have spent so much energy and sleepless nights to make papers, you know." I had assisted Kumar dai on his asylum case as an interpreter for the last two years, but I was unable to attend his merit hearing that morning. Since the court often had their appointed interpreter I would not have been allowed to interpret for him and his legal representatives.

I asked him to recount for me his courtroom experience. Kumar dai responded eagerly with a long, comic story about how the judge did not seem to care how much he had suffered in Nepal but whether he was paying taxes for the last

seven years he had been in the country. "The last time I was this nervous was when I took the SLC examination[15] in Nepal more than 30 years ago!" He was panting and talking at the same time. It was as though his words lagged behind his thoughts, running in different directions. "*Yo asylum bhaneko* (This asylum thing)," he would often say to me, "*SLC dinu bhanda kehi kaam hoina, bujhayou* (is not less difficult than sitting for the SLC exam, you understand?). You have to forget about everyone and everything for a year or so to prepare for the exam and still there is no guarantee that you will pass." I was overjoyed that he had passed the examination with flying colors, indeed.

Later that evening, I went to the Indian restaurant near NYU where Kumar dai worked. He had insisted, on several occasions, to pay for my dinner to show his gratitude for interpreting, or, as he would say, "*lamo samaya samma saath dinu bhayeko ma*" (for providing support for a long time), during his entire asylum process. In the past, I had made excuses and refused to take him up on his offer. I was, like Kumar dai and other Nepali asylum claimants for whom I provided interpretation, ambivalent whether it would be "okay" to meet and discuss their cases while they were still ongoing. Many times that we had spoken about the case, it created, more often than

[15] SLC, School Leaving Certificate, is a national examination that people take after finishing 10th grade or high school in Nepal. Without passing SLC exam, one cannot get admission to colleges. Having passed SLC is also a symbolic marker of a person leaving his/her sheltered familial life and on his/her way to entering the civil life and assuming civil responsibilities—by joining college or getting a job, settling down and getting married. One can often hear people, beyond the age of 30 in Kathmandu, often speak of their 'SCL time' and waiting for their results to be published in the newspaper as a period of both nervousness and heightened excitement and an important turning point of their youth. The metaphor used by Kumar dai is to express the similar anxiety and the arrested sense of time and social life that people refer to when discussing their days of preparing for and taking the exam, and waiting for the result.

not, a rather distressing environment. It was not surprising that I did not particularly remind Kumar dai and other claimants of their joyful moments, since our structured, disciplined, and mediated meetings and conversations surrounded by lawyers frequently made them anxious and frustrated. I was becoming acutely aware that I did not particularly help ameliorate their frustrations. Quite the contrary, I added to, if not necessarily became the very reason for, their frustration altogether during interpretation sessions.

But that evening was different. Kumar dai had been granted asylum and I was no longer his interpreter. I accepted his offer to meet him at the restaurant. As per his instruction, I arrived right after the lunch traffic ended and before he had to prepare for dinner. He seemed thrilled to see me. The restaurant was quite empty except for one or two customers. Regular ones from NYU according to Kumar dai. As we sat in a booth near the kitchen, I initiated the conversation, "*Dherai dherai badhai dai tapainlai, dai (Many congratulations to you, older brother).*"

"Thank you. To you, too!" he said in English. "*Aba ke?*! (Now what?!)" He took a long, deep breath.

"I do not understand," I was unsure how else to respond to his habit of asking a rhetorical question, followed by a sigh.

"I taught English in Siraha for twenty years before I had to leave my hometown for Kathmandu in 1998. There also I taught English until I came here in 2002. Now in the name of English, this is all I do." He shook his head up and toward the

direction of the open dining room space. His hand followed his head almost involuntarily. "Sir, would you like to sit by the window, I say to customers everyday."

The customers in the restaurant must have overheard him, for they turned around and smiled at us. Kumar dai got up, "Check?" he raised his right hand and as though holding a pen with his index finger and thumb, he made a scribbling gesture in the air. "*Ekai chin la* (Just a minute okay)," he said to me and walked toward the front of the restaurant to attend to his regular customers.

As soon as he came back, I asked him, "So how did the hearing go this morning? What questions did the judge ask?"

"The hearing?" he rolled his eyes and continued, shaking his head, "It is such a big show….two years of running around and going to the law firms, retelling my story to seven different lawyers, and the last month of preparing for all those questions and answers during prep sessions…the number of times I received death threats…was it over the phone or letters in the mail sent by the Maoists… the detail description of the physical attack I suffered twice when I refused to donate money to the Maoist political party in our village…" He said it all in one breath. It was as though the events from ten years ago in his life were flashing in front of him and he was trying to capture every bit of it in words. Then shaking his head gently, he continued, "You know that the judge asked me nothing."

"Nothing?" I repeated.

"Well, the judge did ask me a lot of questions. He wanted to know whether or not I was filing taxes all these years that I have been living and working in this country," he said sarcastically and continued, "You know all this time I had to take off from work to run around the law offices for the last two years, I could have made more money and sent it home to my wife and children." He started talking about his family in Nepal.

"Next year, I will be 50. My life is not going to change for better in this country just because I will have made papers tomorrow. All I hope is to bring my family here and give my children a better future. My son is in middle school and daughter is almost 21. *Hamro dukkha ta asylum payera pani sakindaina, bahini* (Our suffering does not end even after getting asylum, sister). *Yo kaagaz ko kaam bhaneko ta jeevan bharko bandhan ho… niskina nai nasakine….* (This paper-making work is like a life-long bondage…difficult to escape from….)."

It is impossible to know whether Kumar dai was particularly referring to his experience of suffering in Nepal, or he was making a general commentary about 'suffering Nepalis' in the US, with which I was becoming increasingly familiar. The word "our" is used here precisely to communicate this ambivalence. What is clear is that Kumar dai, like Mina didi and many other former and current Nepali claimants I worked with, is articulating the "truth that everyone knows already." The total amount of suffering and anxiety caused by seeking asylum is only related to me after being granted asylum. Given that he received a favorable decision, his asylum

narration does not matter anymore. But Kumar dai seemed particularly disappointed with the merit hearing—the judge was not interested in his asylum narration which he had learned, memorized, and worked hard for over a year. It was, like he said, "not less difficult than sitting for the SLC examination." Even for those who recently obtained asylum like him, the actual asylum-seeking process leave them with a feeling of void to cope with or remind them of more paperwork to be done in the future.

Both Mina didi and Kumar dai above reflected on their experiences of seeking asylum for/as *making paper* always in relation to work, albeit in different ways. They both spoke of constant anxiety and fear of uncertainty as the very condition to *working hard* for paper when they recounted their everyday practice and performance in narrating their asylum stories. Narrating asylum story in itself was hard work that they both encountered. For Mina didi, the process of learning different asylum stories and multiple ways of recalling and retelling the experience of persecution encompassed hard work. On the other hand, Kumar dai's frustration resulted from not being asked questions related to his asylum claims and persecution that he had worked hard and memorized over the period of two years. For both, hard work entailed learning about the asylum process—what and how to narrate an asylum story—from learning the language of asylum to memorizing minute details of 'past persecution' to practicing and ultimately performing oral delivery of their story with precision and coherence. Still there is no way of knowing if and when this hard work will actually pay off. For both Mina didi and Kumar dai, their hard work to make paper did pay off in terms of

legalizing their status but it did not necessarily end their anxiety about both—making paper and working hard. According to Kumar dai, the end of making paper is only a beginning of being trapped in the endless cycle of making papers, as he said once in a passing, "*Ke farak parthyo ra jasto lagcha kahile kahin. Yetikai baseko bhaye pani. Yehi kaam garinthyo* (I sometimes wonder what difference would it have made had I chosen to remain undocumented. I would have lived just like this. I would be doing the same work)." Mina didi, too, continue to grapple with the real purpose of all the hard work, time, and money she invested in making paper that ultimately did change very little in terms of employment opportunity or socio-economic mobility.

Social life of suffering claims and claimants within and beyond the legal realm of seeking asylum becomes the very site of necessary labor. The separation between '*working* to make paper' and '*making paper* to work' completely disappears. The activities of the everyday outside of making paper or legalizing one's status are not just about conditions to living in the US and supporting families in Nepal; everyday work itself becomes increasingly about learning and performing innovatively that will have direct and useful consequences on their life as asylum seekers and suffering workers. This is not simply category confusion. It is the condition of late modernity and late liberalism, in which one learns to productively deploy identities that are not only contingent but also frequently contradictory and absurd.

In my material, this kind of asylum narration that interchangeably slipped between one's story about his/her 'past persecution' and articulation about *making*

paper as hard work is not uncommon. Indeed, the narrative switch is so smooth and seamless that it is often the distinction between the two that seems somewhat forced and unnatural rather than the other way around. Take Maya's outburst during a train ride after we had completed one of the numerous asylum interpretation sessions:

> When is this going to end? How many more people do I need to talk to before they finally believe me? It has been more than two years since I have been telling my asylum story…to asylum officers, interpreters, human rights lawyers, psychiatrists, and now these lawyers [pro bono lawyers representing Maya]. All I talk to people, my family, friends, and neighbors is about my case [asylum]. I had to quit my baby-sitting job because I needed to come prepared to lawyers to tell my story at least twice a week during the first few months of asylum interviews. You know it. I never told you but that boss fired me last year. I was upset with her but I now understand her problem. Who will want to hire a nanny who needs days off on short notice? Of course, people see you as unreliable. Now I work for another family and I have already asked for so many days off. My current employer is nice but this time I did not mention anything about my case. But it is only a matter of time. I am waiting for her to say something to me. It is difficult to do your job well, especially looking after small children, when your mind is somewhere else and all you are thinking about is your case. I cannot concentrate on anything. I don't even feel like calling my parents and kids in boarding school in Kathmandu. Before I worried about not having a job and now I am complaining about this work. I am tired.
>
> […]

> My life story has become a piece of amusement for people. I *have* become an amusement for everyone...for my own relatives and lawyers…and perhaps to you too.

Before I could say anything, she added with what seemed like a forced and an awkward laugher, "I *am* an amusement even to myself these days."

When asked if her current employer knew about her ongoing asylum case, she looked at me with a mixture of shock and disbelief. She said, "Are you crazy? If the employer knew about my case I would not have had this job." Maya explained how her frequent visit to doctors and lawyers is better kept a secret from her employer. "She will not want me to take care of her child anymore. She will think I'm crazy if I say I'm seeing a psychiatrist. And if she finds out that I'm making paper through asylum she will definitely fire me. You know both my employer and her husband are lawyers. *Kasto dubidha ma chu bhane. Aba tapain nai bhannus la, kaam garne ki yo kaagaz banaane kaam garne?* (I am trapped in such a dilemma. Now you tell me, should I work or do this work of making paper?)"

In Maya's narrative, she casts herself as a hard-working individual who is disgruntled about not being able to concentrate on her job and perform it well because of the 'work of making paper' she needs to focus on. Recall Kumar dai's similar avowal of having to 'forget everyone and everything' to *make paper*, and, in particular, his analogy of working to make papers with preparing for an exam with uncertainty of passing. While Kumar dai and Mina didi's narratives of their asylum

experiences highlight their continued anxiety and suffering post-paper making work, Maya's frustration and anxiety arise out of her declared inability to focus on her paid-work as a nanny. In discussing her job and the work of making paper, she collapses the two into one and reasons how focusing on one is taking her time and keeping her from performing well on the other. At the same time, her declaration of being 'tired' should be contextualized beyond the realm of physical or mental exhaustion. For she self-reflexively draws on her current dilemma as that of being 'an amusement' to people—to whom she has been narrating her asylum story—and to herself. To be not able to concentrate on work and, instead, be invested in the work of making paper is then akin to be not taken seriously. It is then a matter of practical concern that is not simply preventing her from be(com)ing a good worker but also creating anxiety about how she may be perceived as an amusement. Toward these ends, her question to me—'Now you tell me, should I work or do this work of making paper'—is also a form of self-affirmation, used in this particular context, as a justification to herself and to me, her interpreter and interlocutor, about the actual hard *work* she has been engaged in for over 2 years.

Hard-work of waiting indefinitely

Hard work of *making paper* can extend anywhere from before, during, and after making paper. If Maya's account is primarily about the work she is currently doing for paper, Mina didi and Kumar dai's reflections illuminate the work they had done

before and during the entire process of making paper. There exist another type of work, which is done for all practical purposes to *make paper*, but it has not been paid off. This is the period of *waiting* indefinitely to actual obtain paper. This example can also be found in Kesang's narrative, where he begins with an asylum hearing gone awry:

> Nothing went right that time. I could not even remember my apartment address in Queens and my telephone number. I almost forgot my English date of birth that I had memorized for 3 years. I kept repeating my address in Mustang and in Kathmandu. I even gave my Nepali year of birth. When I said 31 March 2033, my lawyers looked at me with confusion. Still I had no idea what I had done wrong. I just could not remember right answers. I had worked one of the longest shifts at the grocery store the night before and had 3 hours of sleep the night before. I could not pay attention to what was being asked in the court. The court interpreter felt bad for me too, I think. So many people helped me make papers in Kathmandu to come here.

Kesang's story is about anxiety experienced during and after the asylum merit hearing—to make paper—because his case did not result in immediate granting of asylum like Kumar dai. While Kesang's case is similar to Mina didi's experience of a first asylum interview gone wrong, his was merit hearing in the Immigration Court, which means that if he does not receive a favorable decision on his case he will not be summoned for another hearing. Depending on his legal representatives, he can appeal his case to the Board of Immigration Appeal (BIA) and wait several months before the BIA either approves or denies his appeal. If the appeal is denied, chances

are Kesang will be deported. If the appeal is approved, *one* of the three things can happen, according to his lawyers: 1) the BIA can overturn the judge's verdict, which is extremely unlikely; or 2) the BIA finds fault with judge's assessment of the evidence presented on the case and appoint a different judge to reschedule another merit hearing, which is somewhat likely; or 3) the BIA appoints the judge to schedule another hearing but will not be allowed to ask questions outside his/her judicial expertise, which primarily includes the critical evaluation of medical experts' report in Kesang's case.

Kesang was waiting to hear from his lawyers on the appeal that had been submitted. One day, I met him after his morning shift of delivering bakery from Brooklyn to Upper East Side, Manhattan and talked about the appeal. Unlike the last time we met in the law firm to interpret and discuss the important date and details about his upcoming appeal, there was no date approaching for Kesang. However, he was more nervous about the absence of a specific date to learn. He talked about the date in question, and how he would feel much better had he known when to expect the news. After a while, the absence of a particular date and his everyday waiting itself framed our entire conversation without ever explicitly talking about it. A bit awkwardly, I tried to initiate the conversation in the direction of the asylum appeal process:

> TS: As the lawyers said last month…there is still a chance that the BIA could overturn the judge's verdict…and if they do not, the judge will not be allowed

to ask questions that is outside his expertise…like your medical reports or questions about the first asylum decision…

Kesang: Before I only had one problem: I was worried that I did not have paper. I thought I would not be able to give a better future to my daughter, you know. But now I can neither tell my family that I am coming back home nor explain why it is taking so long to make paper to bring them here. I am stuck in the middle. I work more hours now than I did before because I do not know when I will have to stop working and will not be able to send money home…well, it is also because I cannot sleep peacefully. Every minute that I am not working, I am worrying about my paper and talking about it everyone…see what I mean. Today is my day off and here we are…talking about my asylum. This *papermaking* work is so much harder than what I do everyday. At my work, I do not have to think or worry. I just do it. I have a work schedule and I know when to get there and what time I will get off. Not like making paper. I don't know what have I really gained from all this? The funny thing is I am still unsure if I can provide a better life for my family with or without paper.

TS: So going through the asylum process does not really make a difference?

Kesang: It does. It makes you more anxious and your worries multiply. Like I said, not having *paper* is only one problem…going through the asylum process, *working* hard to *make paper,* and living everyday with the anxiety of not knowing whether and when you will actually have *paper* in hand is a source of multiple problems.

TS: multiple problems like what?

> Kesang: Well, I cannot promise my family that I can bring them here. But at the same time I cannot explain in a way they understand what I am going through here. They do not know my worries. Until I have *paper* I cannot go to Nepal and see my family. Sometimes I try not to worry too much and just think to myself that life is uncertain so as long as I am alive I will work here and send money home to my family. If they [the US state] do not give me paper and I am sent back, maybe that will be a blessing…it will be an end of all this hassle. But when I try not to worry or care so much, I think of my family and feel sad for them…for us. My family in Nepal and I have suffered so much to send me here to work and make paper. After living here and working everyday like a donkey for almost 7 years what will I do if I go back? Still this *waiting* for paper makes you feel miserable one minute, happy next minute….nervous one day and fearless the day after…it is like you are on a swing moving forward and backward, flying high and falling low constantly. Then you start wondering if your life will be drastically different even if you have paper. This business of *making paper* has taught me a lot about life in America and suffering.

Kesang and I had discussed his asylum claims—from the very beginning we met at the human rights agency, where I interpreted for him, and then periodically afterward in the private law firm for numerous interviews, documentation, and interpretation of his account of political persecution in Nepal to intense prep-sessions before his merit hearing at the Immigration Court. This was the first time he admitted to me that making paper was hard work, and to make things even worse, he increasingly became doubtful of having a better life for himself and his family despite being close to

obtaining paper. Technically, I had stopped interpreting for him and his lawyers once his merit hearing in the Immigration Court ended in unfavorable decision several weeks ago. Never before did he share either his skepticism about the outcome of his asylum decision or his grievance of having worked hard throughout the process. Kesang clearly felt that he did not have much control over the direction of his life while making paper. He did not want to burden his family with his uncertain status or explain to others in his social network. His solution to the problem was to work more hours to escape from the mental work he was putting into making paper, which now hangs in a limbo.

Similar explanation was given by many asylum seekers. Take, for instance, how Pema related Sarita's case to me during one of our interviews:

> Pema: You see Sarita here has suffered a lot. She has not been back home for almost 10 years. She has not seen her husband or kids all this time. Her boss promised to make paper for her for last six years but she never did. Then after her cousin came to the US, he made asylum paper and promised to help her make paper. She worked with the lawyer for two years and took another housekeeping job on weekends on top of her full-time nanny job to pay his relative and the lawyer. That is okay, we all have to suffer to get something. But you know what happened? They tried to help but all her money is gone now and she did not get paper. After two years, the lawyer just told her that she was already here for 7 years and her case was not like her cousin's. Why promise her for two years, no? So I am telling her to go to the lawyers in human rights who helped me make my paper. She does not want to do it.

TS: You do not want to make paper anymore? [I asked Sarita]

Sarita: You see, Tina *bahini*, Pema is telling me that I have to quit my part-time job to make paper. But what if I do not get paper after working hard like last time? If I quit my house-keeping job to *work* for paper and have to wait like last time? I am tired. I keep making promises to my children in Nepal that I will see them soon. I left them when they were 5 and 7 years old, now they are 15 and 17… sometimes I think maybe this is my luck but other times I do want to do something about it…for my children.

Pema: That is why I am telling you to make paper again [addressing to Sarita]. You have nothing to lose if she do not get it [asylum] but if you do then your kids can come here.

Sarita: I am no longer worried about not *making paper* but waiting without knowing. At least now I am making money and sending it to my family. My kids are both in good school in Kathmandu. I have heard that many people who tried making paper *that* way [through human rights agencies] are called in front of the judge. And if you do not speak good English in front of the judge you are either sent back to Nepal, or worse, wait in this country forever. You cannot live here and work peacefully because you do not know when you will be required to leave.

Pema: But you are waiting here without having paper, without any hope. Better wait and hope that you will make paper. And for that you need to take risk, is it not true Tina bahini?

TS: I don't know. What will you do Sarita? [I did not think I had any answer to Pema's question, so I tried re-directing our conversation to Sarita's dilemma].

Sarita: I don't know what to do either. I just know that I do not want to wait and suffer for another 10 years.

Pema casts Sarita as someone whose life in America has been about waiting and suffering to make paper. While Pema is optimistic about making paper and encouraging Sarita to consider trying it again, Sarita seems more ambivalent. Sarita's ambivalence arises not simply out of fear of remaining *paper-less* but it also has to do with waiting indefinitely and not knowing whether one will or not have make paper. What makes hard work associated with making paper unbearable for many then is the uncertainty of the wait itself. Waiting becomes a peculiar zone of isolation—a source of constant fear and anxiety on its own for potential and current asylum claimants. Kesang's and Sarita's stories is responding to the implicit the question: how long should and could one wait in a limbo even after going through the asylum process? If, for Kesang, waiting is the only available option given that he is already deeply enmeshed in the asylum process, Sarita, on the other hand, is contemplating whether getting involved in the asylum process that would lead to indefinite waiting and suffering worth the hard work. Ironically, both Kesang's and Sarita's narrations of their dilemmas and hard-work associated with waiting are co-articulated with their job situations. Kesang took up the second job to not have to constantly worry about the

source of his anxiety—the indefinite wait to hear from his lawyers regarding his appeal, and ultimately to *make paper*. Sarita, drawing on her 10 years of experience waiting in America, is unsure if quitting her second job to begin working on her paper, waiting indefinitely once again, and suffering for another 10 years with the same uncertainty worth the risk.

Reconstructing the "hard-working asylum seeker"

When Kesang narratively switched from speaking about his merit hearing, denied by the Immigration judge, to the actual waiting for the BIA decision on his appeal, it may appear like a 'normal' case of asylum claimants' technique of making sense of their uncertain legal status or 'legal limbo' (Cabot 2012) and as an expression of their need to respond to the moral dilemma they are under qua 'asylum seekers' or reconstruct themselves as suffering and traumatic subjects in the context of seeking asylum. Without denying that strategies of narrating suffering have an important part to play in the lives of asylum claimants awaiting upon processing their claims, court hearing dates, and ultimate decision on their claims, I argue here that they might at least also be seen in another perspective, as a much needed critique of the asylum process and the system that requires, even depends, on the hard work of claimants' grievances and everyday suffering. To go through asylum process and become a claimant is to be placed in an ambivalent social position (Coutin 2003; Ticktin 2011) that goes beyond the realm of legal insecurity. As detailed above, this experience of going through asylum has many dimensions and effects people on different levels.

Put differently, suffering is a question of context with drastically different interpretations, socio-cultural explanations, and legal rationale. The suffering-work described in this chapter is analytically seen as created in and intimately tied to the particular context, namely Nepali asylum claimants navigating the US immigration system in New York City. Being claimant-made, they are narratives of suffering and/as hard work associated with *making paper* that make sense in the asylum seeking context as interpreted and made meaningful for and by Nepali claimants. Also Nepalis become asylum seekers through their active participation and internal critique of the process. They can therefore be used to say something about not simply the asylum context or the explanation of certain socio-cultural behaviors, experiences, habits that Nepali asylum seekers *must* cultivate. The narratives are not asylum specific, however, in the sense of being completely unique to individual asylum claims or legal procedure. The kind of stories charted here and described above can also be found outside the legal framework. While they are shaped by claimants and by being spoken in relation to asylum experiences or *making paper* through asylum, but they reflect an ever-changing sociality among people and rationalizing and making unfamiliar social practices comprehensible, even somewhat meaningful, through the lens of familiar socio-cultural categories.

What is important here is not just that Nepali claimants, in relating their experiences with the asylum processes, commonly express their fear, frustration, anxiety and waiting associated with *making paper* as *hard work*. Even more disturbing is

that the different modes of work should become qualitatively similar for former, current, and potential asylum seekers. In other words, the structural logic at work in the asylum legal context of the US is increasingly one of making claimants' asylum stories available through whatever legal labor is required of them: recalling and narrating specific events from the past, delivering them coherently within a focused and directed legal framework, memorizing them under circumscribed form, and ultimately performing them for the interested parties.

The asylum narrations as well as narrative interpretations and analyses of asylum stories described above, in circulation among diverse Nepali migrant communities in New York City, are stories of people who *make paper* with no conception of how (and if) that work will ever be compensated. They have no resources to evaluate or to calculate, in advance, the worth of their *hard work*, not because they do not already have a clear idea of what ought to count as a fair return. Quite the contrary; it is ultimately *obtaining legal residency* that should be the reward of all the hard work associated with *making paper*. The problem then lies in the extraction of their labor without making it seem as one. It is only upon going through everyday, tedious experience of working for paper, as explained painstakingly by every interlocutor, that the invisible forces of legal labor become apparent for many claimants. As a result, the actual material or non-material return is greatly disproportionate to the initial investment into and expectations from *the work* of *making paper*. The work-like characteristics are completely eclipsed precisely because

it is not exactly 'work' in the sense of 'normal' employment or enumeration. Its legal work only becomes evident upon claimants' complete immersion and investment into it. Further, articulating disappointments from such a *work* become difficult, though not impossible, questioning the distinction not so much between compensated and non-compensated work. Rather, it is the combination of the old distinction between compensated and non-compensated work and the intricate relationship between everyday life and the economy of emotional work, or what Rachel Parrenas and Eileen Boris (2010) have accurately called "intimate labors." This has resulted into vague distinction, if not complete indistinction, between life and non-compensated work.

There exists two important outcomes of rethinking asylum narrations, and, in particular, suffering narratives recounted by Nepali claimants seeking asylum in terms of work and production, outweighing a somewhat long-drawn-out theoretical claim. First, this framing allows us to rethink of suffering within but also beyond the realm of subjective and social, more specifically beyond the binary constructions of a victim or an agent. This is not the driving force among Nepali claimants seeking for and processing their asylum paperwork. Those claimants with whom I worked, for whom I interpreted, and others I came across through the community-based, Nepali grassroots organization, show remarkably little interest in setting the record right by reflecting on the suffering that was particularly the subject of their asylum claims. If anything they are conscious of having to draw on and elaborate on their conditions of

socio-economic suffering through "paper-making" work and largely ambivalent of the consequences that could have in their actual legal status in the US. The seemingly immaterial work of making paper was constantly interrupted by their constant preoccupation with material needs and attention to their paid-work and labor.

The second consequence of thinking of suffering narrative as a certain type of work is that it allows us to begin investigating the utter dependence of suffering on relations, subjective and political. Unlike the common associations of the suffering narratives with subjectivity and self-making, or the association of suffering as building block of social relations that creates intimacy and simultaneously external boundaries, understanding suffering as a concrete mode of work in itself allows us to reevaluate the performance of suffering to *make papers* and its increasing demand in the asylum industry. And just how this performance of suffering materializes within the context of seeking asylum—legal narration, interpretation, and documentary practice—is what I explore in the next two chapters.

CHAPTER THREE

Mis-interpreting victimhood and asylum suffering narration

An Opening Scene: Asylum testimonial and the life of "irrelevant" details

Tshering sits on (judge's) left end of a raised platform, behind a long wooden table and turned at an angle so the audience (interpreters like myself and expert witnesses) can see him. Seated to his left are the court-appointed interpreter and pro bono lawyers representing him. They each have a microphone attached to the table. He has known about his merit hearing date for at least 8 months if not over a year. His lawyers, through an interpreter, told him the absolute importance of this day. He was made aware that asylum interpretation meetings over the past two years and the intense prep-sessions that followed would all culminate in establishing his credibility based on asylum documentation submitted to the court—evidence—and his oral testimony in the court today. He was repeatedly told consistency and coherence in his asylum narration need to be reflected in his superior performance contributing, ironically, to judge's imagination of his traumatic past.

He travelled during the early hours of this morning from his apartment in Jackson Heights, Queens in an overcrowded 7 train and transferred to 6 train to attend this hearing and is dressed in his best—neither as a shrewd banker nor his regular self, as instructed by his lawyers. While waiting outside the courtroom for his hearing time, he spoke to his lawyers who told him to expect the process to be delayed. He was assured that the lawyers and his interpreter would all be there to help him through it and he simply needed to answer as best as he can just like the way he had done during the prep-sessions.

Seated across from him at the opposite end of the platform (and turned halfway towards the audience) is the public prosecutor representing the U.S. state. Like the man testifying, the court interpreter and the pro bono lawyers, the prosecutor is also seated behind a microphone.

Rising between these two tables, at the front wall of the platform, is the judge's table on a raised stage. The setting is similar to those we see on TV shows like Judge Judy or Law & Order. Yes, really. Depending on the particular subject matter being pursued the performance can just as easily turn into Judge Judy's show, where the judge can simply interrupt anytime and reprimand the speaker for not listening closely or following instructions, as it can quickly create a tense environment through cross-examination like the ones shown on Law & Order, transforming the asylum hearing into a criminal court hearing. It is precisely this seamless ability to transform from one type of hearing into another at a moment's notice that the asylum hearing process takes up something of a theatrical performance and the participants enacting various roles thrust upon them accordingly.

One of the pro bono lawyers turns to the claimant and proceeds with background questions. Where was he born and grew up in Nepal? What did he do for living and support his family in Nepal? How would be describe his life in Nepal before the Maoists waged people's war against the Nepali state? Having been thoroughly prepared for several hours a week or two in the law firm, going over these questions and answers during witness preparation, the claimant responds with confidence. He has been instructed not to divert from the subject matter and answer questions directly and succinctly. The pro bono lawyers had repeatedly emphasized during witness preparation that he was to appear confident but "natural" and that his responses should not look "too rehearsed" despite having rehearsed during the prep-session the last two weeks.

When asked about his family the claimant is not to discuss his father's occupation or siblings' lives but only his immediate family in Nepal—wife and two children—regardless of the fact that he continues to send money home and financially supports them. Similarly, when asked to describe his life before the Maoists conflict in Nepal, he starts out giving general atmosphere in his neighborhood, community, town, elaborating on his specific personal experiences and

political activism. He worked as a religious teacher and a monastic painter in a small village in Solukhumbu and everyone knew of his family's reverence of the Royal families and later his political affiliation to the Nepali Congress Party after the successful institution of multi-party democracy in Nepal in 1994. He had been instructed by his lawyers to reveal only those activities of his political past, which, according to the lawyers, were relevant to the specific events leading up to the Maoist attack.

The direct examination, however, takes longer than regular inquiry mainly because of the presence of the four-way mediation: The counselor asks the question, the interpreter translates from English into Nepali, the claimant responds in Nepali, and the interpreter translates back into English to the judge. After about half-an-hour of the direct examination, the judge grows impatient. He interrupts and says that he can read all this background information, explained in detail in the witness affidavit. The judge tells the counselor if he can simply jump to the part why his claimant is seeking asylum in the US so not to waste court's time. The lawyer sifts through his file and his co-counselor assists him. As per judge's instruction, the lawyer shifts to the topic of his client's asylum claims: experience of past persecution, repeated death threats from the Maoists that culminated into a life-threatening physical attack from which he narrowly escaped.

The lawyer starts asking open-ended questions, jumping 10 years later into his client's past—the claimant's initial encounter with the Maoists in 2004. Could he describe what happened to him the fateful night of December 2004 when he was home with his family? He closes his eyes and nods his head. There is a complete silence except for the court clerk, seated to the judge's right, typing away on her laptop. The audience waits. The claimant starts telling his story of the violent encounter with the Maoists, who, after forcefully entering his house, hit him in his legs and head, and dragged him outside his house at a gunpoint. They abducted him and made him walk 2 hours through the back-alley of his neighborhood and on a

mountainous road, finally arriving at a desolate area in a forest. He could only see a small teahouse from afar. For the next twenty minutes he narrates the physical violence in a chronological order that it happened: the Maoists brought him to the forest, kept hitting him and kicking him, then they asked him to include the Maoists material in his artwork and when he refused they stomped him on his leg and hit him with a gun in the back of his head that made him lose consciousness for two hours. The Maoists left him with a warning that they would kill him if he did not agree to incorporate their materials. He spends another ten minutes speaking of the leg and the head injury he sustains as a result of the particular attack.

He finishes the story and the judge asks the federal prosecutor to begin cross-examination. The prosecutor is not interested in his traumatic story as much as concerned with finding discrepancies in the oral account. He begins by asking the client if he could see a teahouse from where the Maoists allegedly took him then the area was not completely desolate? If he could see the teahouse then that meant people in that teahouse could have also seen him being attacked. Why did he not shout for help? Why did he say that there was nobody around that could have seen him or rescued him?

The pro bono lawyer objects the public prosecutor's method of cross-examination that progressively becomes aggressive toward his client. He interjects that his claimant already mentioned the teahouse was only visible from "afar." The judge, who had seemed somewhat disengaged, leans forward and overrules the objection and allows the prosecutor to proceed. The prosecutor, on the other hand, continues finding problem with the order in which the claimant recounted the physical attack by the Maoists. He asks the client whether the Maoists physically attacked him before or after he refused to follow and include the Maoist's teaching material in his school. The claimant hesitates but confirms that it was, indeed, after he refused to obey them that the Maoists started hitting him. The prosecutor turn to his notes

in front of him and points out that there is no mention of struggle or physical attack until after the claimant was asked to include the Maoists' teachings according to the witness affidavit but he hesitated in his oral testimony. Another forty minutes or more is spent in the cross- examination.

The prosecutor rests his case and before the pro bono lawyers can continue and redirect those questions the judge interrupts. He sifts through the documents in front of him and directs his questions to the claimant's lawyer. How, the judge asks, the claimant's appeal for asylum was any different now from two years ago when he had been denied asylum at the USCIS?

By this time the judge expresses his annoyance and becomes distracted for he keeps looking at the time. He announces that this has taken half-a-day that was unplanned and he has to attend to two other hearings, one of which was supposed to have taken place an hour ago. He calls counselors from both parties to approach his desk and asks them if they could reach a settlement. The prosecutor refuses to settle the case with the granting of the "withholding of removal" status and not necessarily asylum.[16] *The judge reschedules the rest of the hearing for another date and time.*

The pro bono lawyers appear somewhat flustered and exhausted. The claimant, however, seems calm with utter disbelief and confusion about what had just happened. How, after two

[16] The requirement for Withholding of Removal is higher than the requirement for asylum. Withholding also requires "a well-founded fear of persecution" on the five grounds that asylum covers, but whereas asylum requires that one demonstrates the possibility of further persecution, Withholding requires the *probability* not certainty of further persecution, which is more difficult to establish. However, Withholding of Removal status does not have one-year deadline, nor does certain 'serious crimes' make claimant ineligible for the status. Such crimes, however, render claimants ineligible for asylum status. Those granted with the "withholding of removal" status can remain in the U.S. and work legally but unlike asylees, they cannot apply for legal permanent residency or green card. More importantly, people with the withholding status have deportation order against them—they will not be permitted to return to the U.S. if they leave the country.

years of (re)narrating the same story over and over again during asylum interview meetings and in particular 2 weeks long prep-sessions in the firm, the only "fact" that got the federal prosecutor and the judge excited was the description of a teahouse and theatrical scenario that ensued. Could he see the teahouse from where he was taken by the Maoists? Could he not see people there and shouted for help? Surely someone in the teahouse would have come to his rescue. The seemingly irrelevant fact about "teahouse" had nonetheless become a turning point in his asylum hearing—somehow it had managed to become larger than his traumatic story. Or rather, the teahouse was the most crucial string to which his asylum decision hung.

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I begin here near the end of a Nepali asylum case that is still unfolding in the Immigration Court as a way to introduce several steps involved in the asylum seeking process for claimants of political violence in the United States. In this chapter, I follow one Nepali asylum claimant—Tshering—through the processes of asylum narration, interpretation, and documentation: initial asylum interview at the human rights organization where he filed asylum claims; asylum documentation, including I-589 form and affidavit at the private law firm; and witness testimony or merit hearing at the Immigration Courtroom in front of the asylum judge. As anthropologist Joao Biehl points out, "Following the plot of a single person can help one to identify the many networks and relations…in which regimes of normalcy and ways of being are fashioned and, thus, to capture both the densities and the rawness of uniqueness" (2004: 478). In following this line of style in ethnographic writing, I approach asylum narration, interpretation, and legal documentation of an individual's story as a

collective reflection, and not necessarily the unique expression, of experiences that are inscribed in, produced within, and productive of a larger asylum context in the U.S.

Toward these ends, I am not interested in highlighting if and how claimants' accounts of past persecution and violent events match "what they say happened" with "what really happened," nor is it to represent the 'truth' about Nepali asylum seekers. Rather, it is to highlight the victim-subject position that Nepali claimants, like Tshering, once marked as "asylum seeker" within the U.S. state, must occupy and the asylum stories they produce to reconstitute themselves in a particular socio-cultural and legal settings (private law firms, humanitarian agencies, immigration courts and asylum offices). Judging the 'authenticity' of claimants' account and subsequently, distinguishing 'real' victims of political violence from allegedly 'fake' ones is then irrelevant. The emphasis is on understanding the logic and the dynamics of privileging a specific type of "victim narrative" generated within the asylum context that has broader socio-political consequences in contemporary US. The individual case I follow is part of a larger research on asylum narration, interpretation, and documentation experiences of Nepali claimants and/*as* migrants: the production of depoliticized victim-subject is not an unintended consequence of but the very foundation to legal recognition as asylum seekers and the broader politics of citizenship in the US, where manageable non-citizens and deportable workers emerge.

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The non-profit, domestic organization of Human Rights First in New York City, through their "Refugee Protection Program," offers assistance to asylum seekers, like Tshering, to attain legal status in the United States. The program started in 1978[17] to protect "the rights of refugees, including the right to seek asylum."[18] It primarily supported cases of torture survivors, providing pro bono legal representation—from initial writing of affidavits to asylum proceedings and courtroom hearings. Since the political events following *September 11, 2001*, the program has seen significant increase in the number of asylum applications. As a result, the organization has expanded and branched out into various subsidiary programs, including the "Asylum Legal Representation Program." The organization now works closely with some of the most prestigious private law firms in the city offering pro bono legal representation and language interpretation to asylum claimants. I spoke with Cynthia,[19] a human rights lawyer, who has been overseeing the program for almost a decade. Cynthia explained that she had spent a number of years screening and interviewing potential asylum claimants before admitting them to the program and locating pro bono legal representation. She also said that most cases that came through the organization were not voluntary but that she regularly visited detention centers in Manhattan and New Jersey to *identify* potential asylum claimants, who were detained and/or under

[17] Two years before the United States adopted the Refugee Act of 1980 codified by the U.N. Refugee Protocol's definition of the refugee, including provisions for asylum (Chapter 1).

[18] Human Rights First: http://www.humanrightsfirst.org

[19] This is a pseudonym

deportation proceedings. She said years of evaluating individuals as potential asylum claimants had allowed her to combine her legal expertise and interests in human rights law, in particular.

Cynthia has worked on hundreds of asylum claimants and the agency has 99% success rate in winning asylum claims. When asked what factors contributed or determined success rates of the asylum cases under her supervision, she mentioned the importance of providing detailed, vivid, and descriptive images of violent incidents from the past that ultimately facilitated in the writing of a moving affidavit. "Two things matter most once the case is in front of the judge: one is luck—some judges are compassionate and known to grant asylum and others are not—and the other is claimant credibility—it is okay to forget specific date and details due to stress or pressure in front of the judge but one should not provide conflicting information," Cynthia quickly added. Claimant's own words, she elaborated, established his/her credibility:

> The story has to be told in claimant's own words in whatever language they speak. You see, I can write their stories but the words and the voices have to be theirs [claimants']. Everyone knows that asylum seekers won't be using big words or adjectives…they do not speak English. Their native language and authentic voice will be very different from legal terminology or phrases and sentences we write. And it is not always easy for asylum clients to discuss their violent past with strangers. But we have to obtain detailed descriptions before we can make the story coherent and put it all together in the affidavit.
> [….]

Crafting an "authentic" asylum story, according to Cynthia, depended on making claimants' words visible and voices audible in the affidavit. Having attended a workshop on "Asylum Law" and several follow-up conversations with human rights and legal experts, I know that she, like other human rights and immigration lawyers, is trained to look for signs of sheer vulnerability of potential claimants, delineated by *messy* and *inconsistent* stories of past persecution, and to consider "culturally-specific" and untranslatable elements in their accounts. She looks for incoherence and hesitancy in their asylum stories, fragmented thoughts and disjointed *words*, trembling *voices*, disconnection--signs of fear and anxiety. The training sessions also educate pro bono lawyers, human rights experts and caseworkers to be receptive to other's suffering—to assess victimhood as a site of authentication, one that, while it may not necessarily tell the whole truth, has nonetheless power to build trust between claimant and lawyer, ultimately resulting in the construction of asylum narrative and documentation to be filed with the U.S. Citizenship and Immigration Services (USCIS).

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Protracted legal uncertainty

For a person seeking political asylum under the UN Convention Against Torture, the first step is locating lawyers, non-profit and human rights agencies to assist in the filing, documentation, and submission of asylum claims, including the

form *I-589 Application for Asylum and for Withholding of Removal*[20] (I-589 form, hereafter) and affidavit, a 200-300-page witness statement, to the USCIS. This legal documentation requires claimants to gather information easily verifiable evidence of specific incidents of past persecution and individualized account of political violence in the country from which the claimant is seeking asylum. This information is then corroborated by country-condition experts, including anthropologists, policy makers, and professionals considered experts of political violence on the ground and familiar with socio-cultural realities in those countries (Good 2004; McGranahan 2012a and 2012b). Other steps for claimants involve being interrogated periodically by medical experts and psychiatrists, who can substantiate claimant's poor physical, emotional, or mental health as a result of the said violence in the past. These interviews result in the writing of the medical reports and testimonies (Good 2007, 2008; Fassin and d'Halluin 2005) that accompany claimant's affidavit. Legal experts and practitioners, human rights workers, interpreters, cultural experts all collaborate in the asylum process, often sharing important component of a claimant's individualized account of past persecution that each is able to gather in an effort to contribute to the legal

[20] The I-589 form, available online, is endorsed jointly by the Department of Homeland Security (DHS) under U.S. Citizenship and Immigration Services (USCIS) and the U.S. Department of Justice, which is one of the first legal papers introduced to asylum claimants by lawyers. While all legal documents related to asylum claims are important, Form I-589 and client's affidavit, among other witness affidavits and expert reports, are perhaps most critical for the asylum case to be read closely and considered by the immigration judge. In chapter four, I consider in some detail asylum documentation practice and interpretation sessions associated with filing of I-589 application form along with visual and interpretive aspects of certain pages. I do so to illuminate the process—actual participation of lawyers and claimants--through which the form I-589 transforms into "the document."

context of asylum claims and not necessarily understanding of the larger context of their current lives in the United States.

Taking each component of the asylum seeking process as a different strategy for transforming individual claimants into "asylum seekers" and legal non-citizens, this chapter examines the intersection between practices of language and legal interpretation and liberal forms of citizenship. Claimants must go through several institutional (and non-institutional) settings to be considered "credible" victims and their asylum claims legitimate. By analyzing how the institutional language and legal understanding of "victims" of persecution frame asylum narrations, I unfold the respective assumptions about obtaining asylum in liberal democracies. In contemporary U.S., the different practices of (protracted) citizen-subject making are inscribed in complex processes of interpretation, and that the figure of the "asylum seeker" has a purpose—what Wendy Brown (1995) has called an "injury-forming identity"—of revealing the contradictory, and often silenced, aspect of the very institution of citizenship.

In her seminal work *States of Injury*, Brown has forcefully argued that the proliferation of citizenships and the political processes of identity making in liberal democracies is ultimately based on "social hurt" or "woundedness" of legal-subjects. For Brown, this liberal logic ultimately leaves intact and even reinforces the actual measures of victimization through which liberal states maintain their control. She writes,

> While the effort to replace liberalism's abstract formulation of equality with legal recognition of injurious social stratifications is understandable, what such arguments do not query is whether legal 'protection' for a certain injury-forming identity discursively entrenches the injury-identity connection it denounces. Might such protection codify within the law the very powerlessness it aims to redress? Might it discursively collude with the conversion of attribute into identity, of a historical effect of power into a presumed cause of victimization? (21).

Brown's critique primarily rests on the non-emancipatory framework of the rights-based debate that is already "always historically and culturally circumscribed" operating on, what she sees as, "an ahistorical, acultural, acontextual idiom: they claim distance from specific political contexts and historical vicissitudes, and they necessarily participate in a discourse of enduring universality rather than provisionality or partiality" (97). Brown's otherwise incisive critique of liberal citizenship has generated most interesting debates for anthropologists. Engaging with Brown's incisive critique, for instance, anthropologist Renato Rosaldo (1994) proposed "cultural citizenship" as "the right to be different" in terms of ethnicity, race, or native language with regards to the norm of the dominant national community. Rosaldo's proposition of "cultural citizenship" in turn generated interesting and intense debates among anthropologists [see Aihwa Ong's (1996) piece and comments/responses from Virginia Dominquez, Jonathan Friedman, Glick-Schiller, Stolcke, Wu, and Ying).

Ong (2003) argued that the analytical category of "culture" remains "insufficiently problematized" and under-theorized in both sides of the debate on liberal forms of citizenship, whether conceptualized in terms of rights-based, political membership or socio-cultural belonging.

This chapter, thus, has two theoretical strands. I show that the process of seeking asylum-- narration and documentation—reveals similar contradiction based on the concept of victimhood and its intricate connection to the contemporary practices of US citizenship. When it comes to claiming asylum on the basis of political violence, legal subjectivity is configured within the legal and social institutions that emphasize the condition of victimhood. On the one hand, asylum narration and documentation of victimhood are not only critical for judicial procedures informing the work of asylum lawyers, officers, and judges, but they have increasingly become the core of il/legalization patterns and practices for "non-citizens" in the U.S. In this sense, the citizen-making practice that I observed (and participated therein) emerging from the asylum context is highly contingent on legal production of what Christina Giordano (2008) has called a "victim narrative."[21] Legal recognition of political asylum claimants in the U.S. is granted on the condition that individuals provide

[21] In the Italian context, Giordano has argued that seeking residency permit in Italy for female migrants involve recognition by the state as "victims of trafficking" through "the production of a victim narrative [the act of *denuncia*, filing criminal charges against their traffickers], and the commitment to being socialized in what is recognized as the 'Italian way of being' of the female citizen" (2008: 589)

evidence for "past persecution" and "well-founded fear of future persecution."[22] This will begin legal paperwork for the asylum process.

On the other hand, legal production of a "victim narrative" is not without intermittent interruption, misinterpretation, and constant renegotiation between claimant and his/her respective legal representative or human rights expert of what actually counts as persecution, violence, and suffering. As a result, a different understanding of victimhood simultaneously emerges out of the actual encounters between claimants and lawyers during asylum interview, interpretation, and documentation processes. Here, reactivating claimant's own "cultural" (read: authentic) narration and understanding of "past persecution" and victimhood is emphasized, even desired. Rather than converting a claimant into a universally acknowledged "victim of political violence," it is about maintaining a fine balance between a universal victim-subject and culturally inscribed victim through his/her own voice and words.

Reexamining Louis Althusser's concept of interpellation (1974) and Judith Butler's notion of subjectification (1997), Didier Fassin (2008) has proposed a vivid perspective on the contemporary, humanitarian logics governing refugees and asylum seekers within the context of Israeli-Palestinian conflict, and more specifically on the dual process of "political subjectification." The questions he wants to address are the following: "What does it mean to bear witness to violence using the language of

[22] UNHCR (1992)

trauma?...What is the significance of a politics of testimony that substitutes its own truth for the truth of those in whose name it is deployed?" Fassin is interested in the intersection of compassion and politics, or "compassionate politics," that drives the works of humanitarian agencies and organizations that collect, witness, and assess testimonies of violence. He writes,

> What counts is not that the facts be stated, but that they be experienced. It is not the event itself that constitutes the proof, but the trace it leaves in the psyche or the mark it makes in the *telling*. In the testimony brought to the worlds consciousness, affect is present both as that which testifies (the suffering of the people) and that which is produced by the testimony (the public's compassion). The truth sought is not the *objective* truth of the events themselves, but the *subjective* truth of the experience of them (2008: 539, *emphasis mine*).

Exploring a distinct but complementary method of gathering witness testimonial in the asylum process, my purpose is to unfold the everyday practices in the US institutional spaces when it comes to narration, assessment, and subsequent victimization of asylum claimants. This assessment is not simply about recognizing "subjective truth" of asylum claimant's experience of suffering and violence, but it is one that is full of mediation (linguistic and legal) from all parties involved, of intense engagements and critical interaction throughout the process. Strong opinions, beliefs, and values are expressed and debated in the process of legitimizing asylum claims and screening for credibility—claimants are repeatedly questioned about their past, speculative present, and their future, and about their obligations as legal non-citizens."

At the same time, grave silences and complete breakdown of communication occur halting or redirecting asylum interview procedures. The question I want to consider then is more general: what purpose does extracting asylum testimony based on claimant's own voice and words —in a language that is seldom understood by lawyers, judges, and human rights experts—serve if granting of asylum is arbitrary and depends on judge's discretionary power, as Cynthia and other private lawyers unanimously agreed? Second, how does the legal space provide the condition of possibility for producing not only an asylum "victim narrative" but also for rationalizing the coherence of such logic? To foreground my ethnographic research analysis of the asylum seeking process, I too take inspiration from Butler's notion of "subjection." The crux of Judith Butler's argument in her seminal piece *The Psychic Life of Power* is that power not only formulates the subject but it is also, paradoxically, what "we depend on for our existence" (1997: 2). Butler elaborates on Foucauldian "subjectification" to show that a subject is never simply fixed in place but it "is the occasion for a further making" (99) through constant reiteration, which far from enabling stability and coherence, comes to constantly reinstate incoherence. From this perspective, legal-political space is itself an instance of state power at large that, in the asylum process particularly, prescribes a certain framework: its (legal) language for filing claims produces a peculiar form of subjectification that is imposed on claimants, but through which their claims and they themselves also become visible legally.

Toward this end, the chapter is situated within the long-standing view on the significance of law as "'visible symbol' of social solidarity" (Durkheim's *The Division off Labour in Society* cited in Fuller 1994) and extensive legal ethnographies (Schapera 1938; Gluckman 1955; Bohannan 1957; Hamnett 1977) and, in particular, contemporary discourses[23] in legal anthropology (Starr and Collier 1989; Starr 1992; Conley and O' Barr 1988, 1990; Merry 1990; 2012; Moore 1978). I document and expand what Sally Engle Merry (1990) has identified as "therapeutic discourse" in the legal institutional settings in the United States that organize legal narratives and in turn justify practices of various discursive strategies employed by legal mediators during court hearings. While Merry's argument has to do with shifting discourses—from legal to moral to therapeutic—that ultimately contribute to "the power of naming" in the context of legal-judicial setting, her emphasis on social, practical aspect of "therapeutic discourse," something like a discursive habitus, is applicable in the co-construction and interpretation of "suffering narrative" and asylum-victimhood on the ground. In particular, the process of framing and reframing a particular asylum-suffering account through application of different discursive techniques as resources available to human rights workers and legal experts in constructing a asylum suffering narrative.

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[23] Discourse, after Foucault (1970), is explained by Dreyfus and Rabinow (1982) as one of the vital components through which social practices and techniques are organized, which in turn gives rise to and conditions terms of discourse at particular historical moment. Following Foucault and, in particular, Rabinow's interpretation (1987) of his work on, my understanding and use of the concept—discourse--here is not so much to articulate its situated-ness in the asylum "legal system" per se; rather, it is to emphasize its validity through a set of organized and organizing asylum legal practices.

I make my second, and related, point in the paper by commencing with a detailed discussion of the interconnection between subjectification and legal institutional practices of making (and unmaking) legal non-citizen in liberal democracies. In so doing, I contextualize my claim that the asylum system is at once central to the debate on liberal forms of citizenship that advocates for protection of minority legal-subjects (claimants of political violence in this case) only so far to reinforce the victimhood-status of "asylum seekers" and the production of asylum claims as part of what I call *protracted legality*. Here, I examine the literature on liberal forms of citizenship and show that the asylum process and citizenship are related in two critical ways. First, I argue that the asylum system—the alleged aim to protect "victims of political violence"—emerges as machinery by which liberal state manages its non-citizen subjects through legal subjectification. It is not merely a strategy, if completely accidental, by which the state reproduces its legal non-citizens as victims and simultaneously an ideal type of *probable* citizens. The conditions of the contemporary asylum seeking process that manage, discipline, and govern claimants is what I am referring to as "protracted legality." This notion intersects and interacts with the similar but distinct notion of "deportability," developed by Nicholas de Genova.[24] As such, it can be seen in the opposite direction: the condition of

[24] Nicholas De Genova (2002, 2005) writes, "it is *deportability*, and not deportation as such, that ensures that *some are deported in order than most may remain* (undeported)—as workers, whose pronounced and protracted legal vulnerability may thus be sustained indefinitely."

possibility for a few to obtain US citizenship so that many may ultimately remain legal non-citizens, say, as "asylum seekers."

Second, and consequently, it is increasingly private citizens in liberal states — human rights workers, lawyers, judges, and asylum officers—acting as gatekeepers to determine the eligibility for asylum claimants to be on a putative path to obtaining legal status as non-citizens. It is, thus, "protracted legality," and not actual citizenship per se, that has rendered perceived legal non-citizens of all kinds as distinctly vulnerable commodity. The possibility for social (and political) membership and belonging cannot be separated from the everyday production of this "protracted legality." Expanding the understanding of legality from its conventional basis on political membership risks creating a surplus of characteristics tied to legal statuses that in the end may leave the term without its analytical and explicative power. With this critique in mind, I situate this chapter within the contemporary asylum process unfolding in the US.

Part Ia. Asylum narration: The victim-subject verbalized

I am sitting in Cynthia's office at the human rights agency in mid-town Manhattan. I am here to provide Nepali-English interpretation for Tshering, a Nepali man in his late 30s who is filing asylum claims for the second time, upon being rejected by the Asylum Offices in New Jersey.

In the spring of 2009, Tshering applied for asylum within four months of his arrival to New York City. He came on a religious visa, otherwise known as R-1, and supposed to have landed in California for teaching Buddhist art and painting at a

Buddhist monastery in San Francisco. Describing himself as a Buddhist monk and a religious person, Tshering said he had been a target of Maoist violence in Nepal during the peak (2001-2004)[25] of the decade long (1996-2006) civil war between Nepali state and the Maoist rebels. He filed asylum claims on the ground that he was targeted because of his religious opinions, activities, and refusal to support the Maoist party, politically and financially. He submitted I-589 asylum application with the assistance of a friend. Tshering was given a screening interview and the asylum officer who interviewed him did not ask him any questions related to the Maoist violence Tshering had suffered in Nepal. Instead, the officer focused on a set of questions related to his religious life and work prior to leaving Nepal, giving no space to address, let alone explain, what is generally thought to be most relevant questions for making political asylum claims—"past persecution" and "well-founded fear of future persecution." He received a letter two weeks after his interview from USCIS. Tshering was denied asylum on the basis that he was not a Buddhist monk that he claimed to be. However, I would only learn about his religious background and reasons for denial of his asylum claims at the private law firm, months later our meeting at the human rights agency. Tshering's case is still unfolding and there has been a quick turnover of lawyers working on it. The ones with whom Tshering first

[25] The years coincided with the post-*September 11, 2001* event, primarily bringing Nepal into the limelight of international media and international human rights and humanitarian assistance for initiating co-lateral and multi-lateral dialogue between the Nepali government and the Maoist rebels.

discussed his case is no longer representing him but different ones assigned by the firm.

After being denied for asylum the first time, people in his social network in New York City recommended that he resubmit his asylum claims with the assistance of human rights lawyers. Cynthia has a reputation for "being sympathetic to asylum claimants and knowledgeable about Nepali claims, in particular," which I came to know after assisting with several asylum interpretation cases at the agency. She has earned this reputation upon assisting with several Nepali asylum cases over the years mainly because of her keen interest in overseeing each case through its completion even after being transferred to pro bono litigators in private firms and until the final hearing either in the Immigration Courtrooms or Asylum Offices. Cynthia believes that Tshering qualifies as a "victim of political violence"—which will eventually put him in the path toward legal procedures for resubmitting his asylum claims. However, Tshering looks flustered and disoriented. Neither he nor I have met each other before this asylum interview. We both look somewhat confused and attempt to find out if either of us knows exactly how the interview will proceed.

I am there neither to act as an advocate for Tshering nor an assistant to Cynthia. I am asked by Cynthia to sit next to Tshering. Cynthia also has a legal intern next to her taking notes. Cynthia asks questions in English, I translate questions into Nepali, Tshering answers in Nepali, which is then translated back to Cynthia, while the intern silently takes notes.

"You have to recall two or three incidents of your encounters with the Maoists in Nepal. Remember to describe in vivid details, so the judge can imagine and picture what happened to you.

You see no one remembers their past, especially a traumatic incident or torture coherently or chronologically," Cynthia says.

Cynthia forms her questions very broadly, presumably to give Tshering space to respond and expand on his testimony. The most common types of questions are ones beginning with "who", "what", "when", "where", "why", and "how", giving Tshering maximum space to elaborate.

She asks series of questions almost without interruption: very particular questions related to Tshering's journey to the US; home addresses in Nepal; reasons for seeking asylum; specific dates of the Maoist encounters in his village in Solukhumbu, followed by repeated death threats, phone calls resulting in his abduction, and narrow escape to Kathmandu and then to the US. Cynthia asks no questions related to Tshering's religious life as a monk in Nepal. She asks questions that are very specific to the details of the events that led Tshering to fear for his and his family's lives. The questions eventually manage to elicit the following asylum narration, which I paraphrase here:

> *Tshering is a 38-year old male, monastic painter, citizen of Nepal. He should be granted asylum in the United States because the Nepali Maoists persecuted him on account of the following : a) his anti-Maoist political opinions; and b) his membership in the particular group of Buddhist monastic artists. Before his escape to the United States, Mr. Tsheing endured repeated persecution and intimidation from the Young Communist League (YCL), the subsidiary political group under the Maoist political party. Mr. Tshering is entitled to asylum in the United States because he has a well-founded fear of further persecution, in the form of physical violence, brutal assaults, abduction, and extortion, if returned to Nepal. The Nepali state authorities were and remain unwilling to protect Mr. Tshering, as the Maoists play a significant role in Nepali government today and the police turn a blind eye to the Maoists violence and continued use of torture, extortion, and murder. Since his escape from Kathmandu, Nepal, Mr. Tshering has been living in New York City and holds a steady job at a local grocery store.*
>
> *[….]*

The initial interrogation and the writing of the asylum narration lasted six hours. Tshering's hesitance to speak of his past experiences of persecution in the hands of the Maoist in Nepal or his stuttering and off-tangent statements or questions were not included in the notes taken by Cynthia's intern. I did not have access to the document that resulted from this initial interrogation. However, it was clear from Cynthia's declaration of the acceptance of Tshering's case for further asylum assistance that Tshering had just performed the very act of being interpreted as a "credible victim of political violence," granting him access to legal assistance and allowing him to become a visible legal subject in the United States.

What this initial interrogation for potential asylum claimant and the institutional interpretation of a claimant into a "victim of political violence" demonstrates is the limit and the possibilities of legal institutional language pertaining to the asylum system: the visibility of a claimant as an "asylum seeker" rests in the production of a "victim narrative." Asylum narration itself is an act of interpretation in which claimants learn to discipline themselves as "victim subjects" as they ceaselessly attempt to navigate the legal bureaucracy related to asylum procedures. This is a process better shown than explained.

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Asylum interpretation on the ground, March 2011

As we entered through the large, tinted, glass doors in the law office, one of the three pro bono lawyers working on Tshering's asylum greeted us. "How are you doing Tshering?" she inquired, as always, before beginning the asylum interview session.

"Bahini, dherai gaharo po hundo rahecha. Ghar chodeko jhandai teen barsa bhaisakyo. Budhi ra nani ko ta dherai samjhana aunchan" ["Younger sister, things are quite difficult. It has been almost three years since I left home. I miss my wife and daughter a lot."] Tshering responded in a muffled voice to what was obviously a polite greeting indicating formality that is not intended to evoke a detail, let alone emotional, response.

"I am doing fine," I *interpreted* rather plainly.

The three lawyers exchanged silent glances; then all of them turned toward me, indicating their apparent dissatisfaction with my short, abrupt, and inadequate translation of Tshering's rather lengthy response.

"What Tshering said has *nothing* to do with either his asylum claims or his well-being," I clarified with annoyance. For the last two years I had been interpreting for Tshering I was repeatedly instructed (by the lawyers) *not to let* Tshering wander off and discuss what would be considered "irrelevant" details to his political asylum claims. Naturally, I had come to assume the role of an *interpretation police.* I had also become a "professional" legal interpreter: I was now trained to do what I could not make myself do just two years ago--to remove the so-called "irrelevant," and ultimately unnecessary, details and descriptions from the asylum claims.

The three lawyers seemed quite content with my added explanation, which still had *nothing* to do with Tshering's actual response. Yet somehow it did not matter. The lawyers went on to explain to me, to be interpreted to Tshering, current progress regarding the case and their continued effort in contacting and ultimately gathering supporting documents, including medical experts and country experts' reports and testimonies.

Sitting next to me, Tshering had a vacant look on his face. Both he and I had been sitting in the law office on the 34th Floor in midtown Manhattan for almost an hour. While waiting in the building lobby earlier, Tshering had shared with me his long and difficult work schedule that started every morning at 3 am and ended around noon. He worked as a deliveryman, driving truck and delivering bakery goods for whole food grocery stores in Upper West Side and midtown, not very far from the law office we were having our meeting.

He had described to me how the buildings and the neighborhood looked starkly different during his work hours. He also worked in an Indian restaurant nearby in the evenings, and had mentioned to me, on several occasion, how difficult it was to take days off from the restaurant on short notice to come to the law firm for the asylum interpretation meetings. He was worried that he would get fired any day.

I wondered if the lawyers noticed the vacuous look that Tshering had the entire time; but at the same time, I worried that they would interpret his expressionless face as him not taking the interview "seriously."

Then one of the lawyers announced: "Okay then, let's just move on to our asylum topic for today, shall we? Now tell us again what happened to you Tshering in the fall of 1999."

Trying my best to imitate the lawyer's solemn voice, I interpreted for Tshering. He looked at me, paused for few seconds, and responded: "I think I started painting for the *Gumba*[26] in Bouddha, Kathmandu," he said cheerfully, reclining back in his chair.

The lawyer seemed surprise by Tshering's response. She looked at her senior colleagues, seated adjacent from her, who exchanged silent glances. Judging from their facial expressions, I elaborated the question in Nepali for Tshering: "*Hoina dai, 1999 ma Maobadi tapain ko buwa-aama ko ghar ma pahilo choti aayeko hoina ra?*" ["No older brother, didn't the Maoist visit your parents' house for the first time in 1999?"]. Obviously, I was way too familiar with *his story*. All of us were. The latest version of (the draft of) the affidavit was circulated few weeks before the meeting.

"Ohh tyo…ho ta ni! Maobadi gharma aye ani aama-buwa lai dhamki diye," ["Oh that…yes that's true! Maoists came to my parents house and threatened them"] Tshering admitted, as though it was some kind of trick question, when all along it was *his story* from which the lawyers had been asking questions for almost two years. They were simply trying to fill in the gaps with detailed descriptions and vivid images, ensuring consistency and flow of the narrative before filing the complete, refined, and final version of the affidavit to the Immigration court in a couple of weeks.

[26] *Gumba* means a Buddhist monastery in Nepali.

I looked at Tshering, simply raising my eyebrows, indicating that the lawyers were expecting him to say more in response to that question. After two years of interpreting for Tshering, he and I had obviously developed, what Michael Herzfeld has called, "cultural intimacy."

"*Aama-buwa ko man ma dar pasyo ni tyas pachi ta*…" (Literally: "Fear entered into my mom and dad's hearts after that...") As he spoke these words, his face turned red as though he was somehow being transported back into Solukhumbhu village in Nepal. I was, however, relieved to see that Tshering had finally caught up with (the game of) invoking right kind of *emotion* demanded by that specific question during the interview. Yet his eyes failed to express the mixture of moderate shock and excitement that his voice seemed to be communicating; they simply remained dazed refusing to further collaborate.

Tshering's non-verbal cues somehow managed to create what could be interpreted as an emotionally detached ambiance in the conference room. The severity of the subject matter—Maoist's first visit to Tshering's parents' house—seemed to be undermined, if temporarily, by the way Tshering was (and not) *communicating*.

It was a Friday afternoon, and all of us in the conference room were tired. Noticing that Tshering and I, his interpreter, seemed disengaged from the serious matter being raised and discussed, the senior counselor and the primary appointee for the case Elizabeth leaned forward.

Clearing her throat, Elizabeth interjected: "Okay, perhaps we should move on to the part where you suffered violence in the hands of Maoists in Kathmandu then."

I interpreted for Tshering, trying to replicate her stern voice to translate the perceived urgency of the matter at hand. Tshering suddenly fixed his composure, sat upright, and tried to stay alert.

"Can you please describe in detail the pain you suffered and continue to suffer as a result of the Maoist attack in November 2004?" Elizabeth asked.

This time I interpreted for Tshering, without adding my own explanation or providing any context. For I knew that he knew it was the most important part of his asylum claim—the part with which he was most familiar. He had not only learned to describe the violence and pain he suffered in such vivid detail, but he had also mastered the art of successfully framing his experience within the larger context of his asylum narrative.

Tshering began (re)telling his story, starting with the Maoist's initial visit to his parents' house in Solukhumbu in 1999, followed by his first physical encounter with Maoists in Kathmandu in 2001 that ultimately led to the attack in 2004. He provided background with vivid images and description, and even offered a nice chronological order to every incident leading up to the actual attack: starting with the Maoist visit to the parents' home, the repeated (verbal) threats he received on the phone and in the letters, the final warning letter from the YCL, followed by their last visit to his place in Boudha, Kathmandu. He painstakingly described the beatings he received from the Maoists: the pain he suffered in his back, chest, arms and right hand as a result of this "life threatening" attack. He unbuttoned his shirt and started pointing to all the scars (and injuries) in his chest and leg, where Maoists allegedly stomped on him, repeatedly beat him, and hit him with the bottom of the gun. Two years ago, he would hardly speak of his injuries. He showed signs of discomfort in having to undress in front of

the people in the room. And here he was. Two years later into the asylum interview process, he had trained himself to become familiar (and comfortable) not only talking about his pain but also voluntarily showing all the physical signs (or evidence, as lawyers kept telling us) of "past persecution" and suffering.

While buttoning his shirt, he started talking, or rather complaining, about a severe, ongoing pain in his knee and left foot. *"Maile katti doctor lai dekhai saken yahan, tara ghooda dukne ta kaam hoina jhan badhto po rahecha. Maile pain killer haru pani liyen, bengay lagaayen dukheko thaaunma, ra ani aru dherai aushadi haru pani liyen doctor le diyeko. Khoi kehi asar bhayena tara…"* He talked for almost 20 minutes about his knee pain and fell silent in the middle of his sentence.

I interpreted for the lawyers, word for word, and in the same manner Tshering described his intense pain to me: "I have gone to doctors many times, but instead of diminishing, the pain in my knee keeps intensifying. I have taken painkillers, applied ointments to the sore parts of my leg, and have also taken many other medications prescribed by the doctors here. Well, nothing seems to have any affect…" As I was uttering these sentences, I realized this was new information that he had decided to give us after two years into the asylum process.

The lawyers looked at me, just as surprised by this unsolicited information as I was. One of the lawyers asked for clarification, "So all this pain is from the Maoist attack in November 2004 in Nepal?"

I had barely finished interpreting it in back into Nepali when Tshering started to laugh. "Oh no, not the severe knee pain that I have had for so long. It is from working at the Indian restaurant here for last three years, having to stand on my feet

everyday for six days a week," he and I both nonchalantly responded. I joined Tshering in his laughter until we both realized that our laughter was completely out of place; for the lawyers started to sift through their notes and papers, looking utterly concerned and annoyed at the same time.

Tshering, on the other hand, seemed wistful, lost in his own thought. Instead of talking about his past experiences of persecution and the Maoist attack—the subject matter of *his* asylum interview—he started telling me how he seemed to be understanding less English than he did in Nepal. *"Khai ke garne bahini, ma ta America aayera laato jastai bhayen. Yeti dherai barsa America basi saken, English ta birsen jastai lagcha jhan. Baru Kathmandu mai English bolin thiyo school maa padaaun da. Yahan ta English ko naam ma bolne nai 'Sir, would you like chicken tikka masala or chicken korma?'…ani kaahan ko English bolnu ya practice hunu ho America ma?!"*
[Translation: "It is really strange, but I feel like I have become dumber now that I have lived in the US for this long. I thought I used to understand some English back home when I used to teach in a government school in Kathmandu. I speak less and less English here. All I have to say now is 'Sir, would you like chicken tikka masala or chicken korma?'…how (or when) do I get to practice or speak English in America?"]

By this point, I had stopped obsessing about following (hidden) rules of interpretation. I just *let* him talk. In a way, I failed to redirect Tshering from "wandering" off and prevent him from volunteering "irrelevant" information during the interview. In retrospect, I wonder if I could have possibly changed anything. He had decided to change the subject matter abruptly and for no particular reason. Perhaps, for Tshering, the story about his past experiences in Nepal and his current situation in America were not disconnected. Or perhaps, he deliberately decided to

stop talking about the past and focus on the present. Or he was simply exhausted. One could only speculate.

As soon as he stopped talking about his past experiences of persecution, I, too, stopped being his interpreter. The interview/meeting ended early that day. The lawyers asked me to instruct Tshering to do his homework, study the Nepali version of his legal statement, particularly those sections that discussed the Maoist attack and the pain specifically related to particular incidents that he continued to suffer for our next interview session. They also mentioned that the interview did not go as well as they had hoped for and that they would need to (re)visit some of the questions not adequately answered by Tshering that day.

I communicated lawyers' dissatisfaction to Tshering, who simply looked relieved that the meeting had come to an end for the day. We were given a new date and time to come back for follow-up interview. Tshering and I left the law office to get coffee and continued talking about things *irrelevant* to his asylum claims.

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Part Ib. Asylum documentation: victim-subject interpreted

The story about Tshering reveals the encounter between lawyer and asylum claimant as a space shaped by anticipation and negotiation of what counts as "persecution"—the basis of claiming political asylum.[27] Such a space then forces us to look beyond the question of what counts as "truth" claims from allegedly "fake"

[27] Two grounds of seeking political asylum are evidence for "past persecution" and "well-founded fear of future persecution": "Foreign nationals seeking asylum must demonstrate a *well-founded fear* that if returned home, they will be persecuted based upon one of five characteristics: race, religion, nationality, membership in a particular social group, or political opinion."

ones and, instead, focus on the actual interaction and intense encounter between lawyer and claimant throughout the asylum process. Indeed, focusing exclusively as an issue of authenticity or truth claims that claimants produce leaves intact the parochial and, rather unimaginative logic, reinvigorating the debate about "authentic" vs. "suspicious" victims through the discursive lens of problematic dichotomies, namely victim-agent, subjugated-liberated, and vulnerable-resistant. As such, I want to suggest looking at the way the claimant's *voice* and "*own words*" become the main source of establishing victimhood throughout the legal production of asylum narrative for claimants like Tshering. Many people have participated in producing and reproducing this "victim narrative," Tshering and his lawyers just a few among them. In this logic, while Tshering may be not able to produce a legal account of his experience of past persecution, his words and voice remain the origin of and the necessary component for asylum narrative—it is what makes his account legitimate, after all.[28]

Within matter of months, Tshering was, in a way, dispossessed by his version of fragmented past experience and moments of silence that accompanied in remembering a story that, for the most part, he did not want to remember, let alone share. The practice of filing asylum claims takes place by means of language interpretation and legal mediation, and it represents the moment in which claimants

[28] For other work on how the voice and words function as a site of truth claims, particularly in the case of asylum claimants or refugees see Peter Loizos (1981) and Williksen (2004).

enter into a pact with the state through assistance of private law firms and human rights agencies for legal recognition. Although the asylum document silences many aspects of the claimants' lives, their stories constitute the content of actual "words" and claimants' "own" understanding of their experiences of "past persecution" before it can successfully become the official asylum story. In this process, Tshering occupied the position of credible victim, through language interpretation that I provided, and ultimate legal interpretation that lawyers crafted in the smooth writing of the affidavit. Most of these statements sound similar, devoid of any confusions or complexities that the claimants often show when interrogated repeatedly for same detail, vivid, information to file asylum claims. More accurately, it is not simply about claimants' own words, but those that specifically refer to his account of persecution; account that is inconsistent, interrupted repeatedly, irrelevant details added, although not entirely anticipated. The legal space, therefore, allowed Tshering to perform a speech act that enabled him to become a legal subject of the US state. Although his voice seemed "lost in translation," his position as a legal subject was already pre-figured and constituted within the process of interpreting his verbal account into a coherent asylum narrative about victimhood and into the legal text of the asylum document.

Looking at Tamil Asylum-seekers from Sri Lanka in Norway, Oivind Fuglerud has argued that the concept of "asylum seeker" connotes "illegitimate protection needs" (2005: 301). Following Fuglerud, the legal category of "asylum seeker" then

requires a person to narrate, with appropriate emotion, the circumstances of the violence that he experienced several years prior to one's arrival to the US. This narrative is reproduced again and again with sufficient detail of pain and suffering to be considered effective. This victim narrative of an "asylum seeker" is not without a projected temporal logic. The necessary repetition of the same story, as we saw in Tshering's case, must always be about a very specific event in the past – the event that enables one to claim political asylum. But when the present intervened—as it did in Tshering's 20-minute digression about his intense knee pain made worse due to working in the Indian restaurant or his current memory of his family left behind in Nepal at the beginning of the interview—the lawyers quickly (re)directed him to focus on the factual (read: "real") reason for seeking political asylum. Still his momentary outburst, soliloquies, and abrupt silences related to the everyday experiences of living and working in the city became a useful way to identify him as a "migrant worker." The narrative of the present then did not replace his narrative of the past. Instead, they ran parallel for Tshering. If under the legal category of asylum, the past loomed large, the present, though at times receded to the background, never completely disappeared.

Tshering got caught in the messy space between the legal production of asylum narration based on "political violence" in a distant place and the everyday lived realities of "deportability" (De Genova 2002, 2005) in the U.S. However, it is unclear when Tshering's victim narrative of "political violence" renders the "economic

violence" and, essentially, his migrant identity *irrelevant*, and when they bleed into each other. To be sure, asylum narration and documentation are resource that must be used strategically in this messy space; Tshering assumed on the popular knowledge that his legal status—as an asylum seeker—was also his locus of ultimate reality as a non-citizen worker. The point here is not to establish whether the Nepali claimant is an "authentic asylum seeker" or an unruly migrant worker, but to acknowledge how he is *assumed* to occupy a particular (social) position within the space of the US nation-state, and even positions himself, alternately as one and the other. Legal experts, human rights workers, and interpreters are then not simply observers in this matter, but they are also active participants and *interpreters* of the very institution of U.S. citizenship. In other words, if for asylum claimants, (performance of) victimhood is desirable and even central in the recognition of economical worth as legal non-citizens, the human rights experts, lawyers, and judges are key players and co-constructors of this reality.

The paradox of legal subjectification

In exploring the legal production of contradictory conception of victimhood within the asylum context, I show its potential usefulness in expanding the debate about liberal forms of US citizenship and redirecting questions previously unexplored. Analyzing ambivalent stories of claimants' past punctuated by their present conditions of suffering, as well as spaces of encounters where and how the stories are evoked, narrated, and performed may contribute less to the scholarly debate about social

memory, political violence, and the tragedy of victimization rhetoric—themes central to scholarly analyses of asylum seekers and refugee—than to the real and practical questions about structural continuities and discontinuities where private citizens play active role in the everyday making and unmaking of legal non-citizens. Seen this way, asylum system is then at once an expression of liberal benevolence bestowed upon the most wretched population and simultaneously a part of a whole array of mechanisms that promise to identify and discipline those marked as "vulnerable" population into rightful, individual, legal subjects fit to be properly governed indefinitely by the liberal state.

My ethnographic engagement and data in this chapter show that the asylum system is one of the many sites where the management of social relations, or rather behaviors of legal subjects, and the everyday practices of US citizenship occur. First, the practices rely less on subject's technique of self-governance but on the indefinite reiteration of their non-citizen subject position. In this sense, emphasis on asylum claimants' own words and voices to retell *their* stories—filled with disjointed thoughts and fragmented memories—occupy an important realm in the very identification and reiteration of "victim narrative" for subjectification. To be sure, this legal subjectification, based on "injury-forming identity" (Brown 1995) at large, is neither fixed nor pre-determined in advance. The contradictory conceptions of victimhood—as a universally recognizable and simultaneously a culturally "authentic" victim—at work in the legal institutional space would suggest that victimization

cannot be seen a putative goal to obtaining citizenship whether in terms of rights-based claims or socio-cultural membership and belonging. Instead, I have been arguing throughout the chapter that the process of legal subjectification is an important dimension to renegotiating the legal status as non-citizen and participating in the protracted citizenship.

Second, both the state and non-state institutional spaces of encounter and enmeshment—in the legal practices directed at asylum claimants and their interpreters, and the mutual, if awkward and measured, interactions among all parties—is where everyday meaning and exercise of citizenship take shape in concrete. I follow Ong's proposal of radical interrogation of what she calls "everyday citizenship in America," based on material "effects of the multiple rationalities [state and non-state institutional bureaucratic procedures] that directly and indirectly prescribe techniques for living for independent [neoliberal] subjects who learn to govern themselves" (15). From this perspective, citizenship has as much to do with engagement, interaction, and management of social relations among people as with legal relations with the state. As such, the local authorities and private professionals—asylum officers, immigration lawyers, litigators, judges, human rights workers, medical doctors, and country condition experts—who *interpret* the workings of the US state into everyday encounters and operations of citizenship exist. Nicholas Rose has called these "experts of subjectivity," or professionals "who transfigure existentialist questions…and the meaning of suffering into technical problems about

the most effective ways of managing malfunction and improving 'the quality of life"'(1999:142). The role of these professionals, as discussed in some detail in the encounter between claimant and human rights officer and private lawyers above, is to discipline claimants to be subjective beings who develop new ways of thinking about their asylum stories, narrative of suffering and victimhood, and in a particular performance of their asylum victimhood that can help them become legally visible.

Latour has identified an array of power dynamics intrinsic to a command that "results from the actions of a chain of agents each of who 'translates' it in accordance with his/her own projects" (1986: 284). Legal and local authorities are in positions in which they not only mediate relations but also translate and interpret dominant ideologies and debates that forms the basis of seemingly mundane, bureaucratic practices that allocate, classify, and reify categories to fit people perceived as non-citizens—refugees, undocumented, asylum seekers, alien. Categories make things happen. In particular, when categories are employed in the contemporary US political context of "the Homeland Security State" (De Genova 2007), it can have real and devastating consequences for those enmeshed in legal procedures indefinitely. Far from being the product of abstract and overarching state institutionalized and non-governmental programs, the asylum seeking process in the US is deeply tied to the everyday making and unmaking of legal non-citizens.

I am not suggesting that asylum seeking-process as a whole is politically and legally bankrupt, or that the asylum bureaucratic procedures necessarily (re)traumatize

individual claimants as legal non-citizens. Quite the contrary; my contention arises out of the fact that people categorized as "asylum seekers" and, as such, expected to behave, perform, and imagine according to the shifting and prevailing understanding of violence, persecution, and suffering, individuals and collective, to establish their "credibility" through their own words and voices need critical rethinking and self-reflexive approaches more generally. Tshering's story is still unfolding. After four years of navigating the asylum bureaucracy, his future is still uncertain. Apparently, the immigration judge found him not a "credible" claimant—not necessarily illegitimate "victim-subject"—on the basis that his was a case that resembled that of an "economic migrant" rather than an "asylum seeker." Thus, the legal production of his "victim narrative" made the asylum bureaucratic procedure move until the "public secret" (Taussig 1999) about his condition as a migrant subject surreptitiously came to the forefront. In the next chapter, I extend the ethnographic observation and analysis of the asylum process as legal subjectification through the practice of asylum documentation and filing of the 1-589 asylum form, drawing particularly on anthropological engagement with and critique of documents and (legal) bureaucracy.

CHAPTER FOUR

The life of *Form I-589* and the making of extra-legal documentation

"The document is not the fortunate tool of a history that is primarily and fundamentally *memory*; history is one way in which a society recognizes and develops a mass of documentation with which it is inextricably linked. To be brief let us say that history, in its traditional form, undertook to 'memorize' the *monuments* of the past, transform them into documents, and lend speech to those traces, which, in themselves, are often not verbal, or which say in silence something other than what they actually say; in our time, history is that which transforms documents into *monuments*."

--Michel Foucault, *The Archaeology of Knowledge*

Introduction

Central to the work of filing for asylum claims and initiating legal documentation, and inevitable if perhaps more peripheral in the burgeoning literature on contemporary asylum procedures, is the filling out of forms, expert reports, and affidavits, detailing physical attack and persecution suffered by asylum claimants and the likelihood of being persecuted if returned to the country of origin. Produced with varying degree of care and attention, periodically revised by lawyers during different moments throughout the asylum interpretation depending on the changes and new information extracted from claimants, after several months and sometimes a year of working on and gathering them, such legal paperwork is part of the characteristic of asylum documentation. During several hours of asylum interpretation sessions, and engaging in open-ended meetings and conversations with attorneys, I became familiar with the basic pattern repeated in each asylum procedure: filing of I-589 application

form to the United States Citizenship and Immigration Services (USCIS) or the U.S. Department of Justice; submission of the claimant affidavit along with medical expert and country condition expert reports; and interview at one of the eight Asylum Offices in the country or merit hearing at the Immigration Courtroom in Federal Plaza. The seemingly less inconsistent but more demanding to gather and coherently formulate in asylum documentation, as any lawyer working on asylum application will tell you, is form *I-589, Application for Asylum and for Withholding of Removal* (I-589 form, hereafter). In particular, page 5 of I-589 form is perhaps the most critical and the most difficult information to obtain from claimants. The difficulty is assumed to come with the territory of extracting from claimants their experience of "past persecution" and "well-grounded fear" of future persecution" (as per section 241 (b) (3) of the INA under the Convention Against Torture). Further, these idioms constantly shape difficult, and unpredictable, moments of mapping both the claimants' and lawyers' place in the legal domain.

At the same time routine legal documentation and consequential, the actual practices and the documentary forms demand from each party intense participation that forms part of the broad institutional processes concerning "asylum in the United States and withholding of removal (formerly called 'withholding of deportation')."[29] As Don Brenneis (2006) has noted in his investigation of academic research funding application documents the broad "policymaking and detailed planning with

[29] *I-589 Form*, *Application for Asylum and for Withholding of Removal Instruction*

subsequent decisions" that shape not only the forms but also "scholarly knowledge" and "individual scholarly lives." In this sense, I-589 form is one of the first and most critical paperwork related to asylum documentation that lawyers assisting with asylum cases have to familiarize themselves and their claimants and legal interpreters. Arguably, the form is circulated among, shaped by and, in turn, informs legal scholars, policymakers, immigration judges and state officials at various decision-making stages.

This chapter engages with and expands the conversation in the emerging scholarship on ethnography of documents. Almost two decades ago, Ian Hodder (1994) argued that documents do not "talk back" to the ethnographer as informants do. Two fundamental assumptions drive this argument: a) both people and documents are seen as objects and subjects of ethnographic study; and b) they are regarded as separate and un-intertwined and the possibility of one speaking for and/or representing the other is completely ruled out. Anthropologists (Harper 1998; Riles 2000, 2006; Hull 2012) have illuminated close interconnection between professionalization and documentary forms with broader bureaucratic practices that accompany them within what Brenneis (2006) has called "documentary nexus." Drawing on documentary practices and politics surrounding the National Science Foundation (NSF) application process, Brenneis has argued that the documentary forms as "artifacts of a particular sort…are necessarily interactive, their general features designed to elicit responses that they can shape but not wholly control" (42).

For Riles, "the document" is "at once an ethnographic object, an analytical category, and a methodological orientation" (2006: 7).

My goal in this chapter is to explore the "social life" of I-589 form integral to the asylum process in some detail, focusing on two critical issues—a) the form as an "artifact" of asylum documentation providing the basis for initiating and maintaining intense engagement between lawyers, interpreters and asylum claimants; and b) the "analytically invisible" (Brenneis 2006) characteristics, underpinning the link between idiomatic practices and the cultural view of "documents" in the U.S., that the form may be reinforcing at large. Needless to mention, I continue to be fascinated by the specific process through which an ordinary piece of paper—I-589—becomes "the document" animating one of the critical aspects of asylum procedure. Read with varying degree of care and attention by legal representatives assigned for the asylum case, the interpreters, like myself, are asked to conduct translation of the Form I-589 to their client or asylum claimant.

I ethnographically document behind-the-scene procedure involved in filling out of the I-589 form, an initial documentation step to filing asylum claims. Here, I am concerned with the many stages that this form goes through, or takes on a "life of its own," so to speak, before it is submitted as part of, what I call, "the asylum documents." Further, I am interested in tracing the specific ways in which this form is made legible to its pro bono lawyers, interpreters, and asylum claimants while it gradually marginalizes its narrators. Through the actual mode of documentation,

where Nepali-English language translation and interpretation becomes indispensable, I elucidate differently situated engagement and investment of people throughout the process.

Central to the following discussion is my concern as an ethnographer-interpreter with the relationships among language interpretation not simply a means to an end—a form of communicative proficiency—but the very conditions to initial encounters, participating in the meaning-making process as an important social practice, and the broader ideological frameworks within which the relationships are already established and unfold notwithstanding the unpredictable nature of asylum interpretation process. A first striking feature of interpretation during asylum interview and subsequent communicative boundaries created throughout is the legal framework that assumes people as social actors to speak from a particular place that they either actively occupy or are disciplined as a lawyer, claimant, and interpreter. Thus, each paired relationship, namely lawyer/claimant, or advocate/client exist only through mediation, making the three-dimensional-relationship inevitably shaping the asylum documentation process. The mediation, I argue, is infused into institutional considerations and is inseparable from legal attempts to communicate and explicate the asylum process.

To be clear, by legal interpretation I do not mean practices concerning interpretation in and of law—a technical approach to present legal argument—which I assume every lawyer or legal expert must do for their clients, out of necessity, and

for the judges in the courtroom. Demystifying asylum judgments and merit hearing, Tobias Kelly has stated that "there is little of the grand oratory of courtroom drama" involved in asylum and human rights cases (2012: 65). This means there is very little actual opportunity for lawyers to interpret law during asylum hearings and tribunals because of the low priority it receives (Ibid.). However, there is no denying the existence of elaborate and extensive legal "drama" prior to reaching the courtroom steps or the asylum offices. The fact that each asylum case, once private law firms accept it and pro bono lawyers are assigned, whether by their own volition or asked by their senior associates, circulate for anywhere from 8 months to 2 years attest to the inescapability of drama of some sort.

Asylum legal interpretation, like most legal procedures, renders visible differential, if sometimes mutually incompatible, views of legality [particularly ethnographies of Anglo-American dispute settlement cases (Conley and O'Barr 1990) and study of legal pluralism (Merry 1988)] and multiple ways of understanding and enacting in the world both pro bono lawyers and claimants encounter. What at first seems an as mundane documentary practice of filling out the form can become extraordinary and completely incomprehensible. At the same time, layers of interpretation are multiple and continuously overlapping: between legal and colloquial, and Nepali and English languages. The switching between two very different languages and legal translation during asylum interpretation makes the process that much more difficult, complicated, and unpredictable.

One way of thinking about asylum interpretation that I will be considering throughout this chapter—and certainly one that is seldom explored in the broader literature on asylum system and procedure—is the continuous overlap between legal unpredictability and documentary practice as opening of analytically interesting paradigms and paradoxes within and beyond legal documentation and bureaucratic procedures. In doing so, I follow a host of anthropologists studying the interconnection between documents and bureaucracy in anthropology (Harper 1998; Heyman 2004; Shannon 2007; Riles 2006; Li F 2009; Cody 2009; Gupta 2012; Hoag 2010; Hull 2003, 2012; Bernstein & Mertz 2011; Hohn 2013; Thomson 2012). I discuss in some detail how such overlap is not entirely unexpected and what is accomplished from it while remaining marginally visible during asylum documentation. Drawing on particular moments of interpretation during filling out the I-589 application form, I focus not only on inseparability of documentation practice from that of interpretation but also reveal uninterrupted and unanticipated moments of engagement seemingly peripheral to either processes—the extra-legal documentation. I do so to draw attention to the importance of un-interpretability and undocumentability that arise not as legal or linguistic constraints inherent to asylum interpretation or documentation but as part of the broader subject-making rationale in the U.S.

As part of a larger ethnographic project, this chapter in particular is invested in the materialization of asylum process pre-and-post-production of legal documents and

at various stages shaping the everyday making of the asylum system. My principal methodology has been that of switching between a participant-interpreter turned into observant-interpreter and ethnographer-interpreter, and drawing upon three years of Nepali-English legal interpretation experience on asylum and immigration-related work. I have also become an increasingly self-conscious interpreter assisting Nepalis and lawyers with asylum-related forms, procedures, and documentation. I also draw upon interviews with former and current asylum claimants and their pro bono lawyers, and Nepali translators and interpreters, over the last two and half years. This chapter, in particular, draws upon asylum interpretation sessions and publically accessible asylum documents, including 13-page I-589 form, 14-page instruction manual for I-589 form to determine eligibility and the UNHCR documents, accessible both in print and on the Internet.

My ethnographic discussion here has three core parts. First is a consideration of asylum documents related to I-589 form and visual and interpretive aspects of specific pages, mainly because of the substantial amount spent by human rights and pro bono lawyers in explaining its significance in the writing of the claimants' affidavit and submission of the asylum claims to the immigration judge or the asylum officer. In particular, I point the efficacy and centrality of transparency in the form that nonetheless assume knowledge not only of specific legal "culture" or pattern but also relies on interpretation by other than its immediate respondents—asylum claimants. Second part is guided by Brenneis' (2006) extensive discussion of "documentary

nexus" that draws upon Harper's (1998) view of document's "career": in what broader workings of the legal institution and bureaucratic practices does the form derive from and, in turn, reinforce its symbolic legitimacy? However, my goal is not to speculate potential rationale behind its production by state officials or members of the Congress nor it is to explore reasons for its distribution and circulation among asylum offices or law firms. Rather, I am interested in the post-career of the document. Or simply put: what makes the 13-page I-589 form an important piece of "the document" indispensable to seeking asylum in the U.S.? I do so to locate if and how certain terms in the forms, read and subsequently explained by lawyers to claimants during interviews, interpretation meetings, eliciting particular and not entirely unpredictable responses from claimants. I also discuss specific terms, absent and present in both I-589 form and the instruction manual accompanying it, yet repeatedly emphasized by lawyers. Finally, I discuss how documentary practice and interpretation process overlap during different times, render visible the unanticipated switching between the two. I explore the following questions: if and to what extent does interpretation process determine the rhythm of asylum documentation practice and the production of "the document" notwithstanding the framework within which the interpretation takes place? What consequences, expected and unanticipated, does the form have for claimants, interpreters, and the lawyers throughout the process. I will contextualize this discussion within the larger debate to open up some theoretical issues pointed out already and then conclude with a reframing of how documentation

practices might speak to the broad issues of socio-legal translation, asylum interpretation and the role interpretation-centered ethnography might assist in pursuing them.

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PART I: Translating the visual and interpretive frames of Form I-589

The I-589 form in figure 1.1, available on the Web and endorsed jointly by the Department of Homeland Security (DHS) under U.S. Citizenship and Immigration Services (USCIS) and the U.S. Department of Justice, which is one of the first legal papers introduced to claimants by their lawyers. The form can be divided into three parts. Pages 1 through 4 encompass questions that combine personal, professional, and legal information of the claimant and his/her family, including legal names and permanent home addresses in Nepal and in the U.S., social security number, social (marital) and legal status, date of entry into the U.S., and educational and occupational background. It is only on page 5 (refer to figure 1.1) that the respondent is asked about reasons for seeking asylum, or rather has to check off from the six choices—race, religion, nationality, political opinion, membership in a particular social group, and torture convention—given in the small boxes. No detailed explanation is asked in the form regarding the specific grounds for seeking asylum. Yet upon reaching page 5 the claimants are asked to describe in vivid, emotive, elaborate, and meticulous detail about their specific experience of "past persecution" and "well-founded fear of future persecution." The visual and visible frames between page 5 and 6 of the form

about questions related to seeking asylum, as I will further demonstrate ethnographically later, influence and determined by what I call interpretive frames that lawyers utilize throughout the asylum interpretation meetings. The last part of the form, pages 7 through 9, primarily includes questions about criminal record or background of the claimant and his/her family members living in the U.S. The assumption provided by the very frame here is far too obvious and absurd not to mention: any possible connection between criminality—vaguely termed under a rather broad range of alleged to attempted to execution of a particular action, say in causing physical harm to another person, are all grouped together—and il/legality—also listed under a broad category of being "interrogated" to "detained"—may be serious grounds to revoke claimant's asylum application.

The form clearly indexes both state-institutional and legal bureaucratic destinations—USCIS and Department of Justice—and figure prominently upon initial viewing and screening. However, both content and consequence of features associated with the visible frames are elusive and address audiences other than the immediate respondents—asylum claimants or their pro bono lawyers. Brenneis exploration of frames in institutional forms is particularly applicable here. Drawing on Bateson's notion of "metacommunicative frame,"[30] Brenneis argues that "the

[30] "A frame is metacommunicative. Any message, which either explicitly or implicitly defines a frame, ipso facto gives the receiver instructions or aids in his attempt to understand the messages included within the frame" (Bateson 1972: 188, quoted in Duranti 1984: 240)

metacommunicative focus on instructing the respondent is quite clear; at the same time, because of their mundane, routine, and often literally unintelligible character, many other consequential features of the forms are effaced" (2006: 49). I-589 becomes "the document" so long as the respondents take seriously not only those features that are visible but also, and perhaps more importantly, those that are not visually accessible but require active participation—by following instruction manual, referring to outside sources, and using interpretive ways to respond. In contrast to what Brenneis notices in the NSF application form in terms of the ease with which one can fall into the visual frame is not something that the lawyers with whom I worked on Nepali asylum interpretation cases instructed their claimants or themselves followed. Since the stakes are incomparable between filling out of I-589 asylum application and academic funding application, the lawyers were acutely sensitive toward reading in-between lines and considering repeatedly and reinterpreting consequential features not readily visible or accessible in the form.

Here, I want to draw on a recent essay by Nils Bubandt in which he analyzes the relationship between hyperhermeneutics and hypertextuality present in the circulation of "fake documents" that mimic and partake in the "illegitimate circulation of state authority and state authenticity" (2012: 559). Writing about the post-Suharto conflicts in Indonesia, Bubandt explores the strategy of deploying, and often effectively, "fake letter," perceived to be distribute by rebel groups to invoke terror during conflict and post-conflict situations, notwithstanding the certainty of its

fakeness. He argues that the production and circulation of the "fake letter" encompass key dynamics of late modernity underlying bureaucratic practice and broader political imaginary: textual devices are powerfully employed in "the (fake) document" through "uncertainty, imagination, and sentiment" (559). In pursuing the perversity of utter distrust and terror that normalizes reading "meaning into everything" regardless of the actual, if any, intention in circulation of written (fake) documents, he makes an interesting case in terms of the material consequences that "force of falsity" can have on people's lives. For Bubandt, the "social life" of what he calls "truthful fake" materializes into same consequences—terror and violence—not because of the certainty of its fakeness but because of the "dual reality of both seeming fact and seeming fake" at the same time (561). Further, he demonstrates the ways in which state officials use the "fake letter" as a strategic element in countering suspected deception and terror by actual violence. The centrality of empathy and inauthenticity of power, Bubandt argues, is what reinstates and makes the state enforce "legitimate" violence.

Two concerns raised by Bubandt's argument are salient for my discussion surrounding the "social life," if invisible features, of I-589. First, it has to do with the issue of reading between lines or interpreting "meaning into everything" by respondents, in particular, pages 5 and 6. Unlike the production and circulation of "fake letter" in Bubandt's essay, the existence of I-589 as a fact sheet is assumed in the context of asylum application. The form is presumed to uphold transparency at

all times —as in constant referral to specific laws in the Convention Against Torture, U.S. federal laws, and I-589 instruction manual for determining eligibility—despite obvious opacity presented by indistinguishable parts between the form and the content, which I will discuss in some detail. Second, it is not the question of fakeness or truthfulness of "the document" but the possibility of both potentially true and fake asylum claimant as respondent filling out the I-589 form that is assumed. In this sense, the authority and the authenticity of the state produced by the form results in, arguably, similar but not same type of anxiety and illegibility. Here, the document acts as a policing object that gauges deception to the state, which propels respondents' to fully and imaginatively participate prior and during submission of the asylum claims.

It is still the centrality of unpredictability or uncertainty regarding the actual asylum decision and utter illegitimacy of the claimant that make I-589 form that much more important from the perspectives of the lawyers, inviting them to fully participate in effective legitimization of state power. For one, the form is co-authored and reviewed and revisited repetitively by several lawyers working on a given asylum case. It incorporates carefully thought-through choice of legal language, substantial time and strategy go into writing of these documents, but the final reception and legitimacy given to the final documents is either by the immigration judge or the asylum officer—and are just as unpredictable as the merit hearing or asylum interview itself. Further, how and which part of these documents will be read and subsequently emphasize by the assigned judge either in favor or in opposition of defense,

representing an asylum claimant, at the merit hearing is ultimately unpredictable. How they will be read by the federal prosecutor for carrying out the cross-examination in the courtroom is equally random.

The life of page 5 within and beyond legal certainty

Central to page 5 (Figure 1.1) in I-589 form is soliciting both narrative description and specific information from the asylum claimant. While not overtly referring to any particular narrative, the first question under "Part B" asks the following: "Why are you applying for asylum or withholding of removal under section 241(b)(3) of the INA, or for withholding of removal under the Convention Against Torture? Check the appropriate box(es) below and then provide detailed answers to questions A and B below:" The irony of the visible frame is far too evident to ignore: the question is followed by a lengthy instruction to "provide specific dates, places, descriptions about each event or action described" along with a recommendation to follow series of quite specific instruction, starting with "Part 1: Filing Instructions, Section II, 'Basis of Eligibility,' Parts A-D, Section V, 'Completing the Form,'…." To assist the claimant, six different options are provided with clear if, again, somewhat empty terms: "Political opinion," "Membership in a particular social group," or "Torture Convention." For such defining practice visible in the form, one would assumes an equally clear, succinct, and straight forward response desired from the respondent, which is not the case in the asylum interpretation process.

A second crucial point to note is the way in which the terms such as "mistreatment," "threat," and "harm" appear in the two questions, followed methodically by "when," "how," "why," "what" and "who" statements, inviting respondents to "explain in detail" specific incidents and events. Responses to the two questions, as every pro bono lawyer I worked with attested, are perhaps most important in increasing the *likelihood* of the claimants' document to be considered and read closely once the claim is submitted. In what follows, I consider the two questions and offer some discussion on specific consequences of the rhetorical devices used:

> Question 1A: Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?
> Question 1B: Do you fear harm or mistreatment if you return to your home country?

At the outset, the seeming clarity and transparency of the two questions leave no space for recalling, articulating, and narrating experiences of "harm" and "mistreatment" in non-chronological order or presented in disjointed and fragmentary memories. But I want to suggest that the transparency and precision communicated by these broad and general terms are meant to elicit animated and specific accounts of "mistreatment" and "harm."

This is also where lawyers' employment of interpretive frames—making reference to the I-589 instruction form or UN Convention Against Torture handbook—is assumed and expected. Consider the following instruction pertaining

to the two questions on the form on the I-589 instruction manual (Figure 1.2, also available online):

> This part asks specific questions relevant to eligibility for asylum, for withholding of removal under section 241(b)(3) of the Act, or for withholding of removal under the Convention Against Torture. At Question 1, check the box(es) next to the reason(s) that you are completing this application. For all other questions, cheek 'Yes' or 'No' in the box provided (*sic*).
>
> If you answer 'Yes' to any question, explain in detail using Form I-589 Supplement B or additional sheets of paper, as needed.
>
> You must clearly describe any of your experiences, or those of family members or others who have had similar experiences that may show that you are a refugee.

The explanation is additional "empty" phrases restating, and not necessarily reframing, the questions in the form, but two issues are visually striking on this page of the instruction manual: recommendation to further refer to the section 241(b)(3) of the INA under the Convention Against Torture and the usage of the term "refugee" that appears nowhere in I-589 form. While "eligibility for asylum" is regarded highly critical according to both I-589 form and instruction manual, page 4 of the same manual provides contradictory information. Under "Legal Sources Relating to Eligibility," for instance, it is clearly written that

> The documents listed below are some of the legal sources relating to asylum, withholding of removal under section 241(b)(3)….These sources are provided

for reference only. You do not need to refer to them in order to complete your application.

Several "legal sources" (Figure 1.3) are listed following this blurb about eligibility statement. Such instruction written with clarity and precision communicate mixed messages to respondents unfamiliar with the particular legal frame and *pattern* of, and not the law pertaining to, asylum documentation. It is, thus, particularly tricky if one is filing the I-589 form for the first time. Claimants are, in effect, expected to determine their eligibility prior filing the asylum application as per page 5 on I-589 with reference to specific instruction on part about "Completing the Form" only to receive further direction that is based on specific knowledge—and not necessarily experience of "harm" or "mistreatment" or "threat"—that has already been documented as legal source in the Convention Against Torture. Arguably, it is this implicit knowledge that is expected to guide the respondents' determination of and subsequent response to their eligibility as a "refugee" through the interpretive lens and legal framework written in the Convention document.

The instruction form is then much more directive, shifting the responsibility for the forms to legal experts, representatives, or anyone familiar with or knows how to "read meaning into everything" for gathering information required to fill out the application form. Consider, for example, explicitly directive, if trivially figured, passage in the instruction form pertaining to the two questions, discussed above, on page 5:

> If you have experienced harm that is difficult for you to write down and express, you must be aware that these experiences may be very important to the decision-making process regarding your request to remain in the United States. At your interview with an asylum officer or hearing with an immigration judge, you will need to be prepared to discuss the harm you have suffered. If you are having trouble remembering or talking about past events, we suggest that you talk to a lawyer, an accredited representative, or a health professional who may be able to help you explain your experiences and current situation.

The passage above highlights, again, the visual frames indicating both clarity and the precision. Yet what appears on the outset as a series of options and recommendations, provide very specific legal and interpretive frames beyond listing of one's experiences of "harm," "mistreatment," or "threat." On a very basic level, the language employed in this instruction is precisely that—an instruction.

Indeed, I want to draw attention to the subtext of the statement and the importance of reading "meaning" into clearly communicated instruction—as an object of study of transparency and not of opacity. It reflects a measured and calculated assumption and provides a narrative frame not for talking about "harm" or "mistreatment" in one particular way or another. Rather, the instruction here introduces immediate respondents—claimants and lawyers—the inherent and even necessary "difficulty" of "writ[ing] down or express[ing]" past experience of harm. "The messier and more complicated the story, the better and believable it is. You see, no one remembers past events (especially the traumatic ones) chronologically or in some orderly fashion," Elise, one of the pro bono attorneys I worked with on a

different asylum interpretation case, reflected when I inquired about the rather lengthy time —8 months to up to 12 months—required to complete I-589 asylum form and the affidavit.

Another attorney Lisa, who had already represented over a dozen asylum claimants, was proud of having 100% success rate in winning asylum cases, offered a similar explanation. When asked what factors contributed or determined success rates of the asylum cases, she mentioned the importance of providing detailed, vivid, and descriptive images of specific violent incidents from the past that will ultimately facilitate making a compelling affidavit. She also recalled how putting together the affidavit for each claimant was as glaringly discomforting as it was painfully slow for her:

> The story has to be told in claimant's own words. You see, I can write their stories but the words and the voices have to be theirs [claimants']. Everyone knows that asylum seekers won't be using big words or adjectives…I do not mean to sound disrespectful toward my clients but their original and authentic voice will be very different from legal terminology or phrases and sentences we write. And it is not easy for asylum clients to discuss their traumatic past. But we have to obtain detailed descriptions to make the story coherent and consistent to put together in the affidavit that will ultimately provide legal summary in documenting Form I-589.

For both Lisa and Elise, as lawyers who have worked on and won a number of asylum cases, crafting a detailed asylum story and presenting a convincing affidavit relied on making her claimants' words visible and voices audible. The obvious

question that then follows is: are claimants required by law to have legal counsel? The answer is, again, yes and no. Here, I want to draw attention to visual transparency of the I-589 forms that relies on opacity and unpredictability of a particular interpretation. No explicit criteria exist that asks asylum claimants to be accompanied by legal representatives or seek legal assistance except for a brief section in the instruction manual under "IV. Right to Counsel" (Figure 1.3):

> Immigration law concerning asylum and withholding of removal or deferral or removal is complex. You have a right to provide your own legal representation at an asylum interview and during immigration proceedings before the Immigration Court at no cost to the U.S. Government.
>
> If you need or would like help to complete this form and to prepare your written statements, assistance from pro bono (free) attorneys and/or voluntary agencies may be available. Voluntary agencies may help you for no fee or a reduced fee, and attorneys on the list referred to below may take your case for no fee. If you have not already received from USCIS or the Immigration Court a list of attorneys and accredited representatives…

The section provides options for asylum claimants to seek legal assistance—for free—by "attorneys and accredited representatives." Here, I would argue, based on extensive interviews and interactions during and post-asylum interpretation process, the clear and transparent rhetorical devise employed in the "Right to Counsel" is not so much to inform, instruct or even recommend claimants to seek out lawyers to represent them. For people seeking asylum whether knowledgeable or unfamiliar with

details pertaining to asylum law or procedures rarely embark on immigration-related paperwork for legalization without legal representation. On the contrary, the fact that they have equal right to not have counsel—immigration and/or pro bono lawyers—and can "legally" file asylum claims to the U.S. state is more of a mystery. Further, the usage of "right" here is oriented toward not only potential asylum claimants but also legal representatives. The information as an instruction in this section is written for potential and current pro bono attorneys and agencies, real and imagined. Consequently, what and how responses pertaining to experiences of "harm," "mistreatment," or "threat" should be narrated are already anticipated, if not wholly control, by the frames in the forms. These directive sections and passages act as breaks in the forms that point to a shared legal (and socio-cultural) understanding of those terms—"harm" or "mistreatment"—that allow space for varying degree of interpretive frames.

These interpretive frames is what makes forms—as pieces of paper—highly esteemed legal "document" contributing to the asylum claim to be submitted to one of the two state agencies responsible for granting asylum—U.S. Citizenship and Immigration Services (USCIS) or Executive Office for Immigration Review (EOIR). The transformation of forms to "the document" requires extensive and quite elaborate process when asylum claimants are non-native speakers of English. Since I was introduced to the asylum documentation process as a participant-interpreter, this transformation materialized in front of my eyes. I "witnessed" and corroborated in

the very documentation process. It is, thus, to the unpredictable and rather counter-intuitive process of legal interpretation that I turn to. My goal, as I mentioned above, is to unfold what I saw as inseparable method—interpretation and documentary practices—integral to understanding asylum-seeking process at large. I do so to capture and draw attention to specific moments where deployment of legal interpretive frame gives in to linguistic (between Nepali and English) interpretation, and vise versa. I also attend to moments when it becomes completely indistinguishable which process is framing and subsequently driving the asylum interpretation and documentation.

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PART II: Asylum interpretation and engaging "the document"

The pro bono lawyers go over and explain, with the assistance of an interpreter, the specific grounds for seeking asylum[31] to an asylum claimant on their very first encounter. Often, it is the first time that the interpreter is introduced to the asylum claimant in the law offices unless the case was recommended by non-profit agency where the same interpreter was called upon for initial screening interview session with the potential claimant. Although pro bono attorneys, who accept to represent the claimant, directly contact me, almost all Nepali asylum cases for which I provided interpretation were recommended by the same non-profit, human rights, agency. As a

[31] According to CRS: "Foreign nationals seeking asylum must demonstrate a well-founded fear that if returned home, they will be persecuted based upon one of five characteristics: race, religion, nationality, membership in a particular social group, or political opinion."

result, it would often be my second meeting with prospective asylum claimant in whichever law firm the case was assigned.

"People not wanting to sit next to her, give her any work, or associate with her is sad, unfair, and maybe an experience of discrimination, but certainly not torture," Lisa got impatient during one of the interpretation sessions.

"But it is a type of mistreatment, no?" I asked for clarification, first, before interpreting in Nepali Lisa's concern to Priya, the asylum claimant.

"Yes, but you see cases that are usually granted asylum involve severe torture like capital punishment or FGM," Lisa continued to explain to me her specific experiences representing asylum claimants from different countries.

"To answer the most important questions in the I-589 application, we have to know the exact dates and detailed description of Priya's experience of harm," Lisa insisted. Lisa asked me to interpret for and, in particular, express the gravity of communicating the utter terror Priya experienced in the past that needed to be verbalized, interpreted through me to the lawyers, which assist in the writing of the affidavit that would then allow lawyers to craft a legal summary on page 5—a clear, succinct, and compelling legal summary of two critical and interconnected reasons for filing an asylum claim: evidence for "past persecution" and "well-founded fear of future persecution."

After almost three long hours of going over the first question on page 5 about past experiences of "harm" or "mistreatment," the interpretation had simply come to

a halt. While Lisa and her co-counselor Jessica explained and debated if and what experiences shared by Priya counted as appropriate account of "harm," "mistreatment," or "threat," Priya kept adding to the list of "harmful" experiences she encountered with Maoists in Nepal due to her political activities and affiliation with non-Maoist party. Upon repeated emphasis to recall an incident of physical attack, Priya started recounting one particular event that both lawyers agreed to be a perfect fit in terms of particular past "harm" or "mistreatment." However, Priya was hesitant to speak about the details of the incident let alone explain in detail the particularities of her experience. Another two hours were spent interpreting, back and forth, to each party with very little success. An hour and half was probably spent explaining what and how that incident needed to be unfolded, so it was only last half hour that the actual incident that Priya brought up was, in all practical purposes, "documented."

Finally, Lisa said, "We have spent almost five hours trying to document one incident and we need at least three or four such incidents that provide sufficient evidence and detail description of her experience about past persecution."

I interpreted back to Priya, who simply nodded in agreement.

"I understand how difficult it must be to recall and share something that you have been trying to forget for the last 8 years but now you have to remember it for us to document it." Lisa explained and I interpreted for Priya.

"Perhaps Priya can start writing journals everyday about her painful past and traumatic experiences, and we can reschedule our meeting in two weeks, and she can just read it to us?" Jessica added enthusiastically.

Lisa suddenly brightened up, utterly pleased with her colleague's suggestion. "It is an excellent idea. So we can all meet next time and just go through each incident in detail."

As I interpreted their proposal and excitement to Priya, she said softly, "*Tara malai English ma lekhna ta garho huncha ni* [But it is difficult for me to write in English]"

"You can just bring the Nepali version and Tina can read it to us in English, right?" Lisa suggested.

The interpretation meeting ended that day with an understanding to come together in two weeks. Priya was instructed to reflect about the incident with specific date, place, time, and her reaction to the harm done to her. I, on the other hand, was alerted about my additional role—as a document translator—in the next interpretation meeting. We agreed to gather in two week, same time and same place.

From the judge's point of view

When we met two weeks later, Lisa, Jessica, Priya and I sat down to continue with our asylum documentation from where we left off.

Priya pulled out a sheet of paper in which she had documented the incident she started to discuss with us in the last meeting. She handed a piece of paper to me and said apologetically, "*Maile eitnai lekhna payen. Aru lekhna garho bhayo. Harek hafta cha*

dinai kaam thiyo. Pheri yesari kahan lekheko thiyen ra kahile? Sorry. [I could only write this much. To write more was difficult. I had to work six days a week. Besides, when did I have to write like this ever? Sorry.]"

I did not have to interpret much this time. Lisa and Jessica stared at the piece of paper and checked both front and back of the paper. Although it was written in a language they could not read, they seemed disappointed by the length of the paper. I was then instructed to translate it into English for them. I finished translating Priya's writing in less than half hour.

Lisa cleared her throat, leaned forward, picked up her pen and started scribbling in her legal notepad, and insisted that she needed descriptive images of the violence Priya experienced in Nepal:

"Can you explain to Priya that the asylum judge may not even know where Nepal is located on the map or if it is even a country? She has to explain in vivid details the repeated persecution she suffered in the hands of the Maoists."

"How is that going to help the judge figure out if and where Nepal is located on the map?" I asked. Instead of interpreting lawyer's question to Priya, I started inquiring the legal rationale. What I really wanted to ask, of course, was: shouldn't I be interpreting for the judge, instead? After interpreting for several Nepali asylum cases over the past year and half, I was becoming familiar with the asylum-seeking process and, in particular, legal language required to frame asylum narrative that provided sufficient evidence for "past persecution" and "well-founded" fear of future

persecution. By requesting for clarification of their rationale and legal workings, I was also assisting lawyers, if unintentionally, to reframing Priya's narrative that contributed to what Kleinman and Kleinman (1991) has called "the professional transformation" of narrative through bureaucratic (and legal) procedures.

"You know how long it has taken for us to understand Priya's experience. At the hearing, she will not be given time to explain herself. She will simply have to respond to whatever she is asked by the judge. Besides, the judge may not be patient with Priya. She has to know the exact dates of each Maoist visit to her house in Kathmandu, in chronological order, and be consistent as we have been emphasizing it." Lisa gave me a lengthy response that did not necessarily answer my question.

"You see consistency and accuracy are central to writing the affidavit and filling out the Form I-589 that will establish her credibility at the merit hearing," Jessica added.

"The judge needs to *imagine* violence Priya suffered in Nepal and *sympathize* with her when she listens to her story," Lisa further added.

Another two hours was spent trying to interpret and explain lawyers' dissatisfaction with Priya's meek attempt at writing a diary.

Lisa and Jessica then thought of trying something different. They recommended the following: "Perhaps it would be easy for Priya to simply write everything she needed to as though she was not sharing it with anyone. She can give

it to you every week and before we meet and you can just email the English versions to us before every interview."

I immediately agreed without asking further questions. I volunteered to translate Priya's journal entries into English and subsequently bring them to the law firm for our meetings for the next several weeks. I was, after all, as much immersed in the moments of sheer frustration and disappointment shared by the lawyers as the moments of vulnerability and anxiety shown by Priya.

After three more months of document translation and interpretation sessions, the I-589 form was finally ready for submission. Put together in a language that shifted between highly individualized account of fear and legal prose on persecution, the purpose of I-589 form was to present a legally compelling introduction of Priya's case to the judge.

As both Lisa and Jessica said to me one evening, after completing our interpretation session, "Two things matter most once the case is in front of the judge: one is luck—some judges are known to grant asylum and others are not—and the other is consistency—it is okay to forget specific date and details due to stress or pressure in front of the court but not provide conflicting information."

I learned then that the last 10 months of interpretation meetings to extract detailed information and descriptive images of Priya's past experience that culminated in the successful writing of the affidavit and filling out of the I-589 form did not guarantee granting of asylum. I left the firm with Priya that day, utterly confused and

somewhat disillusioned by the asylum process. I simply did not know of appropriate response(s) to this new information I had been given.

The force of unpredictability

The asylum documentation pertaining to form I-589, discussed in the two scenes above, is embedded in and draws upon multiple interpretation sessions. In particular, the transformation of the form to "the document" is deeply influence by unpredictability of each interpretation session and implementation of new legal and interpretive strategies throughout the documentation process. I will discuss first the role of interpretation, including varying issues related to translation of certain words and phrases from legal to colloquial, English to Nepali; then I will attend to larger-scale contexts of legal documentation practice that frame interpretation sessions notwithstanding the unpredictable and counter-intuitive moments.

Although the direction of asylum interpretation session was seemingly dependent on Lisa and her co-counselor Jessica's legal knowledge and frame of inquiry, neither the duration nor the immediate responses from the claimant or me—as an interpreter—was entirely predictable. If initial difficulty to comprehend each other was a consequence of legal interpretive frame employed by Lisa unfamiliar to me, the latter was a matter of untranslatability not from one language into another but between multiple social and subject positions that frame the very perception, understanding and subsequent participation in the interpretation process. As a legal expert and representative working on the asylum case, Lisa position was starkly

different from Priya's as the asylum claimant, expected to respond to questions asked by the former. Further, Lisa determined the responsibility of what type(s) of experience counted as "harm" and how it was to be included ultimately. Priya, as the claimant, was asked to provide specific information to assist in that documentation process. I, on the other hand, had an ongoing task of dual-mediation: I was seen as an informed-outsider by lawyers for whom I, indeed, acted as an informant, and at the same time, I was a distant-insider[32] for Priya, and other claimants like her, with whom I shared common language.

Likewise, moments of untranslatability kept invisible to the production and circulation of the form and answering of the two questions on page 5, in particular, reveals what I will call extra legal and interpretive frames that facilitated the transformation of the form to "the document." The interpretation process, as illustrated by the above scenes, did not follow straightforward instruction provided by I-589 form and its instruction manual. Although distinct interpretive strategies, employed by lawyers during each interpretation session, may have been guided by the two questions on page 5, the intense engagements and dialogues constantly interjected and even suspended the act of documenting—and filling out the form. Further, lawyers' instruction to the claimant and me and indirect invitation to participate and

[32] My role as an "outsider within" (Collins 1991), deeply implicated in my constant engagement with both parties and contribution to the interpretation process, is part of the broader debate that I pursue elsewhere.

contribute in answering and, by extension, assisting in filling out the form I-589, in particular, raises interesting anthropological questions.

In following through particular recommendations in the instruction manual, Lisa laid out two ground rules clearly from the very beginning of our meeting. First, both interpreter and claimant were made familiar with "cases that are usually granted asylum involve severe torture like capital punishment or FGM;" in practice, this was not only meant to introduce and educate Priya and me of what qualified as asylum claims but also to encourage us to speak of and discuss in detail only those aspects of "harm" and "mistreatment" that involved physical violence equivalent to legal-political understanding of torture.[33] Second, the introduction of I-589 forms as an important piece of document that needed extreme care and attention guiding the interpretation sessions over the next several months. Judging from my own experience as an interpreter, the in-depth discussion of the forms facilitated the interpretation session and my own responses. It also established distinct roles as each of us were asked to play, indicating lawyers' overall control over the context and content, and not necessarily the direction, of inquiries related to the form and conversations pursued thereafter.

Another important aspect of initiation process has to do with what and how certain questions are read legally and, in turn, interpreted to the claimant for achieving desirable responses. Here, let me begin with Lisa's initial attempt to search for and

indirectly guide the claimant to conjure up specific account of "harm" or "mistreatment" not simply derived from eligibility parameters and requirements in the asylum law. Her understanding of what counted as severe "mistreatment" was drawn from her previous knowledge and experience working on asylum claims and representing different claimants. As such, her expertise on asylum law and process was as dependent on her familiarity with legal knowledge and pattern as on her skills to convince Priya and me to fully participate and follow specific procedure throughout asylum interpretation.

The overt introduction and importance given to the two questions, especially the emphasis on 3-4 particular events and incidents of "harm" that needed to be described in detail with vivid images, and the encouragement to the claimant to keep journal entry to recount "painful past and traumatic experiences" unable to narrate efficiently gradually led to more active involvement in the documentation practice on my part as well as on the part of the claimant in terms of using their imagination and sentiment. The claimant was encouraged, indeed instructed, to consider, among other things, the difficulty of recalling, expressing and, sharing of her painful past. For instance, Priya's attempt at writing her painful experience in less than a page document in the second interpretation scene was not totally surprising given lawyers' declared conviction regarding the understandable difficulty of sharing traumatic past. It lays bare, on a basic level, the equal "difficulty" of writing about an incident of "harm" or "mistreatment." Indeed, I want to draw on this moment of interaction

between the claimant and the lawyers, shaped by very different discussions than in the previous interpretation session, when the difficulty relied on the claimants' response to questions on page 5 of the I-589 form.

At the outset, the short, written document presented by Priya seemed to go against lawyers' expectation. In retrospect, however, lawyers' apparent disbelief and disappointment, assisted in the ultimate establishment of Priya's credibility due to perceived hesitancy to disclose fear. Recall Lisa's matter-of-factly comment—"it is not easy for asylum clients to discuss their traumatic past" or Elise's conviction—"The messier and more complicated the story, the better and believable it is." Pro bono lawyers representing asylum claimants repeated emphasis that disclosure of one's experience with violence being neither coherent nor comfortable point to interesting analytical problems, nonetheless. It is the anticipated messiness and difficulty of recalling and narrating past, traumatic experiences during interpretation sessions that enable lawyers to determine and subsequently identify whether or not the claimants' story is "credible." Central to witnessing messiness is anticipated unpredictability throughout the documentation process, and especially answering the two questions on page 5 in the I-589 form. As such, the lawyers' disappointment regarding the length of the short journal presented by Priya sustained, ironically, both interpretation and documentation process that is built on this unpredictability as part of the asylum law.

A second pivotal issue that I want to consider for discussion is the writing of the specific incident(s) by Priya, seemingly outside the legal interpretive and documentation activity, which nonetheless figured prominently in the actual transformation of the form to "the document." First, these writings in Nepali and my translation from Nepali into English for an extended period of time contributed to and even directed conversation during interpretation sessions. For instance, it was Jessica's suggestion that Priya try writing about her traumatic in Nepali, from which I was instructed to translate and read in English during our subsequent meeting. In the subsequent meeting however, the lawyers advised me to translate the Priya's writings in English prior our meeting. Secondly, along with the claimant, I too was invited to play active role in the construction of the asylum narrative. Such an advise may seem impromptu, and somewhat unanticipated, given the fact that each instruction was devised at the end of each interpretation session depending on the content and the direction of the topic being discussed. However, these moments of ambiguities and uncertainties, materialized throughout interpretation process, were not without a purpose, even if they may have been accidental. It consistently opened up a space for broader interpretive frame to be employed by lawyers, claimant, and interpreter. They collectively facilitated and became the ground for making of "the document," as it was asylum interpretation sessions like the ones I have described in some detail that led to filing of the I-589 form.

Documents do "talk back"

It is critical to note several summary points, not so much about the practical legal dimensions of the documentary practice as about the interpretation process through which the form became "the document" and made its traces visible. A first point is the general language pregnant with terms with which the form invites active participation and animation by its respondents—lawyers, interpreter, and asylum claimant. Three central words here are "harm," "mistreatment," and "threat" that both invoke legal interpretive strategy and specific narrative practice. It is not quite clear what those terms mean or how might one recognize the desirable and anticipated effect within the institutional context. Only through anticipated participation by lawyers and their legal expertise and familiarity with the asylum process, and not the asylum law, that their institutional meaning becomes somewhat possible to grasp. This is not to suggest that asylum legal procedure and documentation process are inefficient or unimportant indeed, nor is it to claim that asylum documentation is alone using these broad words and vague framing of questions that invite and instigate ambiguities and extra-legal meaning. In fact, the conviction among asylum legal experts and practitioners of the form's significance in documenting detail experience of their claimants' "harm" and "mistreatment" is directly related to documentary inutility—which implies that something other than the usual documentary method is a prerequisite to successful documentation.

Consequently, that prerequisite has to do with the narrative specificity that can only come across through and is grounded on mediation within and beyond legal

documentary practice. The work of mediation—as in interpretation process—focuses on how and to what extent eliciting of the most practical, comprehensive, if fragmented and disjointed, and intense information from respondents be collected: how might indirect references be framed relating to specific questions on the I-589 form leading to the most desirable types of responses by the claimants? And how might the institutional language and requirements of legal interpretive frame assist lawyers in collecting, encouraging, and instructing their clients in a one particular way or another. Not only must there be a space for greater legal interpretability as to how asylum claims would be submitted successfully, but such framing must also expect broader incorporation and active participation of claimants—non-English speakers—and their legal representatives—that subsequently allow them to learn and discipline themselves to act (upon learning) what and how appropriately to respond to certain inquiries.

A further point about the interpretation process has to do with extra-legal documentation that reinterpreted the flow and parameters of responding to the two questions in the form as well as provided a different format for continuing interpretation. The shift from filling out the form to writing and translating of specific incidents of "harm" during non-legal documentary practice point to a much more interesting issue about unpredictability of responses, not in content per se but in the kinds of issues related to "harm" or "mistreatment" raised and pursued during interpretation. Inasmuch as lawyers' emphasized the centrality of coherence,

consistency and accuracy in filling out the form and general legal documentation, it gradually became clear to me the role of inconsistent, incoherent, and seemingly marginal extra-legal documentary practice throughout the interpretation process.

The actual filing of the form did not occur until the extra-legal documentation, repeated guidance, and reinterpretation of the same terms and anticipation of responses discussed to the satisfaction of lawyers assisting with the case. In this sense, the non-legal documentary practice and interpretation simultaneously influenced the actual documentation of the form as well as achieved successful disciplining, expected or unanticipated, of the asylum claimant and the interpreter. Not to mention, this combination of extra-legal documentation and interpretation process was akin to some sort of legal workshop on asylum procedure: as lawyers experimented with different legal interpretive strategies to come up with the most efficient way to extract information, claimant and interpreter learned to gauge, improvise and construct their measured responses with guidance and approval of lawyers. Interpretation process, thus, above many other things, was not simply an indispensable aspect of but provided the very format to undertaking asylum documentation.

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PART III: Interpreting the extra-legal documentation

Filling out of I-589, inseparable from making of the form into "the document," as critical aspect of asylum documentation all materialized during interpretation

process. If one reads the form with care and simply attends to practical question concerning description of past "harm" or "mistreatment" without lawyers' constant interpretation and insistence on identifying and subsequently responding to experiences in a particular way, the form would not have had the same effect. And rarely are the claimant or the interpreter likely to read into or pay attention to the questions in the form in the same manner, say the ones on Page 5. As Harper (1998) suggest, "careers" of documents anticipate and are embedded in specific moments of present—in ways forms are used, read, filled out, and incorporated—both in terms of their immediate consequences for expected audiences and in the broader institutional practices they are circulated and processed. Brenneis (2006) builds on the immediate career of documents to point beyond the specific consequences to larger historical process that also shapes roles of and expectations from different respondents to the same form. As such, for the claimant and the interpreter (the first time around) unfamiliar with the frames of the I-589 form, the apparent transparency may seem as straightforward and simple; for the lawyers, familiar with asylum-seeking process, what surfaces as transparency becomes the central point of contention, in-depth investigation, and analysis.

Likewise, both type(s) and direction of specific issues pursued during interpretation dependent on both legal and language interpretation of the form for asylum documentation. The unpredictable moments of non-legal, or, what I have called extra-legal, documentary practice as inconsequential to the legal documentation

of asylum claims is not supported by my ethnographic engagement during and post-asylum interpretation process. Instead, as I have illustrated in this chapter, the form as "the document" that transformed and materialized at particular, if random, instances only confirm the open-endedness and unpredictability within—as an anticipated if not particularly desired consequence of—legal interpretation. The documentary practices, central to this chapter, are essentially legal instruments for establishing credibility of the asylum claimants, although, again, it is not explicitly framed either I-589 form or the accompanying instruction manuals. The issue of credibility of the asylum applications and claimants, now a defining feature in the burgeoning literature on asylum (Yngvesson and Coutin 2006; Good 2009; Ticktin 2011; Cabot 2012; Kelly 2012), form an important basis for studying asylum documentation. Kelly (2012), for instance, has tracked the topic of credibility in an asylum case in the United Kingdom, following the prevalence and pervasiveness of inconsistent decision made by the asylum judges. I will only touch briefly upon two of Kelly's insights that are pertinent for my discussion here. First is his observation that no evidence in particular stand for the credibility of the claimant because of the legal recognition of its absolute uncertainty: "Although judges are warned not to universalize from their own experience on issues of credibility, there is no expectation that different judges looking at the same pieces of evidence will come to the same conclusion" (2012: 64). In other words, even when the documentation of past "harm" or "mistreatment" in the application form and other materials like the

affidavit meet the eligibility requirement surrounding legal definition of "torture" outlined by the UNHCR, judges necessarily rely upon the recognized partial measures on the "credibility" of the claimants. Before the case reaches the judge, however, it is up to the pro bono lawyers, like Lisa or Elise, working with claimants who are positioned to gauge for credibility throughout the screening and the subsequent documentation process. What each lawyer "knows" about asylum documentation and decision-making process, in particular, is intrinsically obscure and unpredictable, but she/he must act upon it, drawing from his/her previous experience of representing clients, as if providing a consistent, comprehensive, and coherent narrative documentation can compensate for judicial uncertainty.

Recall Lisa's comment, posed as a question, during our interpretation meeting: "…the asylum judge may not even know where Nepal is located on the map or if it is even a country." Lisa's statement was not meant to elicit a follow-up inquiry, as I had done, about the judge as much as in fact to heed in agreement. She was not withholding any key information about the sheer chance or luck that determined assigning of the asylum judge. Implicit in her out-of-context statement about the *absent presence* of the judge was the simple truth behind not only seeking asylum but also of any legal documentation and subsequent judgments: uncertainty is not acknowledged as something to overcome but provides the very basis for convoluted working of legal decision-making (Good 2007; Latour 2010). Lisa's off-handed comment confirms Kelly's point that uncertainty lies not simply on judges' potential

skepticism of a certain asylum claimant but the *ground* upon which their skepticism resides (2012). Arguably, with the extension of interpretation as comprehensive process as a particular outsourced strategy, it is not simply about insuring the claimants' credibility in broader legal bureaucratic practices, but the process also becomes a sanctioned 'extra-legal' space for making "accredited representatives" responsible for gauging credibility with increased scrutiny and disciplining of claimants as potential legal subjects. In a compelling study on the workings of the liberal state power, Wendy Brown (1995) has convincingly demonstrated that language of rights is more likely than not bring upon actual *harm* because it codifies and reinscribes, if inadvertently, the structural hierarchies and unequal power relationships that it was designed to challenge and subvert. In particular, Brown is wary of the various emancipatory projects of late modernity that relies on protective measures rather than freedom they promulgate. "The state is not an it," Brown has argued, "but an ensemble of discourses" (174). The entanglements of asylum documentary practice and interpretation—from the initial phase of verbalizing fragmented incidents of "harm" to the making of coherent legal statement and the ultimate symbolic authority given to I-589 form—point to paradoxes of liberal and legal subject-making.

Kelly's second crucial point for this discussion is that in the UK system an attempt to clarify the issue of credibility looms large and provides guidance to legal representatives working on asylum cases to identify between "internal" and "external"

credibility issues: the former is associated with "the coherence of the account and the details provided by the applicant" and the latter relates to "the match between the account and 'generally known facts'" never explicitly outlined and documented (2012:64). The asylum procedures employed in the UK system is applicable to the US system since both are shaped by the UNHCR Convention Against Torture, which defines credibility on the basis of "coherent and plausible, not contradicting generally known facts, and therefore is, on balance capable of being believed" (UNHCR 1998: 11, cited in Kelly 2012: 64). Lisa's statement, followed by her elaborate reason for Priya to explain in detail her past experiences of harm or mistreatment in couched under this importance of coherent and consistent account of past persecution. Also, recall Jessica's forthright statement—"consistency and accuracy are central to writing the affidavit and filling out the Form I-589 that will establish her credibility at the merit hearing." The lawyers' emphasis on filling out the form in a particular way was based on two decisive factors: their knowledge of specific requirements upheld by both USCIS and Department of Justice drawn from the UNHCR and, consequently, their anticipation of the merit hearing where judgment about credibility of claims is ultimately based on "assessing limited oral evidence against a range of written evidence" (65). Not only asylum documentation is gradually revealed during interpretation—from legal discretion-laden phrases to practicality—so also are the discretionary roles of judges and asylum officers and their anticipated participation in the process. And these moments of visibility and of transparency addressing practical

issues during interpretation, I have been suggesting throughout this paper, do not conceal but justify the overt conditions to legal discretionary power of the state and broader implications on individuals as asylum claimants.

My own ethnographic engagement throughout the documentation process suggests an additional kind of transformation and making of "the document": bureaucratic forms are made accessible, transparent, and free from broader legal framework so active participation from respondents are anticipated, even encouraged, while effectively making them into increasingly disciplined legal claimants, interpreters and lawyers during the process. As I have tried to illustrate this point through actual interpretation sessions how this legal documentation practice is sustained and even contingent on extra-legal activities and documentation at particular interpretation moments. It is not so much that one "becomes" an asylum claimant or a pro bono lawyer as that one gradually learns how to be perceived as recognizable claimant or lawyer or asylum interpreter, for that matter. As anthropologists (Britan and Cohen 1980; Crozier 1967; Strathern 1995, 2004; Riles 2000; Brenneis 2006; Shore and Wright 1997; Frohman 2008; Feldman 2008; James 2010) have consistently shown that the embeddedness of social actors in different bureaucratic contexts that are not somehow external to the range of ethical concerns and political possibilities.

Finally, I want to briefly point to the broader implication of interpretation process informing and improvising asylum documentation practice. By assuming respective role as legal experts or representatives of the claimants, the asylum

interpretation meetings become, arguably, the extension of a state politically "at large" through disciplining and training of the asylum subject. The asylum documentation achieves its authority by invoking the state through judicial power of the absent judge. At the same time, in ways similar to the judicial power that the asylum documentation invokes, the asylum interpretation throughout documentation becomes an important legal platform to negotiate, measure, and ultimately produce evidence for "well founded fear." The asylum documentation and interpretation process are thus shot through with unpredictability, intensity, and imagination. Their production entails mixture of inconsistency and hesitation, of incomprehension and untranslatability that highlight intrinsic connection between fear and credibility. The unpredictability of the asylum decision (should) remind us that fear is as much a condition to the production of legal subject as an individualized account of persecution.

Concluding thoughts

Asylum interpretation sessions are, thus, arresting encounters of intense engagements, moments of awkward silences, disjuncture, and unexpected interruptions, featuring not simply the production of legal documents and their social life thereafter, but rather they become the ground for negotiating and laying out rules for those seeking asylum and those assisting with asylum claimants. Such a line of thinking forces us to see asylum legal interpretation as providing the very format for, and not simply a by-product of, asylum "suffering narrative" and documentary practices. There are two recurring and interconnected concerns about interpretation

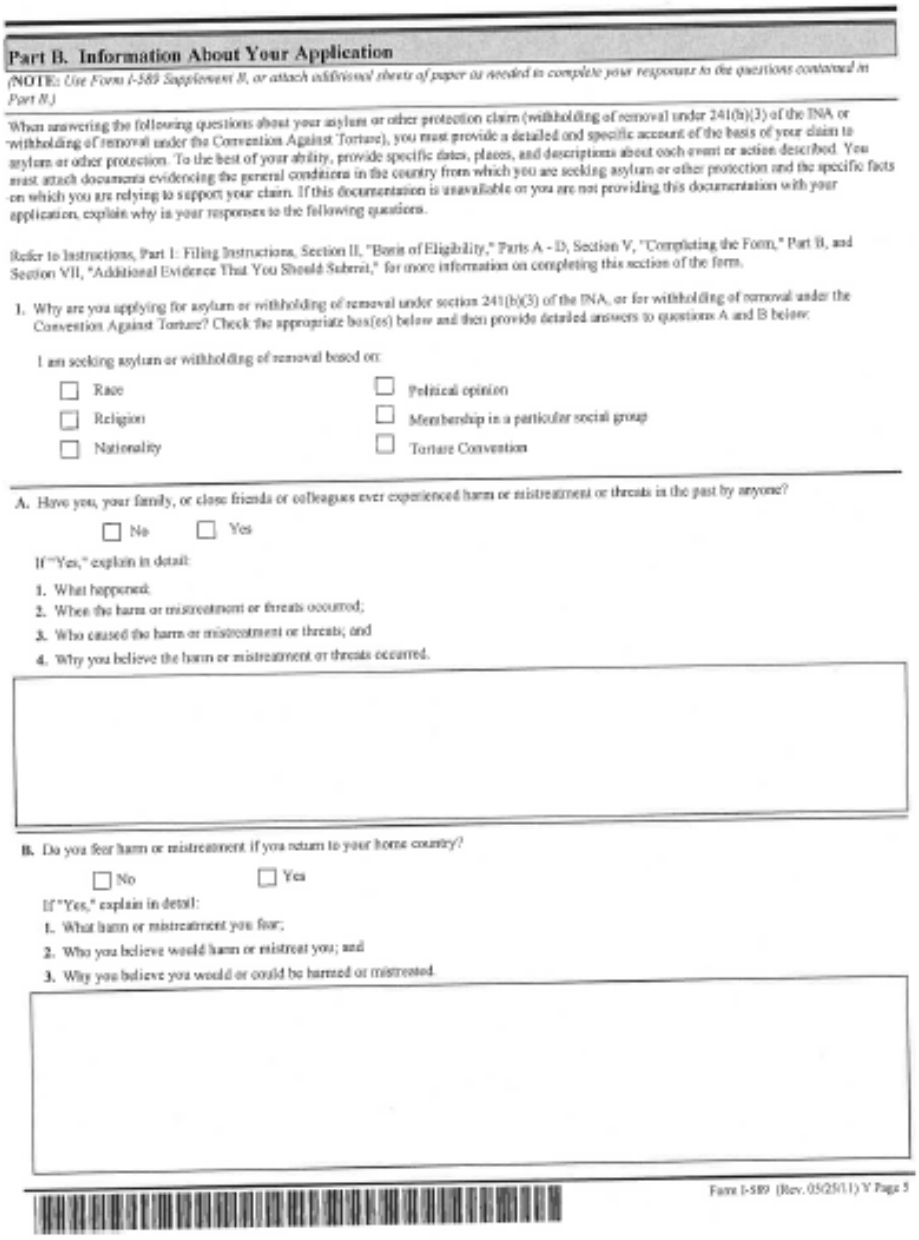
and documentary practice that I hope readily materialized from this chapter. The first question I kept coming back to relates to the conditions of production of asylum documentation: What rationale entail for legal advocates and experts working on asylum cases to emphasize claimants' own voice and words—disjointed thoughts and fragmented memories due to fear of persecution—to be reflected in the affidavit that is crafted with precision and consistency, and in a coherent and a chronological suffering narrative, to ultimately distinguish it from legal expertise and language required for its representation in the courtroom to increase (at least potentially) credibility of the asylum claimant? The dual invocation of fear in asylum seekers—either as a consequence of recounting one's "past-persecution" or as a cause of absolute unpredictability in the asylum decision—and gauging of credibility by lawyers throughout the interpretation signals the inevitability and even importance of inconsistency and open-endedness required of asylum documentation. To me, it suggests that fear and credibility, though seemingly invoked for unconnected reasons, may be more intimately linked than generally acknowledged in the asylum legal procedure.

My second concern has to do with the reverse, and not necessarily contradictory logic, about the efficacy of the I-589 form when presented in front of the judge: Why emphasize the fragmented and disjointed thoughts, words, and "authentic" voice of claimants when many lawyers, indeed most of whom I assisted in the asylum interpretation cases, whether it was their first or tenth asylum case,

unanimously declared absolute unpredictability of the judge's decision? The force of credibility that I am describing here therefore does not depend on narrative coherence and legal consistency. Rather, it is a credibility that is suspended, even assumed to be in possession of the asylum judge or the officer that has the absolute authority over the lives of asylum seekers. When credibility is undermined, even when it may be revealed that asylum claimant is displaying "real" fear, there is clearly a relationship between judicial power and invocation of fear, and inconsistency and documentation, worth exploring further.

Determining "claimant credibility" is unpredictable in legal assessment of asylum cases while remaining central for lawyers assisting with Nepali asylum claimants (as illustrated above). There are no hard and fast rules or facts about this. That establishing credibility of a claimant has very little to do with the "generally known facts" or individual's "extraordinary personal circumstances" presented as evidence to the court is not up for debate. As Tobias Kelly has argued in the context of asylum procedure in the United Kingdom, "the courts recognize that credibility is in the eye of the beholder" and, more importantly, "rejections on the grounds of lack of credibility are very difficult to take further" (2012: 64). Thus, the fact that asylum decisions are completely erratic and based on the discretionary power of the judge or an asylum officer is irrefutable although not publicly acknowledged. This is quite simple. What is of interest to me then is how (and in what specific ways) do lawyers and human rights workers align what they must *do* with what they say *they do* to ensure

"claimant credibility." More importantly, *how* is this elusive thing called credibility might be put into practice by asylum lawyers and human rights experts? This is the subject I examine in some detail in the next chapter.



Part B. Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part B.)

When answering the following questions about your asylum or other protection claim (withholding of removal under 241(b)(3) of the INA or withholding of removal under the Convention Against Torture), you must provide a detailed and specific account of the basis of your claim to asylum or other protection. To the best of your ability, provide specific dates, places, and descriptions about each event or action described. You must attach documents evidencing the general conditions in the country from which you are seeking asylum or other protection and the specific facts on which you are relying to support your claim. If this documentation is unavailable or you are not providing this documentation with your application, explain why in your responses to the following questions.

Refer to Instructions, Part 1: Filing Instructions, Section II, "Basis of Eligibility," Parts A - D, Section V, "Completing the Form," Part B, and Section VII, "Additional Evidence That You Should Submit," for more information on completing this section of the form.

1. Why are you applying for asylum or withholding of removal under section 241(b)(3) of the INA, or for withholding of removal under the Convention Against Torture? Check the appropriate box(es) below and then provide detailed answers to questions A and B below:

I am seeking asylum or withholding of removal based on:

- ☐ Race
- ☐ Religion
- ☐ Nationality
- ☐ Political opinion
- ☐ Membership in a particular social group
- ☐ Torture Convention

A. Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?

☐ No ☐ Yes

If "Yes," explain in detail:

1. What happened;
2. When the harm or mistreatment or threats occurred;
3. Who caused the harm or mistreatment or threats; and
4. Why you believe the harm or mistreatment or threats occurred.

B. Do you fear harm or mistreatment if you return to your home country?

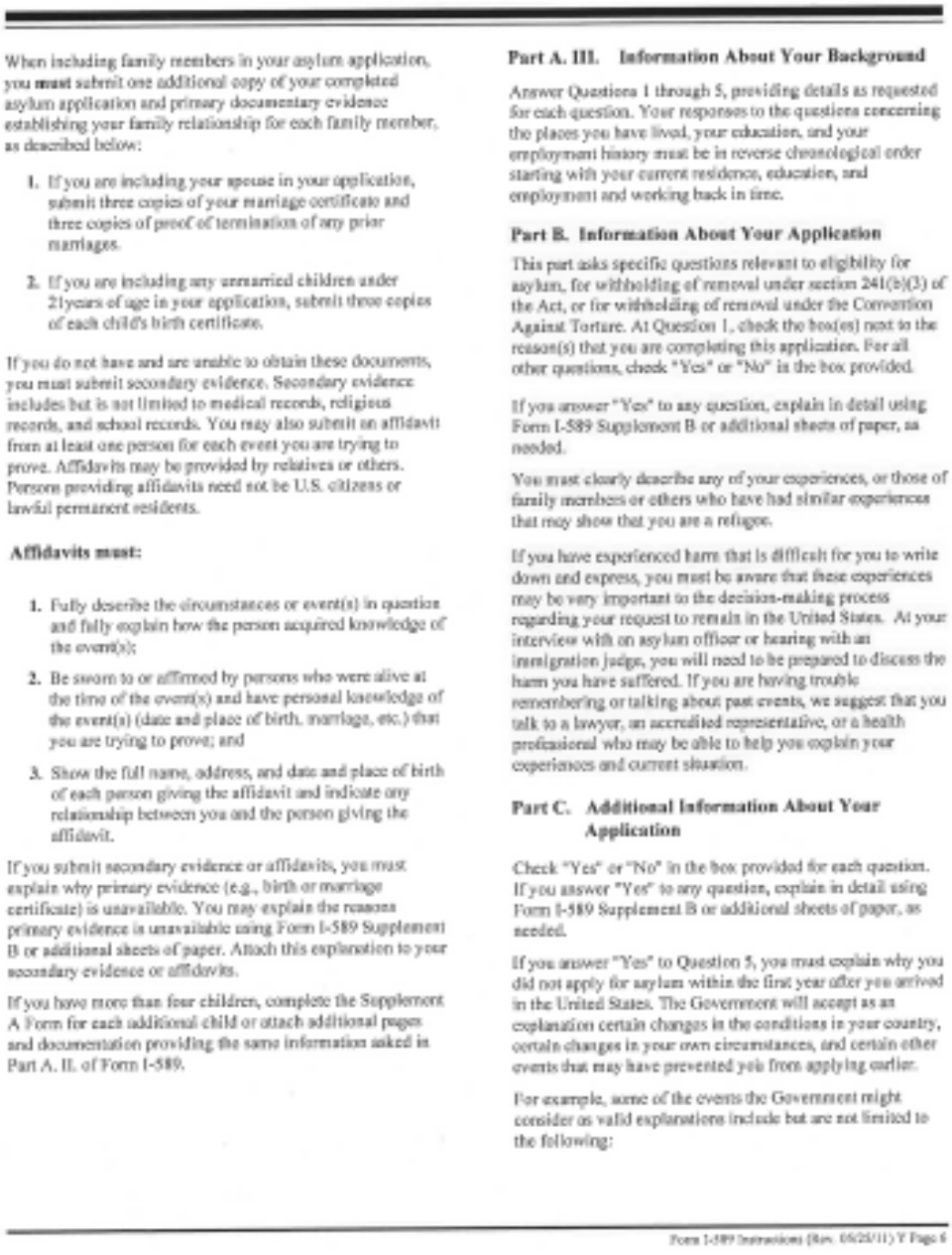
☐ No ☐ Yes

If "Yes," explain in detail:

1. What harm or mistreatment you fear;
2. Who you believe would harm or mistreat you; and
3. Why you believe you would or could be harmed or mistreated.

Form I-589 (Rev. 05/25/11) Y Page 5

Figure 1.1: *Form I-589, Application for Asylum and for Withholding of Removal (***Page 5***)*



When including family members in your asylum application, you **must** submit one additional copy of your completed asylum application and primary documentary evidence establishing your family relationship for each family member, as described below:

1. If you are including your spouse in your application, submit three copies of your marriage certificate and three copies of proof of termination of any prior marriages.
2. If you are including any unmarried children under 21years of age in your application, submit three copies of each child's birth certificate.

If you do not have and are unable to obtain these documents, you must submit secondary evidence. Secondary evidence includes but is not limited to medical records, religious records, and school records. You may also submit an affidavit from at least one person for each event you are trying to prove. Affidavits may be provided by relatives or others. Persons providing affidavits need not be U.S. citizens or lawful permanent residents.

Affidavits must:

1. Fully describe the circumstances or event(s) in question and fully explain how the person acquired knowledge of the event(s);
2. Be sworn to or affirmed by persons who were alive at the time of the event(s) and have personal knowledge of the event(s) (date and place of birth, marriage, etc.) that you are trying to prove; and
3. Show the full name, address, and date and place of birth of each person giving the affidavit and indicate any relationship between you and the person giving the affidavit.

If you submit secondary evidence or affidavits, you must explain why primary evidence (e.g., birth or marriage certificate) is unavailable. You may explain the reasons primary evidence is unavailable using Form I-589 Supplement B or additional sheets of paper. Attach this explanation to your secondary evidence or affidavits.

If you have more than four children, complete the Supplement A Form for each additional child or attach additional pages and documentation providing the same information asked in Part A. II. of Form I-589.

Part A. III. Information About Your Background

Answer Questions 1 through 5, providing details as requested for each question. Your responses to the questions concerning the places you have lived, your education, and your employment history must be in reverse chronological order starting with your current residence, education, and employment and working back in time.

Part B. Information About Your Application

This part asks specific questions relevant to eligibility for asylum, for withholding of removal under section 241(b)(3) of the Act, or for withholding of removal under the Convention Against Torture. At Question 1, check the box(es) next to the reason(s) that you are completing this application. For all other questions, check "Yes" or "No" in the box provided.

If you answer "Yes" to any question, explain in detail using Form I-589 Supplement B or additional sheets of paper, as needed.

You must clearly describe any of your experiences, or those of family members or others who have had similar experiences that may show that you are a refugee.

If you have experienced harm that is difficult for you to write down and express, you must be aware that these experiences may be very important to the decision-making process regarding your request to remain in the United States. At your interview with an asylum officer or hearing with an immigration judge, you will need to be prepared to discuss the harm you have suffered. If you are having trouble remembering or talking about past events, we suggest that you talk to a lawyer, an accredited representative, or a health professional who may be able to help you explain your experiences and current situation.

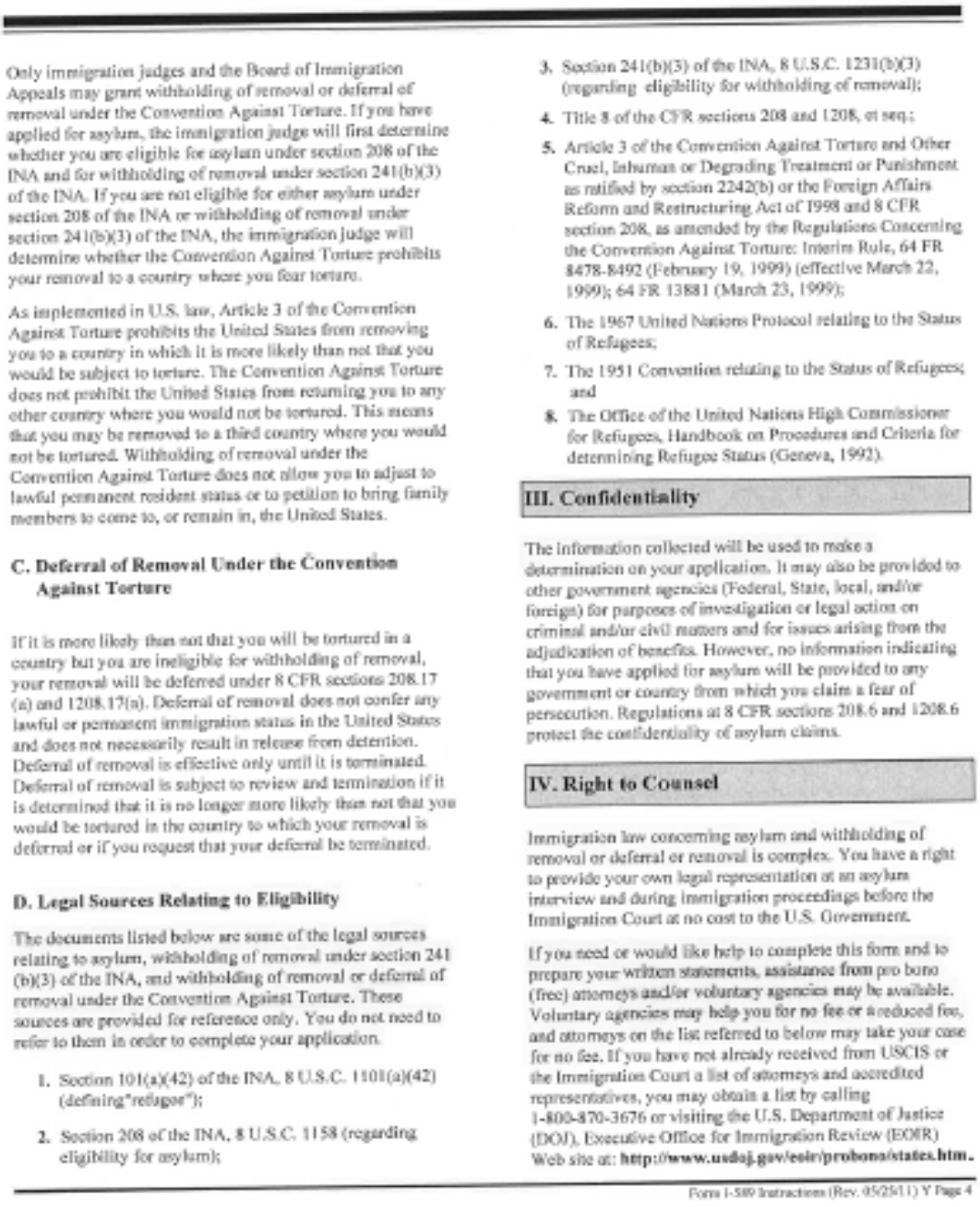
Part C. Additional Information About Your Application

Check "Yes" or "No" in the box provided for each question. If you answer "Yes" to any question, explain in detail using Form I-589 Supplement B or additional sheets of paper, as needed.

If you answer "Yes" to Question 5, you must explain why you did not apply for asylum within the first year after you arrived in the United States. The Government will accept as an explanation certain changes in the conditions in your country, certain changes in your own circumstances, and certain other events that may have prevented you from applying earlier.

For example, some of the events the Government might consider as valid explanations include but are not limited to the following:

Figure 1.2: *Form I-589, Application for Asylum and for Withholding of Removal* **Instructions (Page 6)**



Only immigration judges and the Board of Immigration Appeals may grant withholding of removal or deferral of removal under the Convention Against Torture. If you have applied for asylum, the immigration judge will first determine whether you are eligible for asylum under section 208 of the INA and for withholding of removal under section 241(b)(3) of the INA. If you are not eligible for either asylum under section 208 of the INA or withholding of removal under section 241(b)(3) of the INA, the immigration judge will determine whether the Convention Against Torture prohibits your removal to a country where you fear torture.

As implemented in U.S. law, Article 3 of the Convention Against Torture prohibits the United States from removing you to a country in which it is more likely than not that you would be subject to torture. The Convention Against Torture does not prohibit the United States from returning you to any other country where you would not be tortured. This means that you may be removed to a third country where you would not be tortured. Withholding of removal under the Convention Against Torture does not allow you to adjust to lawful permanent resident status or to petition to bring family members to come to, or remain in, the United States.

C. Deferral of Removal Under the Convention Against Torture

If it is more likely than not that you will be tortured in a country but you are ineligible for withholding of removal, your removal will be deferred under 8 CFR sections 208.17 (a) and 1208.17(a). Deferral of removal does not confer any lawful or permanent immigration status in the United States and does not necessarily result in release from detention. Deferral of removal is effective only until it is terminated. Deferral of removal is subject to review and termination if it is determined that it is no longer more likely than not that you would be tortured in the country to which your removal is deferred or if you request that your deferral be terminated.

D. Legal Sources Relating to Eligibility

The documents listed below are some of the legal sources relating to asylum, withholding of removal under section 241 (b)(3) of the INA, and withholding of removal or deferral of removal under the Convention Against Torture. These sources are provided for reference only. You do not need to refer to them in order to complete your application.

1. Section 101(a)(42) of the INA, 8 U.S.C. 1101(a)(42) (defining "refugee");
2. Section 208 of the INA, 8 U.S.C. 1158 (regarding eligibility for asylum);
3. Section 241(b)(3) of the INA, 8 U.S.C. 1231(b)(3) (regarding eligibility for withholding of removal);
4. Title 8 of the CFR sections 208 and 1208, et seq.;
5. Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as ratified by section 2242(b) of the Foreign Affairs Reform and Restructuring Act of 1998 and 8 CFR section 208, as amended by the Regulations Concerning the Convention Against Torture: Interim Rule, 64 FR 8478-8492 (February 19, 1999) (effective March 22, 1999); 64 FR 13881 (March 23, 1999);
6. The 1967 United Nations Protocol relating to the Status of Refugees;
7. The 1951 Convention relating to the Status of Refugees; and
8. The Office of the United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for determining Refugee Status (Geneva, 1992).

III. Confidentiality

The information collected will be used to make a determination on your application. It may also be provided to other government agencies (Federal, State, local, and/or foreign) for purposes of investigation or legal action on criminal and/or civil matters and for issues arising from the adjudication of benefits. However, no information indicating that you have applied for asylum will be provided to any government or country from which you claim a fear of persecution. Regulations at 8 CFR sections 208.6 and 1208.6 protect the confidentiality of asylum claims.

IV. Right to Counsel

Immigration law concerning asylum and withholding of removal or deferral or removal is complex. You have a right to provide your own legal representation at an asylum interview and during immigration proceedings before the Immigration Court at no cost to the U.S. Government.

If you need or would like help to complete this form and to prepare your written statements, assistance from pro bono (free) attorneys and/or voluntary agencies may be available. Voluntary agencies may help you for no fee or a reduced fee, and attorneys on the list referred to below may take your case for no fee. If you have not already received from USCIS or the Immigration Court a list of attorneys and accredited representatives, you may obtain a list by calling 1-800-870-3676 or visiting the U.S. Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) Web site at: **http://www.usdoj.gov/eoir/probono/states.htm.**

Form I-589 Instructions (Rev. 05/25/11) Y Page 4

Figure 1.3: *Form I-589, Application for Asylum and for Withholding of Removal* **Instructions (Page 4)**

CHAPTER FIVE

Asylum cultural orientation: putting "claimant credibility" into practice

"…for most human action is less a product of intellectual deliberation and conscious choice than a matter of continual, intuitive, and opportunistic changes of course—a 'cybernetic' switching between alternatives that promise more or less satisfactory solutions to the ever-changing situation at hand."
--Michael Jackson (*Existential Anthropology: Events, Exigencies, and Effects*, 2005: xii)

In the last chapter, I focused on the creation of the document and how it 'talks back.' This chapter expands on this argument by documenting asylum process that structures socio-legal relationship between asylum claimants and pro bono lawyer lawyers—a template for not only thinking and self-reflection but the condition to social engagement, performance, and action. I emphasize how the production of asylum claimants as victims correspond equally with the production of compassionate actors/agents—suffering narrative looks different depending on variety of positions people occupy in the spectrum of asylum cultural system and experiences that they draw on and interpret them accordingly. In particular, I discuss asylum claimant-pro bono lawyer relationship through the lens of "claimant credibility" as a discourse and practice orienting lawyers and human rights workers' professional outlook and action in their everyday engagement with the asylum work.

Claimant credibility reconsidered

By focusing on legal practices surrounding asylum claimant credibility as an object of analysis, I highlight that legal-political and bureaucratic motivations and

compassion practiced by both state and non-state actors to justify and simultaneously give meaning to doing their job effectively eclipse larger ideological agendas they themselves may be adhering to, if unconsciously. Consequently, it elucidates that a commonly shared ideological stances and cultural practices among private and privileged U.S. citizens may play an important role despite variation in their actual face-to-face interviews and repeated encounters with asylum claimants, directly shaping and reinforcing their declared liberal, progressive outlook and action. At a basic level, parallel and unanimous consensus seem to exist on the issue of credibility between those labeled as the US state representatives and those described as non-state, humanitarian agents than generally acknowledged in the burgeoning study of asylum and immigration, particularly in the legal production of migrant subjectivities.

The ambiguous and uncertain nature of the term credibility has only received some anthropological attention, if indirectly, by scholars (Good 2011; Kelly 2011; Maklin 2007) who have served as expert witnesses or written country condition reports for asylum seekers and have extensively researched on asylum judicial and legal proceedings. In his succinct study on "Witness statements and credibility assessments in the British asylum courts," Anthony Good reflects on what exactly is meant by credibility in the asylum courts, by referring to the broad definition in the UNHCR Handbook employed by legal practitioners: "basic requirement is that the asylum seeker's account should be 'consistent and plausible,' and 'not run counter to generally known facts'" (UNHCR 1992: 204, cited in Good 2011: 4). He proceeds by

arguing that credibility can never be completely unambiguous—it merely manages to push the limits of the "corroborative" evidence provided by the claimants or his/her legal representative a bit further in asylum court hearings without necessarily overturning a denied asylum claims. To quote Kelly's related view: "credibility is often an issue of assessing limited oral evidence against a range of written evidence, looking behind both, to make an assessment of the motivations of those who produced the evidence" (2012: 65). Writing in the same vein the utter impossibility of determining rationality behind credibility, Maklin has stated, "Decision makers may put a lot of faith in their 'gut feeling' about credibility, but recognize that gut feeling does not amount to a legally defensible basis for a decision" (2007: 1103). Both Kelly and Good particularly draw on the distinction between "external" and "internal" credibility proposed by the UNHCR manual and employed by legal representatives, government officials and asylum judges in the UK system. "The UK Border Agency has tried to further clarify the issue by providing guidance than divides credibility into 'internal' and 'external' issues. Internal credibility relates to the coherence of the account and the details provided by the applicant. External credibility refers to the 'apparent reasonableness or truthfulness' of the account, without referring to whether the individual is actually telling the truth" (Kelly 2012: 64). "As such," Kelly cites one of the plausibility clauses used in an asylum decision, " 'a story may be plausible and yet may properly be taken as credible; it may be plausible and yet properly not believed.'" (64).

The responses, reactions, and interpretations surrounding credibility that was offered to me by legal experts and human rights workers, for whom I provided interpretation for Nepali asylum cases, can be seen in the same light. Didier Fassin, commenting on contemporary French immigration politics, highlights that the question concerning legalization of undocumented migrants is "less about who is legally present than who can legitimately claim legal status" (2001: 4).

In a similar vein but with a reverse logic, I propose that contemporary US asylum procedures are animated less by who can legitimately establish credibility but who is already assumed not to be credible unless proven otherwise. That is, credibility conceals a particular political agenda and ideology of how society or a nation should be arranged, and who should constitute its supposed credible and suspicious members and incredulous outsiders. It is perhaps this illusion of apparent lack of substantive agenda that makes credibility relatively immune to criticism. Similar arguments about such illusion and invisibility have been made with regards to other terms and concepts often associated with neoliberal governance. Take, for instance, a term like 'transparency' is argued to have "the common lexical currency" (Schumann 2007) central to political-economic discourses and practices on administrative, bureaucratic, economic and democratic reforms (Sanders and West 2001, 2003; Holmes 2000; Pelkman 2009). Pelkman, for instance, shows in the case of Kyrgyzstan that evangelical missionary visions and practices went largely unchallenged in the post-Soviet decade because of their promulgation of terms like 'transparency' and 'free

market.' Pelkman points out that "It legitimize[d] combining humanitarian and proselytizing activities: humanitarian activities are a means to reach people who previously did not 'have a choice' " (2009: 431). As a result, Pelkman writes, "the rhetoric of 'freedom of choice' and of an 'open society'" effectively diverted "attention away from missionary purposes" (432). And one can neither oppose 'transparency' nor criticize 'freedom of choice.' Likewise, it is difficult to argue against credibility or practicing compassion for that matter.

Like the approaches outlined above, this chapter stresses the limitations and ambiguities of practices and discourses centered on credibility. But rather than focusing solely on what remains inaccessible or invisible, I suggest looking at what is made accessible in the process and subsequently made meaningful to those advocating for its significance. I argue that the emphasis on compassion and the ideal of credibility produces analytical shift that put procedural and practical detail in the spotlight, thereby concealing ideological agendas. This logic resonates with a rarely discussed paradox inherent in the term credibility itself. In common speech, 'credibility' refers to situations or people that are reliable, trustworthy, plausible, and free from inconsistency. But this increased believability is gained only upon allowing one's credibility to put to test, so to speak. In other words, questions of credibility arise out of doubt or suspicion, outright or anticipated. In a literal reading it is paradoxical in the sense that when someone is put to the credibility test it is already assumed that he/she is untrustworthy to begin with. Applied to the case at hand, I

argue that 'credibility' directs our gaze on particular details of the now and here, resulting in two parallel outcomes: it obscures the larger political agendas and simultaneously takes for granted the ideological positions occupied by people as social actors (and legal professionals, experts, and practitioners in this case).

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Contextualizing "claimant credibility"

What struck me initially was that in every asylum interpretation cases, lawyers and human rights experts emphasized what they called 'claimant credibility' through and through.

Claimant credibility was then the most important concept with which pro bono lawyers and human rights representatives made sense of the work and the world of asylum that they found themselves completely immersed in: it informed how their lawyering, and especially litigating, skills were useful and put into practice on a regular basis. Cultivating compassion, on the other hand, explained to a greater extent, the 'real' purpose of their hard work and investment into individual asylum cases [that took up so much of their hours in the law firm]. However, 'hard work' and 'compassion' are represented as unmarked, professional as well as ethical ideals embodied in assisting with and representing asylum claimants despite their grounded-ness in material effect for asylum lawyers and human rights practitioners and experts. Similarly, claimant credibility itself is an all-encompassing objective, albeit an elusive

concept, which both produces and is dependent on maintaining a fine balance between legal representatives' compassion and potential claimants' suffering. As such, analyzing the particularities, contradictions, and limitations intrinsic to the concept of claimant credibility—repeatedly and almost involuntary employed by asylum lawyers and experts while referring to asylum narratives and describing individual claimants—I attempt to unfold its value ideologies and predominant use shaping the contemporary asylum seeking process.

I would argue that despite its ubiquitous use by asylum lawyers and human rights experts, 'claimant credibility' remains an uninvestigated concept that needs to be contextualized within particular legal institutional configurations and a specific interpretation of contemporary asylum system. When discussing with pro bono lawyers the concrete measurement and establishment of claimant credibility in the asylum process, I often received an oblique and never a straight-forward response: "The genuine fear of persecution and suffering shown by claimants, backed up by the paper evidence, and consistency in their stories establish their credibility. After all, each asylum decision rests on credibility of the claimant and the claims made by him/her." These responses project a rather ahistorical asylum system across time and space; conflate consistency with credibility; flatten the complexity and multiplicity of enacting and in turn interpreting fear and suffering; and reinforce a dominant, if narrow, approach to suffering. Investigating claimant credibility, then, necessitates delineating its meaning, uses, and consequences for the asylum cases I interpreted as

well as comprehending the emergent cultural ideologies justifying asylum system at large.

Consider, then, an article in *The New York Times* published in early-May 2011 reporting the case of Dominique Strauss-Kahn, the then director of the International Monetary Fund and a likely candidate for the presidency of France, charged with sexually assaulting Ms. Nafissatou Diallo, a hotel chambermaid and a former asylum claimant in New York City. A month later, Mr. Strauss-Kahn stated in a televised interview that the sexual encounter with Ms. Diallo was 'an error' and a result of 'a moral failure' but not a criminal act. During that same month (June 2011), the same newspapers promised to elucidate more details about the story—a rather intrusive and supposedly relevant personal history of the accuser Ms Diallo. One newspaper stated the following: "investigators had uncovered major holes in the *credibility* of Ms. Diallo. Although forensic tests found unambiguous evidence of a sexual encounter between Mr. Strauss-Kahn and Ms. Diallo, prosecutors no longer believed much of what she had told them about the circumstances or about herself." Media sensationalized the story, as one newspaper headline read "A Story with Twists and Turns." Still another newspaper ran the same story titled, "Strauss-Kahn Accuser's Call Alarmed Prosecutors." Media repeatedly reported on Ms. Diallo's "suspicious" past—her immigration history, and in particular, her alleged "fabricated" account of being gang-raped in Guinea and ultimately fleeing to the United States in her asylum application in December 2004. In a matter of less than two months, Ms. Diallo was portrayed as

a victim of sexual assault to a manipulative and a compulsive liar. One newspaper reported the plausible dismissal of the rape charges against Strauss-Kahn on the basis that "little by little her [Ms. Diallo's] *credibility* as a witness crumbled" due to the "*pattern* of untruthfulness" (my emphasis). Debating whether acquitting Strauss-Kahn of the rape charges based on Ms. Diallo's "credibility" was unjust and preposterous, not to mention completely irrelevant to the case at hand, is not an issue that I want to take up here for close analysis. There is an exhaustive list of publications and magazines, following the debate and dissecting it from different angles[34]. For my purpose here, this case provides an important starting point to draw attention to the concept of claimant credibility with which I began this chapter. In particular, the shift in the public discourse on Strauss-Kahn--Diallo case that opened a plethora of vigorous and competing views, opinions, and debate about the "asylum system" and especially the issue of credibility.

During fieldwork, whether I was assisting lawyers with asylum interpretation cases or engaging with them regarding their respective views and opinions about individual asylum cases, there was no phrase I heard more than "claimant credibility." This concept permeated almost every conversation and discussion I had with human

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[34] Here are some of the *New York Times* articles on this issue: Dwyer, Jim, William Rashbaum and John Eligon (June 30 2011) "Strauss-Kahn Prosecution Said to Be Near Collapse." Retrieved from http://www.nytimes.com/2011/07/01/nyregion/strauss-kahn-case-seen-as-in-jeopardy.html?pagewanted=all&_r=0; Dwyer, Jim, and Michael Wilson (July 11 2011). "Strauss-Kahn Accuser's Call Alarmed Prosecutors." Retrieved from http://www.nytimes.com/2011/07/02/nyregion/one-revelation-after-another-undercut-strauss-kahn-accusers-credibility.html?_r=1

rights workers, case managers, and asylum lawyers— nearly everyone who had worked in the asylum system. For my legal interlocutors and collaborators, "claimant credibility" meant more than taking an asylum assignment or representing and advocating for asylum claimants: it also signified an assertion of purpose that materialized into a concrete action that nonetheless depended on their and their claimants' performances. Ensuring and advocating for claimant credibility for lawyers was as much an ethical as professional concern upon taking up asylum assignments. It was a peculiar yardstick with which to measure individual's commitment and asylum institutional practices, fundamental values, and its continued existence. Because claimant credibility is the standard by which asylum laws and debates about its institutional workings are constructed and measured, I approach it as a critical component connecting the American asylum culture.

In my initial discussions with pro bono lawyers in private law firms and human rights workers, one of the primary concerns was to understand how asylum lawyers and advocates negotiated the link between their acute preoccupation with claimant credibility and the massive 'backlog' of cases awaiting legal representation, merit hearings and decisions, and the all-time high asylum rejections and denials despite proper representation and advocacy. Nearly every asylum expert and professional I encountered in the city took it for granted that claimant credibility is the most critical aspect in the asylum-seeking process. When I asked Laura, an asylum and human rights lawyer, what was the single most important reason to represent and advocate

for individual asylum claimants, she replied that legal representation increased the chance of establishing claimant credibility and the trust between claimants and their legal representatives. "The purpose of continuing to do this work," she told me, "was to ensure that every potential asylum claimant has the opportunity to establish his/her credibility through legal representation," adding that "rather than asylum seekers be automatically held for deportation procedure or, worse, detained without being heard." Elizabeth, a litigation lawyer, gave a similar response. "What asylum legal representation does is try to improve claimant credibility for clients that they are advocating for. And that, professionally and morally, it is the right thing to do." Lisa, upon successfully winning Priya's case, shared with me that her experience of working with a dozen of asylum cases in the past three years had helped her prepare individual claimant thoroughly that his/her the issue of "undermining" claimant credibility never existed for her; further, she prided in the efficiency with which she was now able to prepare her clients for the court hearings.

What struck me initially was that in most asylum interpretation cases lawyers articulations of claimant credibility as the primary goal of all legal representation, there was hardly an acknowledgment of how this strict adherence to credibility depended as much on face-to-face encounter and intense interpretation sessions with individual claimant they advised as on the production of asylum legal documentation—I-589 form, client affidavit, and expert witness reports. While my interlocutors recognize the consequences of claimant credibility being questioned despite proper legal

representation and documentation—ultimately resulting in the outright rejection of asylum claims in some cases, and the instantaneous processing of deportation of claimants in most cases—the significance of their own initial interactions with claimants throughout the asylum process were often uttered as a matter of fact and business as usual to establish credibility rather than something that emerged out of the first several intense engagements and negotiations of competing views and perspectives. In other words, the asylum interpretation and interview sessions were merely seen as a set of preliminary work—useful but not indispensable—to ensure claimant credibility was appropriately reflected on asylum legal documentation and during training for witness preparation prior to merit hearings. This is not to say that asylum lawyers were not sympathetic or aware of the intense work that asylum interpretation and interview sessions required—over a period of eight months to up to two or even three years for each case. In fact, most had thought about extensive period of asylum interpretation sessions and acknowledged the unprecedented time and energy, including their own, which typically characterized claimant-credibility-driven legal representation. Yet they did not see or acknowledge how extensive asylum interpretation sessions they were practicing and advocating via directly employing their litigation skills were in fact the basis for co-constructing claimant credibility. Indeed, claimant credibility was not something that was determined in advance, say, prior to the screening interviews and rigorous interpretation sessions at human rights organizations and private law firms. What was I missing?

Based on my own background and academic exposure to anthropology of law, I was aware of the rigorous professionalization that top law schools in the country required of their law students—thus attorneys—into "Thinking like a lawyer" (Mertz 2008). In particular, Mertz's exploration of the extent to which attorneys are socialized into 'naturalizing' law and legal process that it takes a life of its own, so to speak. Mertz's ethnography shows how law school classrooms emphasize not only the interpretation of individual cases but also the manner in which they are presented (via language of law) and litigated. This training of law students, as future lawyers, depends on their ability to effectively normalize the official language of law, thereby reinforcing the perceived neutrality of the law. Such a socialization (or professionalization) then rests on "willful suspension of disbelief," where believing in their client's story and their "credibility" become an ethical imperative for lawyers. It also makes the client-interrogating process geared toward legality, separated from what lawyers interpret as moral orientation or reasoning despite the unclear boundary between the two throughout the legal procedure. Lawyers are, thus, trained to elicit "legal" accounts of their client's grievances and claims by overlooking and even actively evading those that may remotely pass as "moral" reasons.

This is also similar to Conley and O'Barr's (1990) proposition regarding "rule-based" versus "relational-based"[35] accounts and how each materializes in actual legal

[35] Conley and O'Barr identify a rules-relationships continuum, which they believe, explains litigants diverse outlooks of the legal system and their expectations of the rights and responsibilities. Rules-oriented litigants

procedures. Further, legal practitioners are taught primarily through intensive study of court cases, judicial procedures, and decisions in which contextual detail is removed from the preceding events. This, according to Conley and O'Barr, is seen as a principle factor that allows legal professionals and scholars to argue that law is "predominantly about purportedly neutral principles…believed to transcend human variation" (1990: 9). They further insist:

> The discourse which is the raw material of the case is treated as transparent, transformed into a window through which the law views the set of constructed meanings it calls 'facts' ... Most law school teaching is still premised on the formalist belief that law is a set of discoverable principles and its corollary assumption that judges find facts, and then identify and apply the relevant legal principles (1990: 11).

Given my assumption about claimant credibility arising out of my own interaction between claimants and their lawyers, I jumped at the opportunity to talk to Katie, one of the pro bono lawyers for whom I had provided interpretation and who would help me clear my confusion. I had been eager to talk to Katie mainly because of her slightly different positionality as an asylum lawyer: she worked as a clerk for an immigration judge in the 2nd circuit before taking up a job in the private law firm.

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are described as people interpreting disputes through rules and principles that comply with legal structure and use deductive method to search for human agent as the cause. Litigants who show relational-orientation, in contrast, use inductive method to interpret disputes by addressing broad social rules. According to Conley and O'Barr, relational-oriented litigants' accounts can be seen as imprecise, illogical, and irrelevant to the case.

Katie spoke of many asylum claims while working as a clerk, where many people had "fabricated their stories and obtained asylum" and more credible claimants without proper legal representation being denied. Because she was not in a position to challenge or dispute any of those "fabricated" cases she grudgingly approved and to provide assistance to credible claimants, she felt the need to "do something" about "genuine refugees and *credible* asylum seekers trying to obtain asylum in the US." Situated at these crossroads, Katie was "the ideal" interlocutor. I was hopeful that Katie could capture the ongoing relationship between the frequency of asylum interview and interpretation sessions with that of establishing claimant credibility. Assuming that Katie would be alert of the elusive nature of claimant credibility and more forthcoming to acknowledge the limitations offered by the concept, I asked "Do you see there is an inherent inconsistency between establishing claimant credibility and the actual asylum process—the fact that asylum seekers already occupy a role of suspicious individuals given that asylum interpretation sessions and interviews go on for years—especially the process of building mutual trust between you and your clients?" She seemed confused by my question and my line of reasoning. She answered in the following way:

> *Here is what you need to understand*—claimant credibility is not so much established as it is undermined during merit hearings. So far as the claimant credibility goes, we get asylum cases through referral from well-established human rights agencies and non-profit organizations where the cases already go through rigorous screening and interviewing process. What we are thinking when we

> take asylum assignments is not 'is this asylum seeker credible' but 'how do we do everything so that claimant credibility is not questioned by the judge or the asylum officer.' Many law firms like ours represent big companies and time is a luxury that we cannot afford. You see the asylum cases we take up are pro-bono. The amount of time we put in is completely voluntary, not to mention unpaid. The firm as a whole is less likely to spend time doing 'fact-check' or be concerned with claimant credibility. Once we accept the asylum assignment, the assumption is that they are credible. Thus, winning the case becomes absolutely important for those of us working in private law firms given that we have insane hours of doing regular, mind numbing, paid-work although it is not as personally fulfilling as asylum work. The private law firms like ours do not care how much hours and emotional investment we may put into each asylum case…if we do not win we have nothing to show for all our hard work…(my emphasis)

I was stunned. Katie promised to illuminate me with the subtler and unpronounced components sustaining the US asylum system by exclaiming, "Here is what you need to understand," and filling me in with details and, to a great extent, bringing me up to speed with the rationale associated with and beyond asylum work. In particular, by presuming the relationship between claimant credibility and asylum interpretation sessions (because for me, as an interpreter-ethnographer, the legal questioning and repeated inquiry into claimants' stories and the co-construction of the asylum suffering narratives as well as documentation practice clearly marked an important aspect of establishing credibility), I had somehow completely missed the

point. Whereas I had assumed that the asylum interpretation sessions in private law firms were structured to gauge claimant credibility, the most important being investigation process prior to and during filling out of the I-589 Asylum Application Form and client affidavit, Katie understood the screening process at the human rights organizations to have already established claimant credibility. I had thought that the purpose of intense interrogation was about assessing validity of asylum claims and consistency in claimants' stories, fact-checking their version of suffering narratives with that of expert witnesses, and that the crux of filing and submitting asylum claims lied in distinguishing between credible stories from supposedly implausible ones. However, Katie said that the work of pro bono lawyers representing asylum claimants was about doing everything to prevent claimant credibility from being undermined during case hearings and critical components of asylum interpretation and investigation facilitated lawyers to providing superior legal representation to those unable (whether due to lack of resources or information) to seek legal advise or representation otherwise. She spoke passionately about asylum work that she had been invested in and how providing legal assistance and representation to *credible* asylum seekers realigned her purpose of practicing compassion.

In this worldview, asylum interviews and interpretations sessions in the private firms did not so much increase claimant credibility as to ensure that it was not undermined, and any attempt to interpret their close relationship and one effecting the other seemed unthinkable or, at least, unquestionable for lawyers like Katie. Although in

the contemporary history of asylum legal practices in the United States, ensuring claimant credibility is not new, what is clearly unique is the increased involvement of private law firms in the asylum cases and litigation lawyers' perspective of claimant credibility to have been already established and to be external to the intense engagements and interactions throughout asylum interpretations. Thus, for Katie, establishing claimant credibility during asylum interpretations or co-constructing asylum suffering narratives did not present any conflict based on her previous experience of working as a clerk and, now, a lawyer in a private law firm.

What I also observed during my two years of fieldwork, interpreting for asylum claims, was that simultaneous with the frequent usage of claimant credibility among pro bono lawyers and human rights workers was the rationalization of a combination of compassionate work and professional expertise and efficiency required in assisting with asylum cases—playing a role of a legal advocate, an advisor, facilitating smooth and compelling translation of suffering stories into the legal language, allowing claimants voices to be heard. In other words, protecting claimant credibility itself as a condition to continuing their profession and practicing efficiency and compassion required in working with asylum claimants. In the face of this 'fact,' asylum lawyers continued to maintain a faith in the utmost importance of claimant credibility. Although some of the my interlocutors began to question whether or not claimant credibility was appropriately established during asylum interpretation and documentation practices, especially in the cases where judges denied asylum and

lawyers had to appeal to the BIA (as in the case of Tshering discussed in some detail in chapter two), such a doubt did not seem to subvert their belief in the righteousness and compassion required of their investment into and continued engagement with the asylum cases, nor their belief about assumed impartiality in the asylum judiciary proceedings and hearings.

Their approach to, and understanding of, claimant credibility was somewhat limited, if not contradictory, in two important ways. In one sense, most asylum lawyers simultaneously assumed claimant credibility while rationalizing possibilities of it being undermined by the asylum officers and immigration judges. More experienced lawyers, who have experienced overseeing and working on a wide-variety of asylum cases, could discern the problematic nature of the discretionary power of the government officials and judges. Yet the particular logic surrounding claimant credibility gave asylum lawyers the tools to articulate their professional position in representing asylum claimants, even explain their action in terms of performance and efficiency. In another sense, a contradiction existed between their understanding of claimant credibility as having already existed prior to asylum interpretation and documentation process yet the intense interrogation, legal translation, and documentation of suffering narrative reveal *suspended* belief of credibility and its consequences at the least. To understand my interlocutors' narratives of claimant credibility, it is crucial to situate their explanations and rationale within the broader

understanding of how and why proliferation of claimant credibility became a dominant topic in the contemporary asylum process in the first place.

"Working hard to ensure 'claimant credibility'"

Katie explained to me that even in the obvious and an "extraordinary" case of torture, legal interpretation of claimant credibility was required. Drawing on the case, she said, "It is difficult to know exactly what part of the claimant's life would ultimately be considered significant and credible at the merit hearing. In Radha's case, as you saw, everything we did was to go around explaining the 9-year lapse in filing the asylum application." The deadline to file the I-589 application for asylum and withholding of removal is 1-year and the case Katie represented and I provided interpretation during prep-session prior to the case hearing involved a Nepali female claimant seeking asylum on the basis of political violence she suffered 9 years before her arrival to the US. Katie continued, "Can you believe that it has 1 year deadline, and we were stuck having to make-up for 9 years of explaining Radha's stay in the US without filing for asylum. I mean, even her marriage to the white American guy was kind of suspicious since it lasted less than a year. So we explained and provided evidence of how she was traumatized by her marriage and was taken advantage by so many people for the last 9 years in the US!" Katie did not seem to find any contradiction that her claimant was deemed credible and granted asylum on the basis that her life in the US, and not Nepal, was miserable. When asked how details of

Radha's bad marriage in the US were considered *relevant* to the asylum claims, Katie mentioned that it was a combination of Radha's "extraordinary personal circumstances," including mental health problems and depression and the political changes occurring in Nepal. Since I had attended Radha's case hearing I inquired Katie if the fact that the judge mentioned she had been to Nepal and had retired friends living there made a difference in her decision. Katie immediately agreed, "Yes, of course. We were extremely fortunate to have had a judge who knew about Nepali culture. Her cultural knowledge and compassion played important roles in going forward with Radha's case and not undermining her credibility. But more than that, we were lucky to have had such a compassionate judge." The fact that Radha's *credibility* had primarily depended on the judge's "cultural knowledge" of the ongoing political situation in Nepal from her brief visit did not particularly seem contradictory or legally irrelevant to Katie. Indeed, Radha's was an "extraordinary" hearing. Still Katie's emphasis that judge's compassion prevented undermining of claimant credibility and ultimately obtaining asylum for her client is something that needs to be contextualized in the legal discussion of credibility.

Whether or not claimant credibility was questioned or completely undermined, however, was not unambiguous. Despite pro bono lawyers' rationalization of claimant credibility involved in the asylum process and their stress on the compassionate nature of the asylum work, their interactions with claimants during asylum documentation and interpretation sessions revealed a sometimes-contrived

faith in claimant credibility and its actual manifestations in their enactments. Although it was clear that the asylum assignments they took on were those they deemed credible, not all my interlocutors took for granted or explained claimant credibility to exist prior to actual engagement with individual claimants during asylum interpretations. I would not go as far to suggest that my interlocutors as a whole were perfectly aware that the logic of claimant credibility contradicted the protracted process of asylum documentation and interpretation that they deliberately participated in exacerbating their clients' indeterminate legal statuses while remaining skeptical of their asylum claims. In the next section, I trace a diversity of contradictory incidents I encountered regarding claimant credibility throughout interpretation sessions in my fieldwork and beyond.

On the one hand, I continually learned of unwavering adherence to claimant credibility as that which existed prior taking up individual cases, and on the others, I constantly witnessed instances of lawyers share 'failed' or rejected asylum cases despite being credible. For example, one of Katie's colleagues Elise agreed to speak to me about her experience of working with rejected asylum cases from different countries. When Elise first met me she thought I was a potential asylum claimant. When she realized that I was an interpreter, she was frank about her views on asylum seekers: she said she primarily felt sorry for asylum claimants. In the last four years she had worked closely with over a dozen of asylum seekers and supervised many junior associates in the firm. As a second-generation immigrant herself and her

parents fleeing from political violence in eastern Europe, she said that she understood the plight of many asylum seekers wanting to bring their families to the US but that they needed to lose their "immigrant mentality" and "cultural biases" upon coming to the US. Confused by her statement, I asked for clarification. Instead, she immediately recounted two separate asylum stories for me to illuminate her point: first, a case of 30-year old female asylum-claimant from Mali who had not had genital surgery and was seen as an outcast among her Malian community causing her mental and emotional distress even after having fled to the US and obtained asylum; and second, a case of a young male from Nigeria who, upon receiving ill advise from his Nigerian friends in the migrant community, hid critical information from her about specific incidents pertaining to his claims that ended up "hurting" than doing good for his case. At the end of our meeting she told me that she was leaving the firm and no longer wanted to work on asylum claims. She admitted that she was burnt out after seeing too many claims get denied when she knew they were credible and any lawyer who had extensively worked with as many asylum claimants as she had would understand her sentiments. She added that this line of work required patience and compassion without ever being certain of the actual outcome—asylum decision. When asked what entailed patience and compassion, she responded in the following way:

> As you know already how long these asylum cases can go on—2 or 3 years. Especially claimant preparation and interpretation sessions are thorough,

extensive, and quite taxing. During the asylum seeking process it is important to build trust with your clients and in these cases it can take several months.

According to both short-term and long-term measures, pro bono lawyers' perspectives and opinions regarding claimant credibility fluctuated in many instances. Whether claimant credibility was thought to have existed prior to the asylum documentation and interpretation process or that which gradually emerged through engagement with individual claimants over the course of 2 years, almost all of my interlocutors pointed, if unintentionally, to its intricate connection to their job obligation, efficiency, and especially work of practicing patience and compassion. Seen this way, claimant credibility must be read as a specifically cultural strategy in the co-production, circulation, and reinforcement of suffering narrative and its appropriate alignment with asylum victimhood. This logic of claimant credibility imposed certain legal and extra-legal practices that ensured, on the most fundamental level, the undocumented or at least publicly unacknowledged yet indispensable component of the asylum process in the US.

"You just have to be a good actor": The role of performance and efficiency in claimant credibility narratives

The question then becomes, how did my interlocutors manage, rationalize, and explain the failures of the claimant credibility strategy (whether existing prior to or emerging out of the asylum documentation and interpretation process) in the face of

uncertainty surrounding asylum judicial procedure and final outcome? When asked, many produced standard, textbook responses that neatly linked the US's adherence to the 1967 UN protocol as a signatory of the 1951 Convention Relating to the Status of Refugees, the establishment of 1991 Asylum Corps, increasing 'backlog' in the asylum applications, efficiency. However, I soon realized that only a minority of pro bono lawyers adhered to such a circular logic regarding claimant credibility. Lisa (L, hereafter), after successfully winning Priya's case, responded in the following way:

L: If you are an asylum claimant, you will not know the US asylum law. Most probably, you will not even know English. I do not mean to sound disrespectful toward my clients but their native language and authentic voice will be very different from legal terminology or phrases and sentences I write as a lawyer. When I take a credible case, my job is to make sure that claimant credibility is not simply unquestioned during the hearing but it is also apparent to the asylum officer or the judge. While it is not easy for asylum clients to discuss their experiences of past persecution in vivid and detail description, it is equally time consuming and difficult work for us to obtain that information before we can make their asylum stories coherent, put it all together in the affidavit, fill out the I-589 form, and prep claimants for witness preparation prior their hearing.

TS: So you are saying that establishing claimant credibility is essential throughout the asylum process yet the way it works is ultimately how individual claimant performs at the hearing?

L: Exactly. *To establish credibility and make it visible you just have to be a good actor.* Take Priya's case, for example. Remember how I instructed you not to

> interpret stoically and to allow yourself to cry if and when Priya does? You saw how the asylum officer was moved by her suffering story during the asylum interview? I knew that Priya would be granted asylum as soon as we exited the asylum office that day (emphasis mine).

Indeed, I was perplexed by the extent of the performance required not only of the asylum claimant but also interpreters like myself, and often wondered how to make sense of it all, given my interlocutors utter confidence in becoming visibly in pain–all for achieving claimant credibility. Lisa described successful asylum cases as those that not only retained claimant credibility through consistency but also made it conspicuous through conscious performance—*you just have to be a good actor*—during asylum interview or merit hearing.

By explaining winning of the asylum case and claimant credibility with discourses of performance and visibility, Lisa, like Katie, not only erased claimant suffering based on "past persecution"—the basis of seeking asylum in the first place—from her account of claimant credibility but also deflected into a concrete present concerns and offered a critique, if unintentionally, that asylum hearing and judicial procedures might subvert the professed reasons for granting asylum. Lisa not only assumed claimant credibility went unquestioned in Priya's case because of her ability to make a compelling suffering performance that in turn "move" the officer/interviewer during the asylum interview, but also that superior performance-led asylum hearings necessarily produce desirable outcome, acknowledgment of both compassionate and efficient work throughout witness-preparation process. Claimant

credibility, then, gets interpreted as a thing in concrete, as a sign of careful, concise, and compelling performance of suffering accessible beyond asylum documentation, including filed I-589 form and detailed and vivid descriptions and narrative of suffering in the affidavit.

Implicit in Lisa's seemingly out-of-context statement was the truth not only about asylum but also of any legal proceedings: performance is not acknowledged outright as something inescapable despite being necessary to compensate for the asylum legal uncertainty and the very basis for legal decision-making (Good 2007; Latour 2004). Lisa's off-handed comment should be thus understood in the asylum-seeking context where *performance* of asylum claimants plays a role in counteracting or at least accounting for asylum officer or judges' skepticism.

During an interview with a team—a human rights expert, lawyer, and a case manager— at a non-governmental, human rights agency that I call NHRA,[36] I learned that the issue of claimant credibility posed as much an inevitable problem in their professional encounter with asylum applicants as in the decision-making process. If pro bono lawyers in private law firms provided legal representation to asylum claimants, it was not without an arduous and lengthy journey of being repeatedly tested for credibility during various stages that individual claimants would go through before making it to the lawyers. Often, it involved mediation of an agency like NHRA matching up individual claimants with private law firms in the city that have

[36] This is a pseudonym.

signed up with the agency's Asylee Protection Program. The question of claimant credibility meets another challenge: not everyone in the business of law, or providing legal representation to asylum claimants, was driven by a desire to protect the credible asylum claimants. Rather, as Miriam Ticktin has written with respect to medical teams and humanitarian workers in France writing medical reports for *sans-papiers*, some people saw themselves as professionals engaged in simply doing their work, and were often "overwhelmed by their [undocumented migrants'] need rather than inspired by it" (2011: 104). For asylum claimants were primarily identified as "refugees" or "applicants," and not necessarily "asylum seekers," at the initial screening interview at non-governmental, human rights agencies. For it was only later in the private law firms, once the case was referred by agencies like NHRA, and during asylum interpretations and preparation sessions for court hearings or asylum interviews that claimants were increasingly identified as "asylum seekers."

The NHRA team of human rights experts goes through asylum applications they receive from various asylum programs: Immigration Court where pre-screening of applicants take place; other non-profit and immigrant rights organizations throughout the city; detention center at Elizabeth, New Jersey. Both human rights worker—Annie—and the legal expert—Marie—at the NHRA were quite forthcoming and willing to talk to me after more than a year of providing, if periodically, free translation of documents and interpretation assistance with Nepali asylum claims. According to Marie, only 50% of those who submit application to the

NHRA are initially screened at the detention center or the Immigration Court are short-listed for interviews for possible legal representation. She emphasized the competitive screening process and that not all applications reviewed at the organization resulted in the consideration for further process. When I asked Marie how and to what extent NHRA accounted for claimant credibility, she replied, "Well, that is just what we do before we recommend cases to private law firms. It is the single most important work that the Asylee Protection Program does here. Because you find people without legal representation going through deportation procedures and hearings or those wrongfully detained because they simply do not know the Immigration laws in this country or understand English. What more, asylum cases are not a priority for the government and there is a backlog in the system." Annie, assessing the NHRA's impact on assisting asylum cases, said, "If the initial screening interviews are successful we find private attorneys and legal representatives in law firms. We assist lawyers throughout the cases we refer to until they are closed either way. We do not have the capacity to assist every case that we take—which is only about 50% anyway—that is why the agency has partnered with various private law firms. In the end, it is also a matter of making this kind of work more efficient." For both Marie and Annie, claimant credibility was not simply a taken-for-granted phrase as it was for pro bono lawyers like Katie and Lisa representing claimants. Nor did they explain away establishing or undermining of claimant credibility in relation to ultimate performance of suffering during merit hearings or asylum interviews.

Instead, Marie and Annie spoke of efficiency: reducing 'backlog' in the asylum system and the rigorous work of screening process were explained whenever claimant credibility was mentioned.

The majority of my discussions, however, fluctuated between private lawyers' confidence on *already* established claimant credibility and Marie and Annie's hesitant accounts that admitted hints of doubt—that only 50% of the applicants were selected for interview at NHRA and even fewer received asylum legal assistance and representation—although not adequate to maintain a robust challenge to the claimant credibility narrative. When asked how many successful interviews usually made it for pro bono legal representation, Annie and Marie enthusiastically responded that over 90% of the cases recommended by the NHRA to private law firms won. "Because we adhere to a very tough screening process of claimant credibility here, less than 50% of the cases upon interview make it to the next step. That is finding pro bono legal representation for each applicant," the caseworker Gloria responded to my question and redirected our conversation back to the everyday workings concerning the screening process. Still none of them could agree or point to anything in concrete that counted for a "successful" interview or credible applicant. Part of the reason, as I gradually learned, was the absence of credibility-establishing criteria or guidelines as such. They all agreed unanimously that having screened for asylum applicants and familiarizing oneself with specific protocol related to the Asylee Protection Program in the agency primarily contributed to their knowledge about credible applicant.

According to Marie and Annie, claimant credibility was contingent on their professional experience and ability to identify a certain *pattern*. They refrained from speaking what, in particular, encompassed this pattern except that it was something they had acquired after working in the Asylee Protection Program at the agency.

Instead, Marie, Annie and Gloria all focused on what their everyday work entailed upon selecting credible asylum applicants. For them, the actual selection of asylum applicants was prerequisite to the asylum process and their complete internalization of selecting credibility *pattern* they hinted did not figure in that process. "We send out emails to pro bono coordinators listed in our database and 2 or 3 attorneys usually get back to us regarding their interest in taking up the case," Annie started to discuss the asylum case assignment procedure at the NHRA.

"We have to first check if there is a conflict of interest, of course," Marie joined in. Upon asking to clarify in lay terms for me, she kindly elaborated, "If the law firm willing to assist with and take up a Nepali asylum case, for instance, is representing the Nepali Government in some other area then it will clearly be a conflict of interest for the claimant who is seeking refuge and withholding of removal from the U.S."

"This is rarely the case," Annie interjected and continued, "We prepare a case packet—narrative of the client, a case summary, and an engagement letter along with petition filing for spouse and children. We also send information and human rights

publications and reports on country conditions, and legal memos to be reviewed by the lawyers."

I learned later that Marie and the director, whom they kept referring to, at the agency ultimately made legal decision with interested pro bono lawyers and assigned, or rather handed over, the case under review. "We follow-up up to 1 year or more with pro bono lawyers and their clients to ensure smooth processing of the application I-589 and its timely submission to the Immigration Court," Marie said.

"We actually send out reminder notes and emails to lawyers and have to be available so they are on top of the cases they accept. Most of the time the attorneys working on asylum are not familiar with the asylum law and legal paperwork and deadlines. In fact, many of them have never been to the court," Annie added with sarcasm.

After almost an hour of measured responses and awkwardness, both Annie and Marie warmed up to our open-ended and informational meeting that I was finally granted after having assisted on a number of Nepali asylum cases over a year. Perhaps I too was being subjected to their internal credibility test for a year. I never found out. While they conducted in-person interview with claimants they judged were credible (which each did slightly differently depending on their roles and assigned job responsibilities as a legal expert, a human rights worker, and a caseworker) they emphasized their ethical dilemmas involved in their actions. In talking to me, all of them raised concerns about the arduous process of working with

lawyers and clients throughout the asylum process that provided job satisfaction at the cost of being constantly overworked and overwhelmed by new cases that came through the agency.

After our meeting ended, I realized that asylum claimants would need to orient their mode of interaction and narrating their stories depending on what caseworker, human rights worker, and asylum lawyer emphasized during asylum interview. Unlike my conversations and interviews with lawyers, the human rights workers and legal team at the NHRA spoke primarily of a more rule-bound nature of their work and their own continued participation in the process. If as a human rights worker and a caseworker, Annie and Gloria, were concerned about logistical aspect of reviewing asylum application and efficiency in locating potential appropriate pro bono lawyers, Marie primarily shed light into legal proceedings and practice related to asylum law. However, all of them seemed particularly preoccupied with job efficiency and obligation in relation to establishing claimant credibility in the asylum process.

Mary (M, hereafter), a litigation lawyer at a private firm who had previously worked as a clerk in the 9th Circuit, began our conversation on efficiency. He made the typical argument that pro bono lawyers, taking up the asylum cases, have made asylum system more efficient, while admitting that hard-work and compassion required of lawyers for each asylum case oftentimes was emotionally draining and demanding:

> As a public counsel, I saw many asylum cases—potentially credible ones—that were rejected simply based on the I-589 Asylum application forms and without legal representation and hearing. There was this period of backlog in the asylum system; my colleagues and I would often discuss cases that we had to reject. Private law firms have stepped in and solved the problem of backlog tremendously. Providing pro bono legal counsel and establishing claimant credibility is making the entire process manageable and efficient. The cases that would have otherwise overlooked or simply slipped out of the system are getting legal representation.
>
> […]
>
> I have realized that I could assist with asylum cases and make a difference in individuals' lives working in a private law firm. I recognize the value in taking up asylum assignments although it is essentially unpaid time and sometime underappreciated investment you are putting into it. But it is a rewarding work, you know. It feels good, after all, to have helped someone obtain a new life and opportunity.

Mary briefly acknowledged that lawyers in the private law firms have made the asylum process more "efficient" while ensuring claimant credibility, she soon deflected the attention away from the talk of efficiency to hard-work that encompassed "essentially unpaid time and …underappreciated investment," sparkling me to make further inquiries:

TS: What in your opinion consist of hard work about assisting with asylum cases?

M: Are you referring to the asylum interpretation meetings and documentation with claimants or external research and collecting of documents for the submission of asylum claims?

TS: Everything that you consider hard work.

M: Well, the external research that consist of finding country-condition experts, medical practitioners or psychologists to corroborate on the cases require lot of time, but I would not quite call it hard work. It is work nonetheless. As for the asylum interpretation meetings, you know how much time we devote on each session with claimants. In order to fill out the I-589 form and answer questions on pages 5 and 6 require anywhere from 8 weeks to over six months. And that is only the tip of the iceberg. You have seen the affidavit we submitted for the last case we worked on. To be able to capture in vivid details the persecution that claimants suffered so long ago, extract that information carefully that fills holes in the stories they narrate so that a holistic picture of their suffering emerge that can then be translated coherently in a legal statement of 200 to 300- pages is quite some work, wouldn't you say?

TS: Absolutely. I have witnessed the extent to which asylum interpretation and documentation can drag. But is it the time invested in the asylum cases and claimants you represent(ed) that you consider hard work?

M: Although putting time into something that is unpaid is not the same as work, you become well-acquainted with your claimant's past and current circumstances. The sad stories they have to repeatedly talk about during interpretation meetings are sometimes difficult to imagine. Most lawyers who have worked on asylum cases realize that claimants have to retell their traumatic stories in order to apply for asylum and once they are granted asylum they will never have to talk about it again. In that sense,

it is difficult for lawyers assisting claimants as you get to know them personally, and in many cases establish the close relationship you have established lasts even after they get asylum.

TS: So would you consider this process of asylum interpretation meetings and documentation as the basis for establishing close relationship with claimants?

M: Um…yes. I guess so. I mean, it is all about ensuring that claimant credibility is not undermined during the hearing. We do everything during asylum interpretation meetings to ensure claimant credibility, and then you wonder about the arduous process of getting to know your clients' past and present experiences and whether the relationship you have built with them has any role to play…you know?

TS: Do you think it does affect your work and specific ways that claimant credibility is ensured in general or does it not…

M: I think the fact that cases are referred to us by human rights agencies mean that the tough screening processes ensure claimant credibility. I mean, hopefully, the ones you are representing have credible claims and all the background research in terms of learning about their home countries and locating country-condition experts pretty much takes care of the claims. But in terms of building actual trust, I am sure interacting face-to-face has a huge advantage over a random person with a client number.

TS: Do you think that the close interaction and building of the trusting relationship with claimants detract from the question of credibility or reinforce credibility?

M: That is very difficult to say. My gut response is that it reinforces credibility. It is probably different in different cases though…but the

amount of work you put in just the same. The long hours of gathering information and interviewing claimants are unpaid…this goes on for years and when they are not granted asylum it is heart-breaking and disappointing. It is like not being compensated for your hard work…

TS: And why is it that most claims get rejected despite having gone through rigorous screening process for credibility?

M: Well, I am a hopeful person. And I would like to think that everything works itself out and the credible claimants are ultimately granted asylum, but sadly that is not the case. You do not always get a sympathetic judge or a thoughtful asylum officer. The public prosecutor's job, for instance, is to find holes and inconsistencies in the affidavit and ask questions during cross-examination that recast doubt on claimant's credibility. That is why many credible claims are rejected and courtroom hearings are so unpredictable. You can never know what part of the asylum story would be considered significant and relevant in winning the case.

TS: And claims that are denied based on credibility issues are often irreversible, correct?

M: Exactly. See you can be a lawyer too.

[Laughter]

Not readily acknowledged how the value of establishing claimant credibility may be reinforced during asylum interpretation and documentation process even on its own terms, my interlocutors instead emphasized retaining of credibility in asylum cases in relation to hard work and efficiency. At the same time, however, the extensive period of face-to-face engagement and building relationship with individual claimants was recognized as something not completely inconsequential in shaping claimant

credibility beyond efficiency--it was explained in terms of hope, optimism, and compassion. My exchange with Mary illustrates that "claimant credibility" is not always unproblematically naturalized—its significance in making the asylum system "efficient"— and spoken as something concrete in relation to pro bono lawyers' experience working on asylum cases—"underappreciated work" and "unpaid time." At the same time, this interview indicates asylum lawyers' emphasis on claimant credibility and its inseparability from their work. Whether expressed as claimant's final performance at the hearing, as Lisa had indicated, or the practice of efficiency, as Mary demonstrated, they acknowledged if in a roundabout way the value of close and face-to-face interaction with claimants over the years forming the basis of "trusting" relationship and laying bare terms of engagement for maintaining claimant credibility. Even those, like Katie, who was ambivalent about expressing claimant credibility entirely in terms of performance or efficiency, shared the link between claimant credibility and hard work such that they are always understood on relational terms although not necessarily becoming one and the same.

Elizabeth (E), a junior associate and litigation lawyer at a private law firm, has an understanding of claimant credibility similar to Mary and Lisa's yet is more critical of either efficiency during asylum interpretation sessions or performance at merit hearings being defining features. When I prompted her with a question of the probability of existing relationship between efficiency and performance associated with claimant credibility, she readily acknowledged that asylum system is driven by

"more than one aspect of the asylum claims and the claimant affidavit that accompanies it, clearly…":

E: When you have so little time to work on asylum cases given that it is not our area of primary business, I do think about claimants whose claims are denied based on credibility issues…It is not fair because sometimes it is not even claimants fault, you know. It is up to lawyers to extract information carefully from their clients and thoroughly prepare them for witness testimony. I feel it is unfortunate that many lawyers like myself are recruited to work on asylum cases, sometimes without necessarily having a choice. The clients end up teaching us so much about their countries, political situations, and their circumstances. In addition to that, the field of asylum law is under immigration laws, which keeps changing and if we are not on top of it, the clients may not receive good legal advise. So working efficiently is good as long as claimant credibility is not jeopardized. You miss something seemingly minor in their narratives during witness preparation session and the public prosecutor picks up on that…well, you are screwed.

TS: What about the performance of claimants during asylum interview or merit hearing in the Immigration courtroom? Does it facilitate in increasing the chances of claimant credibility not being undermined?

E: It is difficult to say. I have seen cases being rejected when this woman was bawling throughout her hearing and the judge simply dismissed her case saying it was a bogus claim. Yet I still think some lawyers emphasize the importance of witness preparation and spend more time with their claimants so they know exact dates, major and minor episodes related to their claims in the affidavit like the back of their hand. You have to prepare them to be questioned about anything and in any order of their

> life histories. It is okay to forget dates but cannot provide conflicting information…the suffering narrative has to match the affidavit. But if you overdo it [over-prepare] and the client's responses become too rehearsed, mechanical, or simply over-the-top and dramatic then it does not appear authentic; claims may be rejected based on the issue of credibility like in the case that I just mentioned.

Elizabeth spoke of claimant credibility without incorporating or relating the work that lawyers are doing to make the asylum process more efficient or the work of performance that claimants do at the final stages of the asylum seeking process. Instead, Elizabeth strictly measured claimant credibility in terms of maintaining a fine balance between legal documentation (filing and submission of affidavit) and witness preparation: so the claimant is not inconsistent or ill-prepared but at the same time does not appear "too rehearsed, mechanical…over-the-top and dramatic." While she engages with and goes beyond the explanation of work efficiency and performance associated with retaining claimant credibility, she does not question the basis for its materialization: the tedious process of asylum interpretation meetings preceding numerous prep-sessions that guide and influence individuals claimants performance, if indirectly.

Finally, to my surprise some lawyers deflected the articulated discourse of claimant credibility and instead focused on work ethic and preparedness in assisting the asylum claimants. In particular, they sympathized with the asylum officers and judges having to make decisions based on legal documents and the hearing without

"know[ing] claimants' stories intimately." Below I share a conversation with Amy (A, hereafter) on the relevance of working on asylum cases for explaining claimant credibility:

TS: While all asylum lawyers and human rights workers attend to ensuring claimant credibility throughout the asylum interpretation meetings and documentation, many asylum cases are rejected based on the issue of credibility. How do you explain that? What is the rationale?

A: Well, there is no single rationale, really. For me, it is all about how prepared you are and willing to learn on the job. We are not immigration attorneys and half the time we have no idea of the political situations in the countries that claimants are fleeing from or their cultures. You saw how much we have learned about Nepal in the last two years. So most important job as a lawyer is to do your homework. No short cuts. When you are working on asylum cases the responsibility is tremendous…sometimes overwhelming.

TS: Overwhelming? How so?

A: Let me give you an example of what most of us do here [private law firms]. I have now worked here for last 3 years and doing the same job over and over again. We would have to drive up to some random, remote, parts of the state to interview a girl mourning for her father's death from cancer and interview her to discredit her claims in order to find credible reasons to advocate for some pharmaceutical or tobacco company. But asylum cases are different. You actually talk to your clients, interview them and build trusting relationships over an extensive period of time. Working on asylum gives me hope and comfort, every now and then…that what I am doing is important. So, when you decide

to take on an asylum case, you have an obligation to the claimant at all times. The responsibility falls on lawyers to advocate on claimants behalf but it is the claimant who has to recount his story and be consistent during cross-examination. The judges or the asylum officers do not know personal stories of claimants intimately; they only have the affidavit and the submitted I-589 form in front of them to make decisions. If it takes 8 months to 2 or sometimes 3 years to complete each asylum documentation to get a full picture of individual claimant's lives, imagine making decisions based on documents and a single interview or merit hearing, as the Immigration judge or the asylum officer do? And claimant credibility can fall short depending on how the hearing goes and what information the judge decides to put weight on.

TS: So the asylum decisions—those that are accepted or rejected—pretty much depends on the discretionary power of the judge or the asylum officer believing (or not) claimant's story? It is subjective?

A: I am not sure if you can call it subjective. It is not about believing but finding claimants' stories credible.

This discussion with Amy demonstrated that claimant credibility might not be the dominant mode for explaining the significance of accepted or rejected asylum decisions. However, it was something that confronted my interlocutors with questions about the specificities of legal work that depended on prolonged face-to-face interaction and engagements with asylum claimants. It was about job responsibility and 'obligation to claimants' despite it being ultimately dependent on the subjective disposition and discretionary power of the asylum judges and officers. Still the hesitancy demonstrated by Amy about credibility based on "finding" and not

"believing" is quite telling. Her outright acknowledgement that the judges and the asylum officers do not have a complete picture or "know claimants' stories intimately" support my previous argument (chapter three) that the legal interpretation sessions and asylum documentation procedures lay out the discourse on "claimant credibility" to take concrete shape. While Amy readily recognized the significance of prolonged, face-to-face interaction with claimants in establishing claimant credibility, she was hesitant to concede that the asylum judicial procedure was subjective. Part of the reason, I suggest, is that acknowledging (at least, publicly) subjective force in the asylum decision-making process would mean simultaneously recognizing (and reflecting) on the role of subjective dispositions that lawyers themselves develop during protracted asylum interpretation meetings, opening a host of new questions about their professional training and *habitus* situated within and beyond asylum legal processes.

In all my interviews, structured and informal, with lawyers and human rights workers on claimant credibility was a starting point of conversation that led to interesting, sometimes vague, and oftentimes precise understanding of their stake at the asylum work. First, this type of self-reflection was not as central to explaining claimant credibility in a better light or unambiguous term as I had anticipated. Second, their justification of hard work, efficiency, and performance required in the asylum process did not clarify the constant deployment of "claimant credibility." Part of the problem, as I gradually realized, had to do with the way legal professionals and

human rights experts talk about credibility always in relation to the asylum cultural process. For instance, let us return to the notion of "credibility pattern" that human rights workers and experts like Marie and Annie highlighted during interview about the day-to-day work related to asylum procedure at NHRA.

First, claimant credibility narratives I gathered from my interlocutors point to an interesting relationship: lawyers' job responsibility and obligation to their clients and anticipated performance by asylum claimants. It is this relationship in concrete that the discourse of establishing or undermining claimant credibility makes possible although my interlocutors seldom explicitly verbalized until pushed further to rationalize the day-to-day, practical dimension of so-called "claimant credibility" related to their asylum work. Almost all of them accepted the sheer uncertainty of asylum decisions regardless of "knowing" about credible claims and claimants. To make sense of this conundrum, they acknowledged, not only unpaid time required of, but also movement toward, representing and preparing claimants throughout the asylum documentation and interpretation process as a protracted investment and hard work. I had begun to learn from my legal interlocutors about layered understanding surrounding claimant credibility and its relationship to asylum work, and especially, functioning of the US asylum culture.

Second, I argue that it is crucial to reconsider the notion of credibility in the asylum literature (and broader debate in the social sciences), as the understandings of credibility grounded in asylum legal and judicial practices linked to the uncertainty of

asylum decision-making do not explain ways in which pro bono legal practitioners and human rights experts rationalize (or redirect questions pertaining to) claimant credibility: "unpaid time" and "hard work" producing a protracted investment into asylum cases and relationships with claimants. Certainly, private lawyers and human rights workers assisting with the Nepali and other asylum claims unanimously declared that their work contributed to the overall efficiency of the asylum seeking process in the US. At the same time, it consisted of a particular type of labor—hard work—which in turn depended not only on their professional performances and experiences but also the performances of claimants during various stages in the asylum seeking process. However, although claimant credibility was seen as a crucial ground from which the asylum stories were extracted during asylum legal documentation and interpretations sessions, the intense engagements and face-to-face encounters with individual claimants over a long period of time influenced lawyers' positions on and practices of "claimant credibility" was not readily accepted by all lawyers. In some cases, they fully recognized how credibility was constantly being undermined during asylum interviews and merit hearings despite fully preparing claimants (and sometimes their interpretations) to anticipate questions pertaining to undermining credibility during cross-examination procedures. While many explain claimant credibility as something that existed prior asylum interpretations sessions, others elaborated on specific work involved in establishing and reinforcing it. Still others rationalize establishing claimant credibility in relation to their long-drawn-out and intimate

engagements. They never expressed (or even hinted) their skepticism about either asylum claims they worked on or the asylum judicial process even when those cases were rejected based on the credibility issue. In sum, the irony lies in the following: legal representatives and human rights workers pride themselves in assisting claimants they thought were "obviously" credible and relate their "hard work" about establishing claimant credibility during legal documentation and interpretation process could potentially result against their claimants credibility in the final stages of the asylum judicial process. Although my interlocutors did not fully question this blatant inconsistency of claimant credibility, I observed their contradictory and uncertain uses of performance and overall efficiency and resorting to hard work of their encounters with claimants as evidence of gaps between the declared work of establishing credibility and actual materialization in their everyday practice.

Credible reasons

Throughout my interviews post-asylum interpretation sessions, I found that pro bono layers who have worked on numerous asylum cases often formulated a standard explanation of claimant credibility as a valuable aspect of the overall asylum process in the US despite large number of claims they thought to be credible were either rejected outright or had to go through the BIA appeal process. The more junior pro bono litigators and human rights workers expressed, if hesitantly, a subtle critique of claimant credibility when pressed to reflect on their own role, experience, and participation during asylum documentation and interpretation process. My data

suggests that the more experienced lawyers had internalized credibility as the absolute deciding factor in asylum decision-making without necessarily questioning the internal contradictions. Many of the experienced interlocutors deflected the question in terms of their hard work or, more accurately, "unpaid and underappreciated work." Legal representatives and human rights workers for whom it was either their first or second time assisting with asylum claims were willing to discuss the contradictions, since they themselves were making sense of the puzzling process. Their responses varied, opening up more engaged discussion regarding what credibility meant and how "establishing" it materialized on the ground—a superior performance by claimants at the hearing; a result of legal representatives performing thorough homework and preparing client—all in anticipation of asylum claims being rejected by the judge or the asylum officer.

My analysis of claimant credibility narratives by legal and human rights interlocutors has shown that legal practices of asylum work anticipates and even produces the condition for undermining credibility. It is the ambiguity of determining or establishing claimant credibility in the asylum judicial process that ironically also legitimates the work of pro bono lawyers and human rights workers assisting with asylum claimants. Asylum work, as related to me by my interlocutors, goes beyond rationalization of credible vs. bogus asylum seekers, and instead seeps through multiple and sometimes conflicting, and even mutually incompatible, views and participation of those advocating and offering legal advise to asylum claimants. My

data suggests that part of the reason for lawyers' ambivalence and varied responses to questions surrounding credibility arises out of the prolonged engagement with claimants. Similarly, the claimant credibility narratives, anecdotes, and opinions, though seemingly irrelevant to specific asylum cases and claimants, point to an interesting paradox: it is about the narrative of hard work that is performed by legal representatives and advocates working closely with claimants over the period of 2 and sometimes 3 years.

The insights I gained from the claimant credibility narratives made my work as interpreter-ethnographer for/among Nepali asylum seekers difficult. I had assumed that apprehending the underlying reasons for lawyers' emphasis on "establishing claimant credibility" would ultimately perform my own role as a legal interpreter more effectively and simultaneously assist in the smooth transition of Nepali claimants' suffering stories into legal narrative of asylum suffering, or what Kleinman and Kleinman (1991) has called "the professional transformation" of narrative through bureaucratic (and legal in this case) procedures. I had assumed mistakenly that claimant credibility was measured, or rather *tested*, throughout the asylum interpretation and legal documentation process by lawyers and human rights workers. As a result, I had expected to obtain legal rationales and justifications pertaining specifically to my interlocutors' work with claimants, and particularly Nepali asylum claimants (considering that I was introduced to the phrase claimant credibility upon acting as an interpreter for Nepali claimants). However, attributing talks of claimant

credibility to the overall efficiency of the asylum system and deflecting it to often-extensive discussion, as my interlocutors had done, about their investment and time into asylum work more often than not added to my confusion. While lawyers reconciled and sometimes agreed to internal inconsistencies and contradictions between asylum legal documentation and judicial procedures, none of them saw asylum interpretation sessions and interrogations as part of questioning claimant credibility. Instead, they kept reiterating their primary roles as legal and human rights advocates and liberal supporters of claims that they saw as evidently credible despite the actual asylum decision. As such, how can one account for the fact that even when lawyers and human rights workers realized that asylum claims they assisted and continued to push through by specifically employing claimant credibility could be outright rejected precisely for "credibility reasons" were never explained in terms of asylum judicial inconsistent practice? More importantly, how do they see themselves as both advocating for credible claimants and simultaneously anticipating for rejection based on credibility?

When I observed that asylum seeking process explained in the name of claimant credibility, not only to explain Nepali claimants and their legal representatives' mutual participation and intense engagement—hard work—but also to transform suffering stories into asylum narrative during documentation and interpretation sessions, I learned that the over-usage of the phrase claimant credibility could not completely explain how and why lawyers and human rights workers were

compelled to assist claimants and even co-construct asylum narrative that did not promise a desirable result. As such, I realized that something else besides claimant credibility was mediating legal interpretation sessions and asylum work at large such that counter-intuitive relationship between co-production of consistent asylum narrative at interpretation sessions and unpredictability of asylum hearing (and judicial) process could be mapped out beyond "establishing" or "undermining" credibility. Why did lawyers and human rights workers emphasize with absolute certainty the credibility of asylum seekers as potential claimants they assisted in relation to their work, both professional and personal time and investment, at the level of their everyday practice on the ground? Seen this way, claimant credibility is also a basis for producing sociality among lawyers and human rights experts in a specifically asylum legal practice. It is to this concern I turn to in chapter 6. Claimant credibility cannot be dismissed as a tangential discourse rationalizing "actual" job performances and obligations of lawyers and human rights experts and somehow divorced from the larger asylum institutional culture and contemporary politics at work. In other words, lawyers and human rights experts' constant emphasis on claimant credibility without a direct or clear explanation and always in relation to their "hard work" should not be seen as a consequence of ambiguity or unpredictability surrounding credibility. Rather, I seek to follow how unpredictability and ambiguity around credibility generate and sustain a particularly influential asylum cultural process. For lawyers and human rights experts assisting asylum claimants are not

isolated individuals working in particular law firms and non-profit organizations, respective, and unconnected to the contemporary asylum institutional culture or, to quote one of my interlocutors, "asylum industry" in the US. It also follows that consistent usage of claimant credibility and tangential yet extensive rationalization of hard work are not inevitable from the contemporary asylum cultural context and institutional orientation. Its meaning, explanatory (and inexplicable) power, and everyday enactment are all part of and contingent on the changing asylum cultural practice. Moreover, the co-construction and circulation of asylum suffering narrative (chapter 2) during legal documentation (chapter 3) can be apprehended through an examination of the asylum cultural orientation that influence and reinforce actions, attitudes, behaviors, and purpose that lawyers and human rights experts publicly profess and perform, and oftentimes unconsciously enact. A bird's eye view of cultural orientation of "asylum industry" can direct us to questions about contemporary asylum seeking process as a template for producing "suffering narrative" always in relation to "hard work."

CHAPTER SIX

Compassionate (in)consistencies

Compassion can be an important driving force in the asylum process: those advocating for and involved in assisting with asylum claimants know specific aspects of the reality and everyday *work* they participate in and are part of, yet do not consider it as such, or do them by sense of overwhelming responsibility, practical conventions, and affective action. In this chapter, I document and analyze the significant contribution of dual aspects of compassion as reason and work in the contemporary asylum cultural process in the US. Rather than take compassion as a taken-for-granted dimension of affect for social and moral action, I am interested in the vital element of its labor across the social (i.e. legal-professional) relations produced through and by compassion, which are open to specifically asylum-assistance experience but absent from larger asylum debate and literature on critical asylum system.

This dual aspect of compassionate reason and work are not usually apparent to those immersed in the asylum system. It is not something actively reinforced as the crux of the job responsibility of those assisting with asylum claimants as documented in the last chapter. Rather, it is inadvertently produced through legal/linguistic conventions, transparency, and differentiation between places of thoughtfulness and indifference. Switching between compassionate rationale and work according to circumstance and asylum claimant maintains relations critical to conduct "asylum

work"—efficiently interconnecting professional lives, institutions, and knowledge across differences in legal experience, expertise, and power. Compassion is, then, what is produced in the asylum system under different stages of legal and judicial procedures; in turn, it influences relations of those intricately involved in the asylum work and maintains its internal dynamics.

The anthropology of compassion

For anthropologists "compassion" has increasingly become a topic of fascination and concern (Bornstein and Redfield 2011). Contemporary anthropological work on compassion focuses on its material consequences, primarily, though not exclusively, on moral accountability and ethical reasoning. This chapter sets out to analyze the synergies between legal and judicial practices surrounding invocation and reinforcement of compassion and kindness as everyday, practical dimension of asylum work performed by legal practitioners and human rights workers and experts. It also seeks to question if, and to what extent, the discourse and practice of compassion rely on and influence the production of asylum as a cultural system notwithstanding the actual legal rationale. I do so to grasp how and *why* pro bono lawyers and human rights workers assisting with asylum seekers explain, interpret, and give meaning to their "hard work" and job responsibilities. As such, I seek to draw upon and engage with the contemporary literature on compassion pertaining to asylum process by bringing together seemingly separate debates on the governance of im/migrants through documentary and bureaucratic procedures (Cabot

2012; James 2010) and complex judicial decision-making processes (Kelly 2011, Good 2007) with political motivations and compassionate actions on the ground (Ticktin 2011; Rozakou 2012) or what Didier Fassin (2012) has called "politicized compassion."

Centrality of compassion in the burgeoning anthropological literature (Feldman 2007; Barnett and Weiss 2008; Fassin and Pandolfi 2010; Ticktin and Feldman 2010; Redfield and Bornstein 2011) is undeniable. These studies have taken into account wide-ranging critiques and formulation of compassion. Ethnographic insights and critiques of "humanitarian governmentality" (Fassin 2010) have bought to the fore foundational basis of inequality and production of hierarchies inherent in the practices of compassion (Redfield 2005). Since the passing of the Refugee Act in 1980 and 1982 in the U.S., Aihwa Ong's ethnography of refugee healthcare projects in California illustrates the institutional and political processes through which Cambodian "refugee identity" became a salient "ethical figure" transformed "back into citizens" as "welfare recipients" (2003: 79, 86). Through her ethnography among Quakers in Gaza after World War II, however, Ilana Feldman emphasizes the complexities and dilemmas of the humanitarian workers and documents practices on the ground that render "refugees" as "political, rather than ethical actors" (2007: 700). Miriam Ticktin further builds on this line of thought illuminating how, following a political shift in the immigration laws and the illness clause in France, the effects and the consequences of " 'apolitical' humanitarian regimes" became most prominent,

where "practices of care and compassion" relied consistently on recognizing "suffering body" of asylum claimants as "morally legitimate" (2011: 2-4).

One of the dangers of overemphasizing and even overanalyzing the politics and the practices of compassion among bureaucrats and private citizens in liberal democracies is that it can make obsolete the actual, unambiguous, ways in which they are positioned in ways that continue to effect in concrete ways the lives of those categorized as migrants, refugees, and asylum seekers. Contextualizing roles of people as humanitarian workers, experts, and practitioners not only directs out attention to details of variations in the name of 'complexity,' 'diversity,' and 'ambiguity,' but also threatens to disconnect the bureaucratic management with broader historical, political, and thriving cultural patterns. Apart from exploring bureaucratic and humanitarian workings on the ground, ethnographies need not be uncritical of the predominant socio-cultural logic of compassion underpinning contemporary immigration discourse and practices.

What is the benefit of assuming that compassion—whether political or apolitical—necessarily guides everyday legal and bureaucratic work of social actors notwithstanding their distinct political ideologies, motivations, and actions? Why, after all, is compassion taken as an analytical tool? Emphasizing the political significance of compassion, Ticktin (2012) has argued that "compassion is not a fixed or essential emotion" (113). Drawing on Hanna Arendt, she writes, compassion

> is directed toward particular individuals, possessing a practical character in that it can only be actualized in particular situations in which those who do not suffer meet and come face-to-face with those who do, nevertheless, the emotional commitment involved in compassion is dependent on the ability of the person called on to imagine the suffering. That is, even if they are face-to-face, for imagination to play its role in the coordination of emotional commitments, people must make a case for it, nourishing their imagination from the same referents; their claims must be shaped by the same ideas of what suffering is and where the threshold of the bearable is drawn (113).

Ticktin's reading of compassion as "a practice that all are trained in" (Ibid) engages with and extends Fassin's (2005) ethnography of medical professionals who *must* find ways to subvert the rigidity of state requirements for asylum seekers. Unlike Fassin, who sees therapeutic potential of medical corroboration and reports for asylum claimants, Ticktin is more skeptical of the political ideologies in which humanitarianism discourse ends up limiting understanding of humanity solely within the context of suffering claimants' bodies or to its biological core—i.e. "bare life." For both Fassin and Ticktin, it is the medical professionals' accounts, expertise, professional cultural orientation and political practices that they draw upon to compare humanitarian practices and human rights discourse—evoking ethical and moral imperatives to relieving suffering of claimants. As my data and ethnographic study among pro bono lawyers and human rights advocates assisting Nepali asylum claimants have revealed, compassionate rationales materializing into concrete actions, say through understanding of professional accountability and/or job responsibility is

as much part of the contemporary narrative of "relieving suffering" of others and individuals' personal investment and understanding of those they encounter. What I am proposing through ethnographic documentation of legal professionals and human rights experts' accounts of their everyday engagements with claimants (primarily Nepalis), legal documentation and interpretation of asylum suffering narratives and victimhood, and their shared dilemmas and concerns about assisting claimants—as hard work—is that compassionate actions and imperatives interpreted solely through the lens of people's conscious or unconscious political agendas, in the end, becomes less useful or practical to investigating the ever-changing workings of humanity "on the ground."

In this chapter, I explore the contribution of compassion to the larger socio-political order in a more rational, self-consciously produced and thought-through situation than the politicized dimension or as emotional reaction. I particularly build on but also extend Ticktin's argument: compassion depends on "circulating narratives, images, and histories—on evoking a historically located moral legitimacy—and often on maintaining this unequal power relation between…citizen and foreigner" (121). A different set of questions surrounding compassion interests me in the following pages: what entails (declared) compassionate work and what purpose does it serve for both asylum advocates and practitioners and their anticipated targets—asylum claimants?

The compassionate practices employed by both state and non-state officials and citizens' I have thus far described pose a number of analytic concerns. First, how

might we develop theories that allow these individuals as social actors making decisions for asylum claimants and participating in the contemporary politics of asylum-seeking process in a variety of ways that reinforce their individual decision-making power, without either overanalyzing their actions as forms of (political) consciousness that may not have been part of their experience-- something like a radical politics—or solely justifying their compassion and concerns as genuine, (a)political or misplaced? Second, how might we account for the fact that these actors both control and contribute to the contemporary debate and cultural ideologies about immigration and, in particular, claimants as "genuine refugee" or suspicious migrants without employing ambiguous analytical concepts like affect, which completely absolves them of their active participation in the ongoing state discourses and practices around compassion? Third, how might we acknowledge that their 'professional' opinions and 'job' responsibilities—as judges, lawyers, asylum officers, or human rights workers—play a decisive role in the everyday making of and management of *desirable* non-citizens and *credible* asylum claimants?

This involves looking afresh at how compassion is brought about, forming part of the same worldview, actions, and politics. In what follows, I demonstrate what is understood to be compassion—the fundamental basis of the asylum law, which both citizens and non-citizens consent to—is an intensely socio-political construction, the one that is only recognized through the frame of legal authority. In this case, compassion is actively produced through discretionary power of the state authorized

personnel—the judge—and non-state institutional partners and individuals—lawyers and human rights experts. First, I introduce asylum experts, who I see as powerful but hidden actors in the US asylum judicial and decision-making procedures, as panelists at the "Asylum Law Workshop" that I attended two consecutive years. I trace in some detail their speeches and performances—a recruitment ground for private, pro bono lawyers. I examine how legal experts and bureaucrats are trained to interpret the law and asylum claimants and, in particular, what to expect and how to perform their respective roles in representing asylum claimants. I do so to illustrate how private and privileged citizens are inducted to becoming border patrols or, in Ticktin's works, "gatekeepers" (2011) of not only *what* asylum account qualifies for compassionate work but also the concept of compassion.

Second, I take orientation from contemporary anthropological study of compassion—of its usefulness and socio-political and ideological significance—to investigate the emergent social and professional network surrounding asylum work in the U.S., for which compassionate reasoning an active practice within asylum institutional culture. My specific guiding question is how (and why) the work of legal practitioners and human rights experts brought together by their commitments of "doing good work" and transforming suffering of others—asylum claimants—through compassion retains and, paradoxically, depends on the very suffering of those they are assisting?

Compassion is the primary incentive apart from the job responsibility in the broadest sense; its advocates and practitioners benefit from it. Similar to suffering, compassion is equally hard work. Compassionate work pertains in this site to experiences and responsibilities described by actors and participants in the asylum institutional community—human rights experts and legal participants, asylum officers, criminal judges, and state and non-state bodies who are connected by asylum work. Practicing compassion is not the raison d'être for assisting asylum claimants, as many interlocutors admitted. Yet it was something repeatedly offered as an explanation of a valuable resource. In professional conversations, public speeches, and asylum interviews, compassion appears at times to be a driving factor, whereas—upon requesting for a concrete example or a more detailed experience—most, although not all, of those who have extensively worked with asylum claimants admit to simply doing their jobs as efficiently as possible. As a result, the type of investment and work pertaining to asylum is simultaneously emphasized as compassionate work and job responsibility, constituting an interesting paradox, in which practicing compassion toward an object in concrete encompasses a foundation of asylum socio-legal organization and process.

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PART I: Compassionate reason and asylum-work on the ground

One early evening in the summer of 2011, I went to a workshop for lawyers on the theme of the asylum law and related legal documentation. It was held in one of

the private law firms located in mid-town Manhattan and organized by a non-profit, human rights agency (NHRA)[37] that screened asylum claims and the claimants before recommending to the law firms. There were around 250-300 lawyers in the audience and four speakers: human rights lawyer representative from the NHRA, an asylum officer, a judge, and a medical representative from Bellevue/NYU program for survivors of torture. Every year, the workshop served as an introductory crash-course for lawyers on asylum procedures while it also provided a recruitment forum for the organization to identify interested lawyers to do pro bono work in representing asylum claimants.

Speaker I: Human Rights Lawyer, NHRA: between credibility and compassion

The human rights lawyer, one of the representatives from the NHRA, opened the seminar with a welcome speech. "This is an opportunity to make a difference in people's lives and become part of their family reunion process. People come to the US for safety and want to bring their families to a safe haven," she spoke in measured tone to a room full of potential pro bono lawyers from over 200 private firms throughout New York City. "Legal representation makes a huge difference in winning asylum cases and reverting decisions," she said and went on to describe the work of NHRA's Program through which asylum cases are taken up only after initial screening—and in-person interview with potential claimants.

[37] This is a pseudonym.

The lawyer's talk was divided into three parts. First, she emphasized the importance of becoming familiar with and following the UN Convention of the Refugee definition to ensuring, first and foremost, the eligibility of potential claimant and briefly outlined the entire process involved in representing asylum claimants. She walked through the asylum application and documentation process, highlighting, again the legal definition of "torture" according to the UN Convention Against Torture. She discussed the importance of extracting, recording and documenting a coherent and consistent story when filling out the I-589 Application Form. "The specific dates, events, and details of each incident need to be consistent when filing claims to Rosedale or New Jersey offices," she said.

After speaking about general asylum documentation, including gathering facts and checking for accuracy, she moved on to not-so-clear area of asylum process, legal or otherwise: the issue of trust and credibility. "Once pro bono lawyers take up the case it is important to build trust with the claimant. You can also bring the interpreter and the client to the hearing. Actually, you will notice that the client and the interpreter would have formed a trusting relationship by the time you arrive at the asylum office or the Immigration court, and many would even feel more comfortable having the same interpreter there although the court will have their own interpreter appointed either on the phone or in-person," she added. This was the only information she gave regarding asylum interpretation process. In a solemn tone, she said, "It does not matter if you believe in the client's story; it is the judge or the

asylum officer who need to believe in the credibility of the client and his/her story." She added that people at her organization are available for general guidance and consultation about the asylum procedure, and they assist with each case in every step of the process. She later spoke about personally sending out reminder notes and updates to lawyers regarding asylum application submission and related deadlines.

Finally, she made a full circle and ended her talk with logistics related to post-documentation—what to expect once the case reaches the judge—and how lawyers can assist in the effective facilitation of the process:

> The Immigration Court is overwhelmed with asylum cases. Merit hearing is taking longer these days and asylum cases, in particular, are all time high during this time. The Department of Homeland Security counsel represents the U.S. government. Maybe you can reach an agreement with the opposing counsel…Or maybe you can have a thorough investigation done prior reaching the courtroom, say detail and updated reports on the country conditions and other expert witness reports…that can bypass having a number of witnesses to be called to the court for each case. You will have significantly reduced the merit hearing time for yourself and the client.

Speaker II: Asylum Officer, the Department of Homeland Security: credibility and manageability

"Let me just begin with a simple fact that we represent the U.S. government and the government is not a friend of your client." A Caucasian male, probably in his early 40s, spoke with confidence. He paused for a second and continued, "Our job is to identify refugees. It is not our job to prove or disprove the credibility of client or

his/her story. Credibility is established through consistency—that is what asylum officers are trained to do and look for in every case."

The officer was referring to the "well-known fact" among government officials in the eight regional asylum offices, where each new asylum officer "completes an intensive five-week basic training on new legal issues, country conditions, procedures…" (Ramji-Nogales et al. 2007: 311).

"All officers at the Asylum Office have had significant training and higher education in terms of identifying refugees or clients," the officer continued in his stern voice. "Asylum officers are only fact finders and cannot act as non-adversarial. We do not know what goes behind closed doors in every office. If you feel that they are not being objective, you can talk to their supervisors. Asylum officers receive extensive legal training and are evaluated for their performances by quality control department at all times. This significantly reduces chances of inconsistent decision-making. In fact, we have investigated individual asylum officers thoroughly in cases of irregular rulings."

For someone unfamiliar with bureaucratic language the asylum officer's fluid, if well informed and well intentioned 'transparent' speech can appear cumbersome and rather opaque. First, the officer's speech about the training, the anticipated dispute that may arise from individual officer's ruling on asylum claims, and the opportunity to address concerns related to asylum officer's decisions to his/her supervisor all draw on contemporary legal and public discourse that center on familiar issues, such as

"objectivity" and "transparency" of bureaucratic and decision-making procedures that provide superior "control" and "performance" measures, ensuring "consistency" in asylum process. Take, for instance, the following report published by one of the leading review journal of law:

> Asylum officers are not exempt from the supervision experienced by other government employees; they must meet strict timetables for deciding cases and undergo regular *performance* evaluations…Asylum officers must secure their supervisor's assent in every case before a decision issues…These features illustrate the tradeoff inherent in adjudication systems that stress *managerial control*: decisional independence is greatly reduced, but the system is thought to promote policy *consistency* and greater *uniformity* of decisions (Taylor, 2007: 483, *emphases mine*).

Second, the asylum officer's speech relies on and is reinforced by the legal discourse on asylum law and process. Words and phrases like "performance evaluation," "managerial control," and "consistency" are all but ways to absolve accountability.

The verbal and written emphasis on reducing "decisional independence" and "promot[ing] policy consistency and greater uniformity of decisions" reinforces precisely its stated mission: *managerial control.* Indeed, it is through such measures of transparent control that the illusion of meaningful content, and not meaning-making context, is (re)produced and even assumed out of these "empty phrases." What such speech and legal discourse does, in the end, is it simply reduces its debatable independence: by highlighting organizational details it effectively blurs ideological

underpinnings informing state official's practices and judicial rationale upon which all decisions rest notwithstanding seemingly distinctive outcomes for individual asylum cases. That policies and decisions related to asylum law does not simply arise out of but provide the condition of possibility of practical concerns encompassing individual, managerial, and structural workings.

"The job we do here is not easy," in a more solemn tone, the officer suddenly changed the topic. "We are expecting for people to talk about very personal stories, as you know…their traumatic experiences and past events of violence they suffered in about half an hour to a stranger like us." With this general introduction, the officer started discussing his "work" in relation to those of pro bono lawyers'. He continued, "In my five years of experience as an asylum officer, I have seen that pro bono cases are most complex and challenging. But they are also very interesting." The officer did not hesitate to make it clear to his audience that personal interaction and interviews with asylum seekers allowed for sympathy to be evoked—it allowed asylum claimants to appear as people and not simply as numbered files or blank applicants. At the same time, it allowed their subjective experience and realities to be incorporated in the judgment. He explained face-to-face encounter with claimants as valuable resource for determining credibility and allowing asylum officers to perform their duties effectively.

He concluded his talk by giving professional advise to the lawyers on two interconnected topics: a) clients' legal status and b) interpreters' effectiveness:

> You have to make sure that the clients' legal status is clear at all times and has proper documentation to be in the US. You should coach your clients thoroughly to be prepared to answer questions and *not* be nervous. We all have different ways of handing nervous energy and so something may come out incorrectly, so you should emphasize consistency in the story at all times. You should make sure whether the interpreters are effective or not. Also make sure to monitor their effectiveness before coming up for the asylum interview."

He shared an anecdote about how an interpreter spoke a different dialect from that of the asylum claimant and the case was rejected because the questions were not answered consistently and coherently. The denial of asylum in that particular case, the officer, implied was completely due to misinterpretation. "Since most of the time asylum officers make their decisions based on consistency of the asylum story and claimant's credibility. You have to make sure the interpreters are doing their job well. You should give plenty of time to test the quality of their performances as well as clients. But you should not worry much about interpretation as we now have interpreters on the telephone available to monitor the interpreter you bring to the asylum office." The asylum officer's instruction echoes what Susan Coutin (1994) has said about U.S. citizens becoming and even recruiting others as enforcers of the law (immigration-related topics). In this case, credibility of claimant could depend as much on claimant's first encounter or an in-person interview with the asylum officer as on the relationship formed between a claimant and pro bono lawyers in charge of his/her case.

Unlike the human rights lawyer's emphasis on the "trusting relationship" that is often formed between the client and the interpreter, the asylum officer's instruction was a warning against interpreter's inefficient "job" performance to outright misinterpretation that can potentially influence the outcome of an asylum decision. But like the human right lawyer, the officer also pointed out the presence of government assigned interpreter to monitor the in/efficiency of the interpreter.

Before taking his seat and in a seemingly out-of-context manner, he concluded his speech by thanking the NHRA for organizing this workshop every year and giving asylum officers, like himself, the opportunity to having face-to-face encounter with potential pro bono lawyers. This workshop, he suggested, gave lawyers some idea of how swamped the asylum offices were and how hard they had to work everyday in performing their job effectively. The officer then pitched lawyers' facilitation in performing their jobs: "I have seen that people who have participated in the NHRA program have been better lawyers in representing asylum clients." And after a moment of silence, he continued in a theatrical mode, "they have just been better human beings!"

Speaker III: Immigration Judge's speech: between credibility and criminality

The Immigration Judge, a Caucasian woman in her late 50s, was one of the judges whose asylum decision I had witnessed only a couple of months ago. She was the one of the few judges not only familiar with where Nepal was on the map but had

traveled there recently. I learned later, from the NHRA staff organizer, that the judge was known for her leniency and liberal politics. And one of the pro bono lawyers also mentioned that she was one of the few agreeable judges who granted asylum without scrutinizing clients' claims. Indeed, the Nepali asylum seeker, who was granted asylum by this judge, was one of the more complicated cases—claims based on political violence entangled with domestic violence more than a decade ago in Nepal—with least protracted courtroom drama.

"Folks, I came out of criminal court. I have over a decade of experience," she announced to her audience. "When you represent clients in criminal proceedings, what do you do?" she posed a rhetorical question. Her manner of speaking was quite informal. Answering her own question, she continued, "You prepare your clients. I cannot emphasize enough the importance of preparing those *refugee* people.[38] I do a lot of asylum cases. My views do not represent the U.S. Department but my own experience of the asylum process. The statute represents the freedom and values of the U.S. And this country represents those values where people are seeking refuge. Many people in the Detention Center are not represented. But individuals at the court represented by pro bono attorneys like you are likely to succeed."

[38] Judge's description of asylum seekers and refugees should be understood in the broader context of what Ong (2003) has compellingly shown: how "race began to color American perception of refugees from communist countries" with the arrival of black Cubans in the 1980s (2003: 81). Post World War II and up until then, the perception of refugees were that of upper-class, educated, especially Jews (Portes and Stepick 1994).

Drawing on her decade of experience on criminal case hearings, she talked about "witness preparation" for almost 20 minutes. Without processing her talk, I started taking notes feverishly not wanting to miss a single word that uttered from her mouth. I felt like I was in a law school classroom attending a lecture on criminal law, for I was learning new phrases, like "evidentiary standard" or "beyond a reasonable doubt," related to criminal proceedings rather than asylum. Beyond court hearings in asylum and criminal cases there seemed very little connection between two very different types of laws, procedures, and required preparations. I realize now, having had more information and the benefit of retrospective knowledge, there are several parallel features central to both legal proceedings, which I will discuss in some detail later.

The judge seamlessly moved from the topic of criminal law to discussing asylum process. First, she characterized "asylum seekers" and "refugee people" and invited lawyers to participate not only in *helping* them "rebuild" their lives but also *imagining* clients' stories and accounts.

> Unlike criminal cases, where you don't want to know everything about your client, asylum clients you want to learn as much as you can. The story and interview after you hear them…just close your eyes and think and *imagine* if it makes logical sense. Follow-up with questions next time you see them. Most people are immigrants who are from different cultures, often uneducated, and not used to speaking with white people or men and women in fancy law firms. So they are, obviously, nervous and intimidated. Your clients rely on you and

> your knowledge of law in this country. They think you are helping them rebuild their lives.

Second, she gave several anecdotal accounts and different types of asylum cases. All her examples of asylum cases had one thing in common—connection between claimant's questionable credibility from his/her suspected criminality—that I found peculiar and perplexing. Take, for example, the following case she shared with us:

> A woman from Guinea bought her identification document that she had to have her brother sent it all the way to the U.S. It did not matter to me that the document she obtained was bought from the government in Guinea; it was not a big deal and I did not give much weight to the documentary evidence. But I did not *buy* the whole story of this woman for I just knew it was a hoax—having been raped and traumatized. There was inconsistency in her oral testimony and lot of gaps in her account of what really happened to her in Guinea. It was not even clear what she did or how she made her living there. I just knew there was something wrong. I did not find the woman credible. But the lawyers representing this woman did not know that the identification document was bought and mailed to her by her relative in Guinea. Make sure this does not happen to you. In other *culture* that is how things get done because of the widespread corruption and widely accepted bribing system among government officials. Everyone knows that places like China, Nepal, or Guinea, for example, it is like going to your local DMV downtown and buying your identification card or something. That is how things are done in the Third World but make sure you tell your clients that you *know* about those things. You have to look for inconsistencies in their stories from the very beginning

> and imagine it over and over again throughout the process of witness preparation.

Several interconnected, quite disjointed and fragmented, issues were revealed by the judge's anecdote. Of many potentially contentious issues introduced by the judge's anecdote, I found her statement on credibility and consistency intriguing and illuminating of the asylum decision-making process: one could *choose* to overlook evidence for a possibly counterfeit document based on "generally known fact" yet suspect claimant's credibility based on unclear or inconsistent oral testimony and subsequently reject the case without providing clear explanation. The irony of the judge's disclosure of her discretionary power is quite instructive. She admitted openly that *buying* government documents, like identification card in the "Third World," was not something unusual or unexpected—not a "big deal"—but not *buying* particular asylum story based on an issue of questionable credibility despite documentary evidence was always a possibility. Her familiarity with different local "cultures" in the "Third World," where obtaining counterfeit documents are considered commonplace, revealed her ability to discriminate documentary evidence. Indeed, the judge's seemingly perceptive and well-informed knowledge about this practice echoes Bill Maurer's discussion of the "counterfeit": "counterfeit is only known when its circulation, its flow, is halted. If it circulates, even it is 'false,' it is nonetheless 'true' in the now of the transaction: it is efficacious" (2005: 59). As such, the judge's declared ability to make such a decision revealed to her audience her seemingly well thought-

through and thoughtful judgment arising out a very liberal, progressive worldview. At the same time, I would take this further and argue that was also her liberal, progressive, political outlook that was presented as a justification for her rationale to deny asylum to the woman from Guinea—"

It was not even clear what she did or how she made her living there. I just knew there was something wrong. I did not find the woman credible. In other words, the judge's unexplained "knowledge" of the woman's questionable credibility based on ambiguous ways of "what she did or how she even made her living" in Guinea could be used as a legal rationale for rejecting her asylum claims. The ir/rationale for establishing credibility was then as much contingent on identifying *desirable* citizens-to-be as distinguishing what that *desirability* encompassed—claimant who is perceived to have "clear" or traceable means of livelihood. One can deduce that the likelihood of those same "Third World" countries that the judge listed might also not have a similar tax system as the U.S. and the government that did not require people to submit their source of income or livelihood obviously did not figure in the judge's (re)telling of her discretionary rationale. The judge simply drew upon this anecdote to instruct lawyers to anticipate possible variations of asylum cases and warn about "cultural" backgrounds of different claimants.

If, in a criminal case a client was often said to be innocent until proven guilty, in asylum cases a claimant was already imagined as an incredible until proven otherwise. This attests to Kelly's findings in the UK system that "in practice, many

lawyers argue that they actually find it hardest to prove an asylum claim and easiest to get a criminal conviction" (2012: 47). Consequently, the question of an asylum judge making an error in judgment was not something entertained, let alone explored in detail, throughout the lecture and examples she drew.

Towards the end of her talk, she abruptly switched to a different topic of logistics: "I have 1700 asylum cases sitting in my docket, currently, folks. It is no joke. Think about why you are doing this—maybe your own story or family members who came to the US—all of us are immigrants to this country except for Native Americans. We all came from outside the U.S. She ended on yet another invigorating and a moving, recruitment note: "This experiences of working with detainees and asylees is something you will look back with fond memories that you have helped people get an opportunity to live in this country."

She received an ovation from the audience, as she spoke these words. But she remembered yet another tip: "Oh yes, and I forgot to mention, make sure your clients are paying taxes to the U.S. government if they are working."

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Hard work of compassion

In this part of the discussion, I lay out some of the basic terms of engagement that characterize present asylum work in this site (representative of other state and non-state sites I have visited during my fieldwork). I highlight the emphasis placed on compassionate reason and work—as expressed in idioms of voluntariness,

resourcefulness, action, and moral choice—that influences both expectations about participating in asylum assisting process and practices of legal and human rights collaboration. I suggest that this contemporary circumstantial rendering of asylum process and collaborative work makes compassionate reasoning all that forceful not in spite of but because of the inherent ambiguity. In the remaining of the chapter, I observe concrete engagement—a type of emergent collaboration drawn together by the work of compassion—between state and non-state workers (from asylum judges, officers, medical practitioners, human rights and legal experts to potential litigation lawyers to be recruited). I document it to primarily show how, while rationalizing compassion as a central motivating factor, people extensively draw on their experiences and continued effort of "hard work." In expressing compassionate action and work interchangeably, they do not refute, conceal, or ignore its connection; at the same time, they do not establish it as explicit truth. Rather, they alternate between compassionate reason and asylum work, contradicting professionalization to a correspondence theory of compassion. Practicing compassion serves to make US asylum legal collaboration feasible; to link professionals, institutions, lives, and resources across seemingly divergent expertise and power; and to produce and validate, under given socio-political and moral circumstances, asylum culture. But, I add here, this feasibility is not without ethical and political costs: compassionate action and work of assisting asylum claimants ultimately depends on and simultaneously generates a cultural template for what is regarded as an acceptable

asylum "suffering narrative" through which claims, witness testimonies, and claimants' performances are scrutinized.

The importance of compassion in this situation poses an interesting analytical challenge for anthropology: while classical critique of compassion (and compassionate action) rests on privileging it as a universal human condition—a sort of absolute truth—contemporary post-modern debates are primarily preoccupied with documenting its particular political or, politicized and ethical consequences. Either determining compassionate practices as genuine or dismissing them as calculated or strategic actions corresponding to certain socio-political circumstances forecloses analytically useful engagement: the multiple rationalizations and justifications surrounding compassionate practices and actions are also about understanding and materialization of compassion that is not limited to particular world-views, opinions, and values. Instead, I want to attend to "work of compassion" interconnected to the "work of suffering"—neither as a consequence of nor a condition to moral or ethical orientation but as a material and socio-legal relationship.

Producing compassion for professional collaboration

Asylum work—claims to recognizing and alleviating suffering of refugees and asylum seekers, based on recognizable and standardized patterns, negotiated through international debate and academic consensus, and aspiring for transformations of lives and the bodies of the individuals—has been dependent on the work of compassion in the US since its inception. Indeed, producing compassion in the institutionalized and

private settings, including recruitment of lawyers and human rights workers, asylum interpretation and legal documentation, preparation of standard witness testimonies—are at the core of determining 'claimant credibility' of asylum seekers. It gives moral legitimacy and ethical urgency to asylum work as a legal-political endeavor, determine its focus on credible sufferers of "past-persecution" and targets of "future persecution" and violence, and generate consensual measurement and specificity of political suffering (assumed to) occurring elsewhere but not (or less likely) in the US.

Such work involves associations between state actors—asylum judges and asylum officers—and private citizens—lawyers and human rights experts—not only because asylum law relies on and engages with broader networks of professional consensus but also because certain forms of expertise and experience, say medical knowledge or language interpretation, are not readily available within the US Citizenship and Immigration Services or the US Department of Justice, two of the main branches overseeing asylum application and judicial procedures. American asylum system thus involves a rather variety of expert networks and relationships across professional and institutional differences. Instead of these different professional experiences, skills, and expertise being sources of potential friction, they come together as a unifying site for reproducing and validating "asylum suffering narrative." Thus, the question of how (and why) particular way of practicing compassion is assumed not only the driving force in asylum work but also interpreted

as a universal and necessary condition to gauge and ultimately alleviate equally narrowly defined way of embodying and expressing suffering.

Compassionate action and, notably, "doing good work" remains the focus and justification of asylum legal collaborations. However, rendering compassion through everyday hard work, recognizing legal interlocutors continually reiterated "credible" asylum claims and representing "genuine" suffering of claimants. Instead of paternalistic inclusion, the contemporary compassionate practice is premised on agency of potential asylum claimants, emphasizing the autonomy, independence, and knowledge that individuals have of their past and present situations. The association and orientation that produce asylum legal culture—relations with claimants as well as among legal colleagues, expert witnesses, and institutions—are here to be understood less in terms of recognized professional difference, incompatibility, and material inequality. If the explicit demarcation of social and material difference between asylum seekers and asylum advocates is explained through compassionate work, professional difference among legal experts and human rights workers is construed in terms of serving "common humanity." For asylum legal practice to be professionally sound, asylum "clients" and legal "experts" in collaborative and compassionate asylum work are to meet as equals notwithstanding the former's dependence on the discretionary power of the latter.

The postulate of common humanity and compassionate work—not in a tangible material but in a narrow legal practical sense—applies to the potential asylum

claimants and to the pro bono lawyers assisting individual cases. And it also refers to organizations, like NHRA, and state institutions engaged through common understanding of and agreement on what counts as compassionate action. On different scales, associations that constitute the legal network are imagined as voluntary linkages between independent social actors and private citizens. Work of compassion for common humanity has become basis for the legal asylum endeavor.

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PART II: Compassionate inconsistencies

The condition of claimants' socio-economic and (protracted) legal insecurity

Inconsistency is most obvious around relations with Nepali asylum claimants, recruited through the "Asylee Protection Program" in the city, for whom undocumented legal status is directly linked to anxiety and credible fear more often than the past experiences of persecution. For many Nepali asylum claimants, economic and legal insecurities intersect, affecting their decisions to seek asylum in the first place. Despite overwhelmingly visible fear that claimants demonstrate due to their irregular legal statuses to fear of persecution in some distant past and place, and the primacy of legalization through asylum in claimants' lives, undocumented legal status is little (if and when acknowledged) spoken about in asylum legal interpretation, documentation, and judicial hearing. When potential claimants are interviewed at organizations like NHRA, their constant struggle to learn about and ultimately obtain legal assistance through social networks and informal channels do not figure in the

questionnaires used during "screening interviews" that can be categorized, let alone transformed, into a legal narrative of suffering. On these screening interviews, the human rights caseworker inquires about reasons for applying for an asylum in the US. The questions, if correctly answered, draw on a specific incident of past persecution, broadly conceived, and produce detail data and vivid description of when and how claimants suffered. However, discrepancy exists between the range of conceivable causes of suffering (some relatively more serious, i.e. capital punishment, torture, and imprisonment) and those actually experienced by claimants as well as between the assumed consequences of that suffering—fear, anxiety, emotional and psychological instability—based on a well-defined distinct and distant place and time and the claimants' everyday suffering based on legal insecurities in the US. Yet the asylum claimants being assisted and represented by human rights workers and pro bono lawyers do not usually acknowledge or reflect on this existing gap.

In my own data, I observed claimants discussing among themselves (as detailed in Chapter 1) the realities of their lives and continued hard work of suffering; human rights caseworkers and pro bono lawyers, meanwhile, talking among their colleagues, often expressed sympathy with claimants' misery and described their work arising out of compassion. Only occasionally, in moments of personal conversations and intense engagements during legal interpretation sessions, human rights workers and lawyers admit to claimants that they were aware of the ongoing dilemma of having to recount the suffering stories in attempt to establish "rapport" and build "trust" with them.

Still the experiences of suffering due to everyday legal uncertainty confronting claimants' lives and realities, while not completely dismissed by those advocating for asylum seekers beyond their engagement as lawyer-client (or NHRA advocate and asylum seeker), were not publicly acknowledged. For it would be naïve and erroneous to assume that constant fear and anxiety caused by legal uncertainty, limited resources, and material inequality among asylum claimants either did not come to the fore or were not observable during extensive interpretation sessions and legal documentation over a period of 8 months and longer. Instead, the very visibility of claimants' everyday realities allowed for the asylum lawyers' articulation of need, evoking local idioms and vocabularies of fear and suffering to make asylum claims effective and urgent, and generate compassionate responses from judges and asylum officers and state interviewers. This allowed lawyers, like Jessica or Elise, to vouch for and defend the presence of "claimant credibility" despite vague reasoning and lack of concrete example except in terms of their own time, investment, and continued engagement with claimants. It is also what allowed lawyers like Lisa to admit unequivocally that claimants "have to be a good actor" in order for their credibility not to crumble during asylum hearing or interview, playing a critical role in gaining sympathy from an asylum judge or a officer and ultimately reaching a favorable decision.

Such patterns of well-intentioned beliefs and gestures displaced, if only temporarily, assumptions of truth and objectivity, establishing relations through compassion. More compassionate advocate-suffering claimant relations rather than

impartial connections between client-legal representative came to the fore orienting and further guiding that relationship. Claimant preparation, for instance, prior to merit hearings and asylum interviews were neither foreseen nor written in the standard asylum legal and judicial procedures that eventually guided trial practices. Asylum lawyers and human rights workers therefore (and because their own time and investment were involved) perceived such preparations as ambivalent yet crucial steps during asylum interpretation meetings. In the words of one of the lawyers, "Even a random and seemingly irrelevant past incident to asylum claims can be called upon to question claimant credibility."

Claimants' ambiguous legal status prior to making asylum claims, thus, is not something acknowledged during the asylum process, including cross examination and witness testimonies. Instead, it is reluctantly spoken about during informal chats among lawyers and human rights experts as they come to sympathize with claimants and think about possibilities of providing superior legal assistance or reflect on the challenges of doing so, due to their professional positions within the asylum institutional spaces. Human rights case workers and experts are especially familiar, from their extensive experiences of screening interviews in diverse settings with claimants' limited resources to legal representation and everyday conditions; they insist that claimants can be easily dismissed or sent to deportation proceedings despite having "credible" claims, yet this knowledge of legal and economic insecurities of

many claimants are not included in the asylum legal narrative of suffering or systematically presented as credible and defensible claims.

The only written records of such experiences are the notes and summaries shared among lawyers that are not widely distributed. At the NHRA, the lengthy screening interview notes, detailing individual claimant's current circumstances, were often used as substantial evidence for advising claimants to seek support through local medical and psychological counseling in the city. This knowledge of claimants' social conditions and limited economic resources allowed human rights caseworkers to directly put them in touch with a variety of aid organizations and non-profit agencies throughout the city. More concrete entries on the ongoing social conditions of asylum claimants were jotted in personal diaries to help them remember details about claimants' personal lives and background that have assisted in the subsequent screening interviews and interpretation sessions. This data, I presume, helped staff and human rights lawyers to discuss practical issues concerning specific needs of individual participants to refer them to private lawyers in law firms and medical practitioners at institutions affiliated with the NHRA's asylum programs.

While written notes seemed to have been updated and consulted among staff and human rights lawyers at the organization, this knowledge was not included in the "fact package" that would be later transferred to law firms. This was especially evident, and often came as a surprise, to me because Nepali asylum claimants for whom I interpreted found themselves repeating the minute details of their living and

socio-economic conditions in the US for the first several legal interpretation sessions. Yet this knowledge was never included as part of the legal narrative of their asylum claims, which is not surprising given the emphasis placed on legal formatting of asylum narrative, affidavit, and I-589 application form. What is intriguing is that every lawyer assisting with asylum claimants insisted on gathering as detailed information of claimants' current living and working conditions at the beginning of interpretation sessions only to categorize this 'data' and knowledge as *irrelevant* details to the asylum claims and suffering narrative based on the past persecution (as in the case study of Tshering in Chapter 3). In other words, the exclusion of the irrelevant details was not intended to ignore or hide claimants' everyday conditions or even question claimant credibility as such. Rather, such background information and knowledge was not seen as critical component of asylum legal documentation, including I-589 form and the content and quality of affidavit.

Claimants' precarious legal status was thus detached from the asylum claims, documentation practices, and responsibility of human rights workers and lawyers deeply engaged with assisting individual asylum seekers. At the same time, however, such background information of claimant's precarious lives, uncertain working conditions, and protracted legal status was obviously essential for the functioning of "Asylee Protection Program" at the NHRA: had human rights lawyers and case workers not known that claimants' limited (and no) access to resources and paid-legal representation and if they had not shared the background information with other

staff, they would not have been able to locate pro bono legal assistance accordingly and would not have stayed with claimants' throughout the asylum judicial procedures. Not to mention the human rights staff would not have known where and how to screen for potential asylum claimants—detention centers—and proceed with screening of those that came independently, like in the majority of Nepali asylum claimants. I would not go as far to assert that limited access to legal representation played a determining role for potential and accepted claimants rather than the weight of the asylum claims and the issue of "claimant credibility" (in whichever way it was measured). The seemingly *irrelevant* knowledge of claimants' economic and social background was nonetheless vital to initiating, continuing, and reproducing asylum claimant-lawyer relations, without which pro bono asylum culture would be nonexistent, and yet it could not be acknowledged, lest it breach professional boundaries and potentially rupture collaborative effort among human rights workers, and private lawyers and state officials. This knowledge had to remain opaque, but not completely absent, so that the everyday engagement with claimants and the work of asylum could continue.

If one asks human rights workers and pro bono lawyers involved in assisting asylum claimants why claimants' fear and anxiety surrounding economic and legal insecurities in not discussed during interpretation sessions, one obtains several standard responses, the most significant being that present suffering due to economic conditions is the everyday reality and outside the realm of legitimate asylum claim-

making process—it is what distinguishes an asylum claimant from a regular "economic migrant." One cannot make asylum claims based on current conditions of legal and economic uncertainty in the US. Underlying non-acknowledgment of this reality is paradoxical—the compassionate work around asylum practiced by human rights lawyers, human rights experts, and state officials is contingent on recognizing suffering caused by current material inequality as much as "past persecution" in a distant place and time.

While precarious socio-economic realities of potential and current claimants are not spoken about during interpretation and asylum legal documentation meetings, or professional engagements, many lawyers and human rights experts keenly observed and often spoke about, quite passionately, during "off the record" and informal conversations pre and post-interpretation interviews, outside the legal setting and among each other. Thus, despite exclusion of asylum claimants' current circumstances in the US from the affidavit and asylum narrative of suffering, the background 'data' very much shape concrete legal practices and intense engagements, allowing lawyers and human rights workers to advocate for and uphold the existence of "claimant credibility" even in the cases of outright asylum rejection (as extensively documented and discussed in Chapter 5). Here, I want to add that the "irrelevant" information that does not become part of either the asylum documentation or the judicial hearing procedure, ironically, contributes to the successful production of asylum legal culture in the US.

Unconnected to asylum legal and judicial procedures and often driven by compassionate commitment, pro bono lawyers often provided meals to claimants during long interpretation meetings and prep sessions or extend other similar hospitality, such as providing car services to and from law firms when available and/or reimbursing for public transportation for claimants. These gestures were appreciated by Nepali claimants as a sign of generosity, thoughtfulness, and care but not perceived by lawyers as integral part of the asylum seeking experience itself. Almost all pro bono lawyers assisting with Nepali asylum claimants were aware of irregular nature of their claimants work schedule for they often accommodated meetings most convenient for claimants and me as an interpreter and cultural mediator. Many also worked after hours, late into the evening, if and when the need arose for making international calls to Nepal to gather or verify corroborative information and documentation about claimants' lives pertaining to experiences of violence and "past persecution." In many cases, lawyers, instead of relying on verbal interpretation from interpreters like me, obtained copies of translated (from English to Nepali affidavit), prior submission with the I-589 form to the State Department, to ensure claimants had Nepali and English versions of their asylum stories before attending merit hearing or asylum interview. To go beyond such professional ad hoc measures and, for example, invest into asylum cases as schedule long distance phone-interviews and to propose systematic ways to arrange for translated legal documents for claimants is about compassion directed toward establishing, if by accident, a

deeply personal relationship, contrary to the declared commitment to professional duty and legal obligation.

The everyday needs and non-asylum related "suffering"

A similar exclusion of the knowledge of material realities pertains to claimants' everyday health needs. For the duration of the asylum process, Nepali claimants recruited through the "Asylee Protection Program" and receiving pro bono legal assistance and representation (usually 1-3 years) provide medical and psychological evaluation and regular counseling otherwise unavailable or inaccessible free of charge. This health care excludes conditions and referrals beyond visible physical scars and psychological trauma (unless declared by claimants to be directly linked with their past incidents and experiences of persecution and suffering), and it falls short of regular healthcare needs. It constitutes superior, and otherwise costly, services to evaluate pain and suffering of claimants caused by said past events (as explored thoroughly in the case of Tshering), and which claimants can rely on to obtain throughout the asylum-seeking process. The claimants receive personal, one-on-one treatment, follow-up counseling sessions for as long as it takes medical practitioners and professionals to provide a written, medical statement. This is not without a purpose: the witness experts' reports contribute to the corroboration of the physical and psychological state of the claimants. While Nepali claimants appreciated the medical resources available to them free of charge, many saw and described participating in

these counseling sessions as part of the asylum "suffering narrative" and work (explored in Chapter 2) and not necessarily related to their actual health conditions.

The argument that asylum claims associated with expert reports on trauma and suffering that come out these counseling sessions form an important basis for witness testimonies of suffering—central to the functioning of a standard asylum narrative is nothing new (Shuman and Bohmer 2004; Willikson 2004; McKinley 2007; Johnson 2011). Yet the broader contribution of how contemporary clinical (and therapeutic) practices and asylum legal practices intersect, where asylum claimants and asylum advocates—medical experts, psychologists, pro bono lawyers and human rights experts—can only partially anticipate a favorable decision, increasing claimant credibility during asylum interview and judicial procedures. For pro bono lawyers and human rights workers I worked with repeatedly emphasized accounting for "case-by-case" basis of asylum decisions and it uniqueness because, and not in spite, of increasing attention, in recent years, paid to mental health conditions of asylum claimants and refugees. This leads to my earlier point about asylum cultural template: just as claimants, upon going through asylum seeking process, gradually learn what kind of visible or suppressed pain, trauma, and suffering are deemed recognizable and credible for asylum claims, the legal and medical practitioners and human rights experts engaged in producing asylum medical documentation—mental health and psychological evaluation reports—and providing witness testimonies in the court hearings become particularly conversant with asylum legal protocols and patterns.

What this means, of course, is the increasing unpredictability of asylum judicial decision rests little on physical, mental health conditions of claimants, or even legal claims per se —whether directly related to or completely irrelevant to a distant past suffering—and more on the discretionary power of asylum officers and immigration judges. The intersection between medical and legal protocols in the making of asylum claims is partly due to the institutionalized separation between immigration and asylum system, where health concern add an important dimension to the compassionate rationale for pro bono lawyers and human rights workers assisting potential claimants. But, above all, it reflects the complexity of real-life physical and mental health conditions, which require medical experts' clinical judgment and written reports, which are often modified in the process and transformed to fit into asylum legal documentation. As such, there exists a medical template, so to speak, that explicate conditions of suffering related to asylum claims and thereby drawn attention to the persistence of pain and suffering due to said events. Toward these ends, possible causes and consequences of suffering—physical or mental—directly unrelated to the asylum claims are not inquired or become part of the medical reports corroborating asylum documentation. However, this is not to suggest that supposed trauma, pain, and suffering unrelated to experiences of past-persecution do not seep into face-to-face encounter with medical practitioners during interpretation interviews and counseling sessions.

This discrepancy between knowledge about actual physical (and oftentimes mental) health conditions of claimants and the reporting of the appropriate suffering due to past incidents is not necessarily unknown to medical expert witnesses and interviewers engaged extensively in the asylum work in the US. Despite this, asylum medical reports, which usually describe health conditions of claimants as a mere complement and collaboration to the specific asylum claims, are submitted with the affidavit and free healthcare no longer extends once cases come to a close—resulting in either rejection or granting of asylum. In asylum documentation, the inconsistencies regarding suffering of claimants' health conditions are not detailed. The language of collaborative partnership between medical and psychological needs and asylum claims insist that the medical and legal institutions, while existing as separate entities, engaged with the asylum work and working closely with claimants under the guise of achieving the same goal of compassion—not only learning *what* to but also *how* to practice it in their professional lives. To mention or put into writing the gap that one group, say medical experts, finds is less likely to happen not because they are oblivious to inconsistencies; rather, the effort to assist asylum claimants through compassionate reason and work seem central in maintaining collaborative consensus.

Having extensively worked with asylum claimants, medical professionals as expert witnesses possess informal and in-depth knowledge of asylum legal institution and know how and in what particular language to use in asylum medical reports,

causing little or no problem: inquiring claimants of specific, traumatic (physical and/or psychological) past incidents, looking for physical signs of torture, and guiding claimants through medical procedures deemed crucial for generating asylum medical report, and ultimately sidelining medical concerns so-called unrelated to the actual asylum claims. The familiarity of medical experts with the US asylum setting and the experiential knowledge arising from their involvement in asylum work is reflected in their informal conversations with pro bono and human rights lawyers regarding cases they have previously worked together and so forth. And it is because of the medical experts' familiarity with asylum legal culture that they draw on more often than their acute awareness of the variety needs and health conditions of claimants in conducting, following-through, or recommending certain procedures. Moreover, asylum claimants that may not show familiar medical signs of physical or psychological suffering are not dismissed as non-credible claims; rather, as we saw in the case of Tshering and Maya's stories, they may receive better counseling support and attention upon being marked as and read through the lens of "cultural being."

This practice—much of it is acquired while working with organizations like NHRA, assisting asylum claimants in a variety of settings—helps medical practitioners and experts bridge the gap between their clinical knowledge about claimants' conditions and the standard asylum protocol, enhancing both retaining claimant credibility and the chances of asylum success. Yet the detailed knowledge that most medical experts have of claimant's everyday health concerns and issues that are not

documented in their witness testimonies also reveals the acute problem of sustaining asylum legal culture in the US as the primary task, foreclosing any discussions or consideration of possibly proposing new or improved ways to continue offering substantial healthcare services or counseling. While many medical experts admit to not being entirely sure exactly which psychological counseling and evaluations "relevant" for potential claimants waiting their merit hearings or asylum interviews. However, no systematic initiative is taken by medical practitioners, as expert witnesses advocating for claimants' health conditions, to challenge the ways of gathering medical reports for the asylum process. Thus, the experience of writing asylum medical reports, carefully sifting through relevant information about pain and suffering and simultaneously un-documenting (while verbally sharing with interpreters, lawyers and human rights workers) everyday health concerns of claimants contribute to the compassionate work of asylum.

The medical experts working closely with pro bono lawyers and NHRA do not continue consultation with claimants after their asylum cases are closed regardless of the asylum decision. Their clinical evaluation of and medical advise to claimants are then mediated by asylum lawyers and human rights workers. This type of clinical care and compassionate commitment rely on the structure of asylum legal practices already in place. Thus, medical practitioners and experts one-on-one engagements of claimants' everyday health concerns or medical needs remain undocumented for the most part; again, crucial knowledge about claimants' everyday limited material and

socio-medical realities are discussed among doctors, lawyers and human rights experts, at the heart of NHRA's "Asylee Protection Program" and free consultancy and legal representation, and yet systematically dismissed in upholding compassionate work of asylum. The irony, of course, is that without the very knowledge of claimants current situation in the US, medical practitioners would not have able to collect valid information regarding traumatic or painful experiences of "past persecution" in order to assess, advise, and advocate for appropriate counseling sessions prior merit hearings or asylum interviews.

Among a variety of explanations for this asylum medical un-documentation are, apart from professional experience and declared rationale of practicing compassion, to avoid complications or contradictions surrounding asylum legal documentation and confrontations with fellow legal experts/colleagues. Arguably, this ensures medical practitioners and experts to be active and paid-participants in the asylum collaboration with minimal interruptions or critique of the practical aspects of their own work and everyday medical practices.

(Imaginative) discontinuities in the submission of country condition reports

Similar parameters apply in the making of country condition report—as supporting documents/evidence for asylum claims—upon successful recruitment and facilitation of (not to mention monetary compensation for) country condition experts. These reports are written after consultation with pro bono lawyers as well as in-depth interview with and evaluation of individual asylum seeker. Such documents form part

of a wider asylum legal economy to specific merit hearings and interviews through involvement as "expert witness," "country-condition reporters," and "cultural experts," who are compensated for their time and "expert knowledge." Indeed, anthropologists acting as/performing the task of expert witnesses in asylum cases are not particularly new (see Good 2004 for extensive analysis on the role of expert witnesses during asylum hearings). While this continues to generate interesting debate within anthropology—ranging from specific issues of context and competence to the broader debates on ethical, political and moral accountability.

During legal interpretation sessions and dialogues, the gathering of vital information from expert witnesses are persistently referred to as "expert evidence" and "country-condition reports," allowing little or no space for individual claimants to draw on their own knowledge of the socio-political contexts of the places they have left and are seeking asylum from. While dwelling on the details of political situation by claimants can be seen to delay and impede on the efficiency of asylum interpretation and documentation process, the assumed ignorance of claimants' knowledge of their countries political situation is necessary to uphold and ultimately retain "claimant credibility." Recall, Lisa's firm assertion (Chapter 4) that many claimants will not be using "big words" to speak about their traumatic experiences, or Elise's affirmation (Chapter 3)--"The messier and more complicated the story, the better and believable it is. You see, no one remembers past events (especially the traumatic ones) chronologically or in some orderly fashion." In sum, there are

designated people as "experts" who are called upon to do evaluation and provide knowledge of the country's socio-political conditions that does not distract or divert from individual claimants' experiences, versions, and interpretations of trauma, "past persecution," and suffering. Thus, there is a selective disconnection between claimants' knowledge of their countries as more personal and, hence, subjective, and expert witnesses' descriptions and written reports as "objective evidence"[39] (Good 2004).

Everyone immersed in the asylum assisting process—pro bono lawyers, legal interpreters, and human rights workers—is aware of this "overlooking" that takes place and yet agrees to abide by it. If one asks country condition and cultural experts about information gathering, documentation, and report-writing process, the answer is "there is already a standard template" for submitting "cultural facts" and "generally known facts" about political situations in different countries and they simply tailor to fit the asylum guidelines. This acknowledgment of the commonly known "facts" that facilitate in the submission of expert reports upon endorsement by expert witnesses themselves maintains the oscillation between documented political violence elsewhere and undocumented suffering of individual claimants. It also reveals how knowledge and information that expert witnesses provide may or may not be anything new (given the fact that a host of international non-governmental and humanitarian organizations

[39] Anthony Good has provided an extensive study on how the asylum system (in the UK) itself and its attending assumptions, namely legal criteria of 'facts' and 'objective evidence,' pose considerable problem for social scientists, including anthropologists, engaged in the asylum work as "expert witnesses" in the asylum courtroom hearings and providers of country-condition reports.

located worldwide and their websites publish updated country reports quite frequently) but the position that affords them to define what and how specific knowledge is included in the "country condition reports" in support of individual claims make them collaborators in the asylum assistance process.

Further, exclusion of individual claimant's familiarity of the ongoing political and socio-cultural context of their "home countries" largely functions by simultaneously disregarding claimant's experiences caused by uncertain legal status in "host countries"—the overlooking of the socio-economic and material realities of claimants. Like medical practitioners and psychologists' consistent sidelining of health needs and concerns 'irrelevant' to asylum claims, marginalization of claimants' sustained hardship and experiences of socio-economic violence do not figure in these reports. As in the previous examples, this sidelining of knowledge about claimants everyday lives underlies productive professional collaboration in the context of asylum assistance process. Here, again, this collaboration is forged by commonly shared knowledge about compassionate reason and action that materialize in their effort to assist asylum claimants. In practicing compassion expert witnesses quietly acquiesce to the asylum assisting process that indirectly feeds on the ongoing material suffering of many of the claimants they assist. Thus, it is out of compassionate reasoning that the country condition reporters and cultural experts keenly offer their knowledge and lend "objective evidence" to assist claimants while at the same time practice oblivion to the unequal realities of claimants and their protracted legal statuses. This

agreement helps avoiding conflict among asylum collaborators as much as it reinforces openly the fundamental value of asylum cultural system in the US. Were the nature of the country condition reports included claimants' recounting of detailed, individualized experience and interpretation of suffering experienced post migrating to the US (as I had documented in Chapter 1 and 2), the asylum system altogether would not function the way it currently does. The ambiguous degree to which 'claimant credibility' is upheld, for example, during merit hearings and asylum interviews would be meaningless making the asylum collaborative programs defunct.

Relations among asylum advocates and human rights experts

Non-acknowledgment of claimants' unequal material realities, coupled with claimants' everyday existence and experience contingent on precarious legal statuses, is particularly striking with regard to professionals assisting with Nepali claimants. The practice of compassionate reason and action apply to initiating and sustaining relations among asylum advocates, between pro bono lawyers and human rights experts, and between non-profit organizations and private institutions. These professional actors do not directly discuss their knowledge and awareness of the claimants' material and socio-economic conditions, primarily because the link between claimants' precarious lives, economic inequality, and prolonged legal uncertainty is not something publicly articulated. Thus, it is difficult to conclude whether advocates with extensive experience assisting claimants "know" and/or at least acknowledge the two being interconnected and one affecting the other in concrete ways.

As an interpreter-ethnographer for many Nepali claimants, their material inequalities are reflected in observable everyday conditions concerning housing, employment, and lack of healthcare access. Many concrete everyday life concerns of Nepali claimants are, indeed, not known, or are only partially known among various asylum advocates and groups—a private litigator with minimal or no experience working in immigration matters is less likely to know much about the intricacies involved in the everyday work or employment conditions of their clients. Likewise, a human rights worker has little idea about housing situations, and healthcare needs/concerns of potential claimants during interview and screening process of asylum claims and specific suffering narratives. While this may well be because such issues do not figure as asylum-relevant issues or claims, these un-discussed (or at least not publicly disclosed) observations, however, does feed into perspectives of potential and current claimants.

Indirectly, these material inequalities figure in casual conversations among human rights workers in the same institutional setting rather than those between private lawyers and human rights workers engaged in different institutional locations and hierarchies. For instance, Annie said to me in an informal discussion, "Who would not want to integrate Nepalis in their countries? They are so gentle and docile. They remind me why this work [asylum] is so important to continue." A French national herself, Annie let me know that she did not see any point in applying for US citizenship herself and that she was looking for consultant positions in the field of

human rights agencies and organizations in post-conflict countries. She further reasoned with me,

> You know Nepalis are very humble. They make me feel comfortable asking them personal questions about their lives. Unlike other refugee applicants, Nepalis are composed most of the time and are able to put all of us (the NHRA staff) at ease. It is not in their culture to take advantage of each other like other refugee cultures. And the most rewarding part of the asylum work is that you are giving someone a chance to start a new life in this country.

I had particularly asked to reflect on her experience interviewing Nepali asylum claimants and, whether or to what extent she had found that their immediate material concerns/needs and precarious employment situations in the US superseded the suffering asylum claims that the I-589 Asylum Application form could hardly begin to illuminate. In this context, the indirect acknowledgment of claimants' social realities was immediately substituted by Annie's personal opinion and views on contemporary integration of Nepalis into American society, as it indexed compassionate work involved in asylum-assistance process. First, this type of informal conversations with asylum experts and advocates were not necessarily exceptional throughout fieldwork. On the contrary, this comment is quite typical and reflective of many of the "non-asylum" related discussions I had with lawyers and human rights workers about their Nepali claimants' situations in the US. Here, one could infer not only asylum advocates' awareness but also critical commentary, if unintentional, concerning material inequalities of their Nepali claimants—the fact that Annie felt the need to

describe them as docile and hard-working "migrant workers"—a desirable group of people to be integrated in the US. However, even on these occasions, awkward and measured, rather than frank, acknowledgment structured many of the informal conversations about Nepali claimants I had with pro bono lawyers and human rights workers. Second, for the most part, any potentially engaging, meaningful, and candid conversations about Nepali claimants' as migrant workers in the US were either immediately redirected to or reframed within the discussion of advocates' own professional obligation and job responsibility (as discussed in Chapter 5 through the use and overuse of the phrase 'claimant credibility') in concrete and a strong sense of compassionate commitment toward assisting asylum claimants.

Interestingly, claimants' material realties and inequalities are not commonly discussed among pro bono lawyers and human rights experts, those in a superior positions, such as between a senior associate in a private law firm and a director of NHRA organization. One possible reason for this is diplomatic politeness and adherence to the unspoken yet understood criteria for maintaining professional relationship and institutional collaborative effort. Not laying bare the contradictions between their awareness of claimants' realities (and the everyday suffering) and professional commitment to compassionate work (for addressing past suffering elsewhere) sustains the partnership required for continuation of asylum work in the US. Second, acknowledging to one another the dire material disparities of the claimants they assist would also mean unearthing the underlying and deeper, if

unavoidable, causes and consequences of the asylum seeking process for claimants: it would infringe on the assumed benevolence of state and non-state institutional programs such as granting asylum to its credible and, hence, desirable people. But above all, I suggest, just like the work of "making papers" for Nepali claimants structure their everyday work-experiences, perception, actions, and motivations toward life and "suffering" in the US, pro bono lawyers and human rights experts' "work" of assisting claimants with asylum documentation gradually give in to their own heightened sense of compassionate rationale.

The emergent asylum institutionalized silence around claimants' material conditions and legal insecurity pre and post-asylum seeking experience is understood and compensated by constant articulation of compassionate asylum-work as the data above illuminates. Referring to asylum claimants in this context as "migrant workers" and openly acknowledging their claimants' extra-legal narrative of suffering as something remotely related to material disparities and legal uncertainties—a problem of "undocumented migrants" and not document-able claimants—made asylum practitioners and human rights workers extremely uncomfortable; they even came to see any possibility of such comparison as risky, laden with political and politicized issue of contemporary immigration debate around undocumented migrants unfolding in the country. Although the collaborative effort, in principle, remains open to addressing immigration-related issues (as illuminated in the Asylum officer or the Immigration Judge's candid speech above), this rendering of immigration issue is not

typical among human rights experts and private lawyers working with asylum claimants. Not discussing the obvious connection between asylum system and increasingly stringent immigration policies surrounding un/documentation and, in particular, the observable switch of their client between an "undocumented migrant worker" and an "asylum seeker" is a way of actively overlooking them. This non-acknowledgment is accompanied, just as in the case study of Tshering (in Chapter 2) and examples pertaining to medical practitioners and country-condition reporters as expert witnesses, by professional practice of developing peculiar ways of communication ("claimant credibility" in Chapter 4). The known material conditions of their claimants and wider disparities are silenced, if provisionally, for the duration of the asylum process.

Misplaced compassion or cautiously compassionate?

These specific ways of non-acknowledgment of material disparities seemingly irrelevant to asylum claims are complemented by practices and performances of compassion, making them visible and conjuring up the vision for solid foundation of professional collaboration. In the asylum law workshop (discussed in the first part of this chapter), speakers engaged in contemporary asylum work participate as equals. Compassionate action as a driving force for assisting asylum claimants is emphasized by all participant-speakers, notwithstanding the different levels of actual personal encounters with claimants and degrees of investments into asylum work. The style of presentation are carefully rehearsed, drawing on speakers' own past experiences of

working with and for asylum claimants from various countries, displaying their expertise in the field of asylum work. At the same time, it is a visible act of establishing their credibility as speakers and advocates of the US asylum system to persuade private lawyers to participate in the asylum-assistance process, ultimately reinforcing and expanding the network between state and private actors. While this focus on compassionate action fosters collegiality, concealing institutional differences—who provides legal representations and constant support to claimants and who are in positions of power making ultimate decisions about which cases are granted asylum and what claims rejected on the basis of credibility—it is crucial to identify how much this kind of collaborative effort is welcomed and appreciated by all parties involved. For the state officials, like Immigration Judge or Asylum officer, the forum allows them to present their work on asylum cases as part of their job responsibility within a context of a wider network of asylum law practitioners and expertise. For the private litigators and future pro bono lawyers, this introduces and orients them toward a range of asylum-related possible issues, reassuring them of their continued commitment and compassion toward doing asylum work.

Practicing compassion has a tangible, concrete, outcome for the asylum experts and practitioners I interviewed throughout fieldwork—the production and documentation of claimants' "suffering narrative" appropriately inserted in asylum affidavit, medical and country condition reports, accompanied by legal brief to be submitted to the Immigration court or the Asylum Office. Even more explicitly, it is

vital to sustaining asylum professional collaboration and extending social and legal networks of experts, scholars, practitioners situated in state and non-state institutions.

This chapter began, like others in this dissertation, from an awkwardness of being an ethnographer-interpreter in the asylum narration, documentation, and interpretation processes for Nepali claimants and their pro bono lawyers and human rights advocates. The physical and mental disorientation related to asylum legal interpretation has to do with the constant feeling I had when speaking to lawyers and human rights staff: what they said of the asylum process was as odds with what I repeatedly encountered. A discomforting situation for all the parties involved yet it would never quite burst open because it was not about finding truth or *real* motivation behind their declared commitment to compassion in continuing asylum work. It is not about furthering political agenda through practicing compassion as delineated by Fassin's use of "politicized compassion;" neither is it appropriately captured by a phrase like "false consciousness" underlying compassionate rationale and action. It is neither compassionate politics nor false compassion per se. Such interpretations would assume that compassionate action is either a priori or instrument to some ulterior motive rather than being in a relation of constant flux, contradiction, and even conflict with ever-changing situation at hand my legal interlocutors encountered.

Working in the world of US asylum system with asylum legal practitioners, asylum officers, and human rights experts, I was time and again struck by the ease with which I became accustomed to not acknowledging the everyday material

inequalities and legal anxieties produced by the asylum-seeking process confronting Nepali claimants during legal interpretation sessions. While this active non-acknowledgment, as discussed above, facilitated in gathering and documentation of relevant information for making credible asylum claims, it never completely disappeared from the purview of those actively engaged with assisting asylum claimants. The fact that no pro bono lawyer, medical expert, or a country-condition expert I worked with seemed perplexed and/or intrigued by their claimants' consistent insertion of information—whether housing, employment, or health concerns—unrelated to asylum claims point toward an interesting paradox. The irrelevant information is as much central in the making of credible asylum claims as the suffering narrative related to specific incident or event in the past.

For the context presented in this chapter, compassionate rationale and practice among legal experts and professionals is both motivated and enabled by heightened acknowledgment of asylum suffering narrative while simultaneously non-acknowledging material suffering and legal insecurities of their Nepali and non-Nepali claimants they come in contact everyday and ultimately assist. Maintaining consensus over the premise and principal values of compassion, as I have discussed here, underlie professionalization and subsequently foster legal collaborative relations, which reinforce, if unintentionally, the contemporary asylum culture and legal procedures. The public non-acknowledgment of the everyday suffering of claimants is made possible precisely by nurturing a hyper-sensitive environment and legal space

for the recognition and production of asylum suffering narrative—an event in a distant time and place to be objectified. This is turn allows for *flexibility* in the narrative of compassionate work rationale—the one closely, although not exclusively, tied to socialization in a legal, professional setting. Perhaps, then, evasions and silences of claimants' everyday, material, suffering provide as solid a ground for asylum network and compassionate relations as active participation and advocacy around distant (political) violence and asylum suffering narrative. Practicing compassion, even if interpreted as a misplaced one, has a productive place in the asylum work in the US: it is what drives advocates and human rights activists to assist claimants, and the consensus and stability established through the dual production of asylum suffering narrative (of asylum claimants) and practicing compassion (by asylum advocates) sustains professional collaboration.

CHAPTER SEVEN

Suffering Lives, Compassionate Actions

"*Bahini*, you have been here for two years now," Nirmala didi said in curious tones. "So tell me if you have found what you were looking for?" We were discussing about the difficulties to address all the problems that Nepalis face and continue to experience in the U.S. I hesitated at her request for summing up, what I have "found," pointing out the fact that she and other community leaders and advocates had many years of experience in this kind of work. As part of her job, she provides direct services to people, mostly domestic workers, interpreting for them, educating them about immigration laws and their legal rights as workers—regardless of their legal status—and organizing and mobilizing people to demand their rights.

During one of the worker's rights training workshops, she passionately declared: "*Saathiharu ho, bolne ko pitho bikcha, nabolne ko chaamal pani bikdaina* (Friends, one who talks can sell flour and the one who does not cannot even sell his rice)." "To talk," in this context, is most closely understood as 'speaking up' (as in sales pitch), and self-promoting, literally. But Nirmala didi was employing this proverb metaphorically to explain the importance of 'voicing' one's grievance and 'demanding' to be heard or fighting for one's cause (as in worker's rights). The shared knowledge and cultural understanding is that consuming rice, associated with a privileged social status and a symbolic marker of middle-class life-style, is more expensive to buy than flour, which is easily sold and is considered staple among poor in Nepal. Thus,

convincing a poor person to buy rice requires much more 'talking' than convincing them to buy flour. She offered an interesting analogy, a rather unusual interpretation and an inverse relationship between sellers—migrants—and buyers—employers. For this analogy completely dismantles popular understanding of consumer-consumption debate where sellers (whether selling artifacts and/or ideas) are often in better socio-economic situations than buyers. But based on her own *pitch*, she was promoting migrant workers as sellers and those employing them as buyers.

I was fascinated and confused by her use of the buying-selling analogy to encourage migrant workers to speak of their troubles and hardships. She then explained to me that what ailed Nepalis in this country is their hesitancy in actively self-promoting or 'selling' their cause. She offered to enlighten me, offering her own experience:

> *Bahini, maile bees barsa Nepal ma human rights ra social justice ko kaam garera kapaal phulako hun. Human rights ra social justice bhaneko nai aruko dukha bechne pesha ho* (Sister, my hair has become grey by working in the field of human rights and social justice for 20 years in Nepal. The profession of human rights and social justice sustains by selling suffering of others). *Yahaan America ma pani tehi huncha; Nepaliharu le afno dukha ra peeda bechera basekaa chan* (Here, in America, too, it is the same thing; Nepalis are living/surviving here by selling their pain and suffering).

She explained to me her experience of going through asylum process herself in the US seven years ago, which entailed, in her own words, "selling suffering." She grinned, and shrugged. "You know every Nepali has same *dukkha* in this country. But I

cannot go around telling people how I made papers because they will criticize me and think that I am just like them. People will not respect my work."

Here is an activist, community-organizer, encouraging people to 'speak up.' And one can see, the formulations of Nepali's *dukkha*, suffering, she draws on that are very similar to the ones shared by Maya, Mina didi or Kumar dai. She is highly perceptive of her own contradictory position about not sharing her suffering with others in the community to continue working as a grassroots, community activist. However, she would never assert that her attitudes are similar to those seeking asylum. Indeed, she periodically drew a distinction between people currently seeking asylum and people, like herself, now a green-card holder and soon to be U.S. citizen, and no longer an 'asylum seeker' in some tangible sense. Recognition of this legal difference matters although it does not necessarily correlate with one's socio-economic or regional background, or social capital. It is impossible to separate exactly someone seeking asylum from that of a green-card holder, or someone with U.S. citizenship, for that matter. It is not like there is some kind of specific sensibilities associated with asylum seekers, but Nirmala didi positions herself firmly in the camp of a differently suffering individual, posing a rhetorical question, "*Ke farak parcha ra? Hami sabai saranarthi bhayera ya asylum garekaharu jastai ta baseka chainau ra yahaan kaagaz bhai sake pani, aakhirma?* ('What different does it really make?' Or, more accurately, 'To whom does it really make a difference? Aren't we all living like refugees or asylum seekers here regardless of having made papers, after all?')"

This intense identification of Nirmala didi with asylum seekers and her earlier declaration of people 'selling suffering' is an interesting case illuminating what is (and can be) acknowledged as public knowledge and what is not recognized as knowledge among Nepalis in the migrant community. While many people ambiguously slide from one to another depending on specific context and who they are speaking to, Nirmala didi as a community-activist and organizer, who has years of experience working with individuals seeking asylum felt that she could not admit her own experience of having obtained asylum to people she came in contact everyday, let alone share her knowledge about the process with them. As I have discussed throughout the dissertation, what people in the migrant communities understand as 'asylum seekers' vary greatly and so does the discourse on *dukkha*, suffering, to legitimize people seeking asylum.

For some people, like Nirmala didi, whose early days of migration and 'integration' experience probably resembled that of Maya or Mina didi, but whose engagement outside the community center involved human rights activist like Cynthia or Jessica, and pro bono lawyers like Lisa or Elise, it is important to establish one's distinction from 'asylum seekers' while vocalizing that all Nepalis are living like refugees and "selling suffering" to simply exist. Often when Nepalis saw me observing different workshops and trainings in the community center or facilitating English classes on weekends, they would approach me and comment, "*Hamro desh ko haalat ramro bhayeko bhaye Nepalis haru le yeti dukkha paunu pardaina thiyo hola* (Had our

country's situation been well Nepalis would not have been suffering like this here)." This would be expressed in tones somewhere between regretful and reprehensible, making sure I knew that they, as community organizers and activists, recognized the suffering of others and, as a result, decided to volunteer and/or assist in different capacities. Although at first I did not know what to make out of their uninvited commentary and justification of working in the community, I later realized that these speeches and verbalized concerns are not at all random or inconsequential. Indeed, these are voiced all the time in the midst of internal criticism among people discussing their issues related to making paper, unfair working conditions, and sending money home to families in Nepal. They are always in dialogue with people, real and imagined, with a perspective associated with the dominant point of view that insist that Nepalis, like many recently arrived migrants from war-torn countries, experience hardships and difficulties because of the unstable socio-political situation "at home," leaving very little room to relate their suffering in terms of their continued, everyday, socio-economic and legal insecurity in the U.S. Paradoxically, it is by voicing the collective grievances and employing the 'suffering' narrative as a collective Nepali people that community activists and organizers I worked with sought to reproduce, and simultaneously dismantle, the victimhood-status of suffering Nepalis.

Even if you do not neatly qualify as either 'suffering' Nepali or an asylum seeker, you present yourself as someone sympathizing with the general plight of Nepalis notwithstanding the knowledge of what or how that 'suffering' may be lived,

experienced, and interpreted in the daily lives of people who are your neighbors, co-workers, and acquaintances. Yet if you live in one of the Nepali neighborhoods in Queens and Brooklyn, and if members of your family, relatives, and close associates are involved in migrant activities, if indirectly, or are assisting others with interpretations, translations, and employment, you are exposed to the ongoing contradictory social practices and intense discussions about who is or what counts as *dukkha*, suffering. It is not so easy to dismiss people seeking asylum as non-suffering Nepalis, as Nirmala didi's perceptive statement--"Nepalis are living here by 'selling suffering'"—indicates what everyone in the Nepali migrant communities already knows or gradually learns during early stages of 'integration' period in the U.S. It is simply learning to know *what not to know* to continue living and working, as Mina didi's poignant remark from earlier sums up: "But everyone knows the truth already."

In this context, it may be logical why some people attempt to reconcile the contradictions by making finer distinctions between what does or does not account for suffering of Nepalis. Nirmala didi offered a further explanation on this:

> In all these years that I have worked with Nepalis, I know who has really suffered and who has not. When people suffer they rarely share with others unless they can trust you. But when you don't have any choice or your suffering is too much people need to share their *dukkha*, suffering, even with strangers. There is no time to think about what is right and what is not. So some *make papers* easily and others cannot. Not everyone has the same luck, you know. There is enough suffering already for many of these people who

come to the community center. They live in someone else's house, working six days a week and finding time to even grieve for their families back home. They should not have to suffer just to live here.

She was not alone in her theory of suffering Nepalis, but one of the few people who, while distinguishing herself from those she closely worked with and provided direct services to, was highly perceptive of her own contradictory position as a former asylum seeker. Other volunteers, community organizers, and ESL facilitators, also commented:

> Those have to go through asylum process are usually hard-working people who cannot afford to go to events and activities because they live and work at someone else's house everyday of the week. They are not considered important people in their own communities, you know.

> People who are making papers here have no other options. Many have been brought to the US as live-in maids by South Asian diplomats and wealthy businessmen with false hope and promises of legalizing their status and sponsoring their families in Nepal and India. They cannot go back to Nepal and they cannot live freely in this country. They continue to suffer in silence.

> The more I do this kind of work, the more I come into contact with people's problems, and the more I realize how Nepalis are suffering. Many do not speak a word of English. They do not know their own rights as migrant workers, how will they know about asylum? Many just wait for their employers to sponsor them after years of working in the same place and possibly being exploited. Few who do know about it spend their lives running after lawyers and interpreters who promise to make their papers.

By recognizing the general pain and suffering of other Nepalis, people engage in and work out their contradictions about what counts as real suffering, what counts as legitimate grounds to seek asylum, and who, after all, can make papers. At the same time, identifying people as suffering victims of social and political injustices was central to their explanations.

Identifying whether and which Nepali is a suffering social actor is not a relevant question. Rather, understanding and interpretation of a particular notion of suffering is specific to being Nepali and belonging to the Nepali migrant community. Consequently, one can be a suffering victim, like the ones that Nirmala didi and her fellow volunteers and community organizers speak about. Asylum seekers, who are able to make papers and legalize their status faster than most people are recognized as agents--suffering-agents and not suffering-victims. It is the finer distinction between the two that requires some explanation.

Clearly, people who have either experienced themselves or been affected by those who have lived with the contingency of being undocumented, and without papers, or have encountered people going through the asylum process construct and offer complex explanations of the distinction between suffering-agent and suffering-victim. These explanations rest less on actual ability to make the clear distinction but actually on the necessary ambiguity with which people try to work out and simultaneously articulate the contradictions between suffering Nepalis and allegedly suspicious asylum seekers. Explanations of this type do not need any evidence and

everyone in the migrant community in New York City accede. The community organizers, volunteers, and activists are aware of and often also part of the social circles where conversations among upwardly mobile people in the community make blanket claims about distrustful asylum seekers employing 'the Maoist story' or misappropriating the 'real' suffering of Nepalis. Participating in the ongoing conversation and even defending those seeking asylum as *victims* of suffering rather than *agents* of suffering establish their knowledge of the suffering Nepali community while at the same time indicate the speakers' distinct socio-legal status, seemingly more worldly, than the recipients or targets of their direct services.

A claim to 'know the suffering of people' positions the speaker, paradoxically, as a confidant and sympathizer of hardships and difficulties experienced by other migrants without proper documentation and/or unemployed in the community. However, I would not go as far as to claim that the speakers can necessarily relate to or are even aware of the actual situation if they never went through the asylum process themselves. For those who make-up the 'suffering' community, the general suspicion around seeking asylum indicates not an outright exclusion but a conditional inclusion within the larger Nepali migrant-community that depends on rejection of their il/legality, on the one hand, but ambiguous recognition and even reverence of their particular sociality based on suffering. One can, thus, acknowledge their own existence as asylum seekers and realize that they will be greeted with either outright cynicism, at worst, or mild condescension, at best. Or one can construct oneself as

someone who sympathizes and understands why suffering Nepalis' may seek asylum but does not regard another's asylum-seeking status as necessarily that of a suffering-victim. Or, one can simply make a blanket claim of all suffering Nepalis without referring specific construction of suffering-victim or suffering-agent. No one in the migrant community, however can consider the erasure of suffering, as a category to identity conditions of Nepalis, all together. Whichever way one participates or engages with other Nepalis, everyone who remains connected—socially, economically, and politically—to the migrant community notwithstanding the actual physical connection, must be skeptical of asylum seekers yet understanding of their suffering.

The idea of *suffering* Nepali asylum seeker

Intense engagements and discussions about asylum seekers among Nepalis are part of the much broader socio-cultural landscape and processes through which concerns, individual and collective, intersect with universalizing goals and objectives of human rights and social justice underpinning the liberal, democratic U.S. state. To look at the meaning of suffering among Nepalis is to also examine the socio-cultural representation of the "suffering asylum seeker," in its specific manifestations and its liberal consequences. In talking about suffering, my interest has been less posing it as a philosophical question or existential crisis, but primarily as a shared social experience, if differently articulated or inhabited, and one common to the condition of Nepalis in the US. I am concerned specifically with alleviating the suffering of

others, espoused by the discourse and practice of human rights and social justice, embedded in the narrative of liberal, just, state. This narrative posits a [alleged] distinction between a benevolent, progressive, compassionate state from a state that is characterized as failed, undemocratic, and violent. Tied to the idea of benevolence, then, is an idiom of difference, a categorization that places people on either side of the divide—people arriving from undemocratic nations to liberal states. Suffering, in this sense, is quite literally a type of identity that become ethnicized through a series of bureaucratic practices: a sufferer is positioned and, in turn positions himself/herself invariably as a universal subject of compassion whose suffering can only be recognized by his/her *belonging* to a different place, local history, and/or socio-economic conditions.

The configurations of suffering look different depending on the position one occupies and/or is expected to occupy in the liberal state. Whether as migrant workers or asylum seekers in the US, Nepalis as recently-arrived people from a war-torn, impoverished, and politically unstable country, as I have shown, are already positioned as sufferers. Among Nepalis, though, it is through dislocating of one's suffering in socio-cultural idioms and practices surrounding *kaagaz banaune* and *dukkha* as they learn to identify themselves and be identified as asylum seekers in the U.S. From the point of view of Nepalis, the question about who is or is not suffering is not as relevant and urgent as to the degree one has suffered, who is asked to reveal his/her 'real' suffering to whom and under what circumstances. More importantly,

the question for many Nepalis, whether it is even possible *not* to be identified as a suffering asylum seeker in the US, notwithstanding the actual legal status, simply because they belong to Nepali migrant 'community' and are from Nepal. "Ours is a growing community (*baddho samudaya*) in the US; unless we demand *to be counted* in this country no one will recognize our *suffering* (*dukkha*) and respect us as people," announced a prominent figure in the Nepali community during one of the initial brainstorming meetings, held at Adhikaar, well attended by a number of leaders and active members from an ethnically and linguistically diverse Nepali communities. Expressing this widely shared sense of being invisible and disrespected as people, the ethnic leader emphasized its direct connection to Nepalis' collective experience of suffering, that is somehow gone unrecognized. In urging his fellow ethnic leaders to mobilize Nepalis in their different neighborhoods and communities to partake in the Census 2010, his message was simple: *to be counted*, literally, as people was the only way for Nepalis and their suffering *to be* visible. Or put another, not so farfetched, way: becoming *visible* is inseparable from making one's *suffering* count. This message has different implications and meanings for people variously positioned in the Nepali community in New York City and in the U.S. at large. Evocation of *suffering* as a call for identity, community-formation, and political recognition—rather than conventional categories based on ethnicity, race, gender, class or, say, language and religion—needs some explanation.

How, then, are we to comprehend and interpret the use of suffering among Nepalis as migrants and asylum claimants? Suffering as an analytical category, at best, runs into a problematic construction of victimhood/agency and sufferer/survivor and, at worst, completely evades the fundamental problem the discourse of suffering—social, political, medical, economical, and existential phenomenon—poses for a nuanced socio-cultural analysis. The dichotomy between victim-subject and agent makes sense only within the narrative of liberal state. In an effort to move away from this dualist framework of victimhood-agency, anthropological inquiries have exclusively focused on agency, as "a constrained capacity to act" (Leve 2011); "an everyday embodiment and inhabitation of action" (Mahmood 2005), to what is now called "neoliberal agency" (Gershon 2011). While agency as an analytical category requires no quotes, we insist on bracketing the term 'victim' and/as 'sufferer' in order to make them objects of analytical inquiry. As such, victimhood as a potentially useful category for analysis has vanished from our purview altogether. To resurrect victimhood for anthropological inquiry seems completely unthinkable today. This avoidance to employ stained adjective, however, threatens to dislocate, invalidate, if not completely eradicate the *agentive* role of people we work with and the worldviews they describe to us that rely not exclusively on speech of resistance but communicative gestures and grave silences, willful inaction, disengagement and everyday performance of victimhood. In other words, whether or not the dichotomy of victimhood/agency offers limited social analysis and discussion, the fact that these

terms are flourishing in the everyday language and worldview of people we choose to engage with and interpret their social-world (should) question our academic agenda and imperative.

Throughout this dissertation, I have suggested tracking specific terms of the discourse of suffering—as people deploy, modify, reproduce, and question it—not in a vacuum but always in relation to a parallel discourse on the everyday, concrete practice or work or compassion. Rather than exclusively focusing on the socio-cultural representation of "suffering" and "making paper" among Nepali claimants, I followed its *use* by people to describe, relate, and interpret their lives shaped by and inseparable from politico-legally specific positions as social actors in the U.S. asylum contexts. In doing so, I have illuminated the concrete ways in which "suffering" is entangled for asylum claimants engaged with those assisting, interpreting, and advocating for their claims. Put simply, suffering lives of Nepali claimants, if under different circumstances and to different effects, is made visible by equally important and interconnected practice of compassion. This dissertation has shown that it is quite unproductive to draw and interpret the boundaries of suffering, for they are repeatedly (re)drawn *not* only by those claiming asylum 'victimhood' but also by those insisting on suffering narrative through particular legal recognition, narration, and documentation.

The strategy I employed in this dissertation has been to delineate points of view from which 'suffering narrative' and 'compassionate practice' are interconnected,

although not always causal of each other, in the U.S. asylum socio-legal context. One of the goals then has been to demonstrate through ethnographic analyses how categories of suffering and compassion are mediated by familiar and unfamiliar social terrains among Nepali claimants and their legal advocates and human rights activists. In doing so, I have documented how Nepalis have gone through a learning curve to make certain (familiar) experiences unfamiliar in the process of seeking asylum in the U.S. I am not suggesting that Nepalis simply fit into given categories of 'victimhood' and suffering in becoming asylum seekers. Rather, I have attended to the formation of crossroads where it becomes impossible to *interpret* across socio-cultural contexts through various, irreconcilable, versions of suffering victim-claimant dichotomies.

The question of suffering Nepalis seeking asylum in the U.S. has been one such crossroad. The suffering victim-agent dichotomies (re)produced in the legal spaces illustrate ongoing cultural dynamics, unpredictable encounters, and inherent contradictions that can neither be captured in the familiar trope of universalized category of "asylum seeker" nor be dissected as culturally specific code of acting and being. When 'asylum seeker,' though contextually dependent, is understood to translate into a universal category of either victim-subject or agent, certain [visible] behaviors and sensibilities are interpreted as characteristics of a suffering individual. In the cases I have discussed in this dissertation, one would end up finding Nepali asylum seekers as suffering 'agent' and non-suffering 'victim' of legal process simultaneously.

An unconventional conception begins from the premise that an asylum seeker (as in the case of Nepalis) is only allowed to speak from a situated position in the U.S. asylum cultural and legal-political space. He/she is being *interpreted* into U.S. asylum process through relations of wider systems, prior and post migration from Nepal. For instance, asylum seekers claiming to be from the U.S. cannot be identified as a suffering agent or victim. Nepali asylum claimants, like others seeking asylum, is constituted in and through particular histories of migration that tell narratives of suffering—demonstrating experience of past-persecution and well-founded fear of future persecution in Nepal—that is constantly being modified upon encounters with pro bono lawyers, human rights workers, and immigration and asylum officers. Thus, asylum claimant is a particular figure —introduced as victim/agent whether of political violence not unconnected to "structural violence" or a product of globally acknowledged unequal socio-economic processes—whose suffering, above all, must not be doubted.

The other side of suffering: practicing compassion

Asylum pro bono lawyers and human rights experts' approaches to alleviating suffering of their claimants and practicing are inseparable from the contemporary asylum structural process and strategies of their own personal and professional choices. Their generalized understandings and practices that shape compassionate outlook while engaging in the asylum work are framed through their own specific experiences of job responsibility—ensuring 'claimant credibility—and satisfaction—

doing 'good work' of assisting claimants. This compassionate habitus in turn influence (and is influenced by) how they approach the everyday asylum assisting process and where they see themselves fit into the U.S. asylum system, even as they contribute to the ongoing debates and laws. In this section, I bring together and allow the various threads of advocates'—pro bono lawyers and human rights experts—asylum cultural knowledge accompanied by professional obligation and compassionate practice discussed in previous chapters to intersect and converge in order to reveal the relationship between the values and significance of 'claimant credibility' and professional opinions and actions of asylum advocates, the corresponding asylum cultural template in the U.S., and the production of asylum suffering narrative and compassionate actions. As such, I try to link the legal transformation of asylum suffering narration (chapter 3), legal procedure in asylum documentation and unpredictability built into it (chapter 4), the reinforcement of the legal discourse of asylum 'claimant credibility' (chapter 5) in relation to professional investment and inconsistencies therein, and the advocates' identification with claimants' suffering through their own work of compassion (chapter 6). I do so not so much to demonstrate the contradictions as part of the asylum legal process. Rather it is to juxtapose Nepali claimants' accounts of seeking asylum--"making paper" and "selling suffering" (crux of chapter 2 and 3)— and its manifestation in the form of asylum suffering narrative not in spite but because of the sheer inaccessibility of advocates and supporters of their claimants' worldviews, ideas, and experiences. My

central purpose is not to analyze U.S. asylum system's role is concretely shaping the asylum officers, lawyers and the human rights experts' everyday practices of compassion in assisting asylum claimants in the co-production of asylum suffering narrative. By exploring the mutual constitution and interconnection, and not causal relationship, between suffering narrative of claimants and compassionate practice of lawyers and advocates, the U.S. asylum institutions and the asylum judicial procedure through the repetition of asylum legal narration, interpretation, document production, and hearings, I attempt to re-imagine the asylum legal space as a contested site of intense engagement and perpetual miscommunication of experiences, competing and incompatible worldviews and their interpretations, and realignment of socio-legal norms and cultural practices.

Two developments in the studies of compassion provide an important framework for this approach to understanding contemporary asylum legal procedures, broader appeal to legal and human rights advocates, public debates and/or changes surrounding asylum policies and legal culture (such as shifts, expansion, and restructuring of the asylum system, say collaboration between state and non-state actors, or the transfer of cases from the Asylum Offices to Immigration Courts). First, to culturalize asylum legal system, as I have done in this dissertation, and counter the dominant approach to studying and representation of asylum system as somehow detached from the practices and engagements among differently situated social actors—legal advocates, human rights workers, asylum officers, judges,

interpreters and claimants—this section re-focuses on the work of compassion and demonstrates the interconnection between the compassionate rationales (and actions) of lawyers and human rights workers and broader asylum process. This approach to compassion, located at the crossroads of individuals, professional, institutional, and global practices, builds extensively on Fassin (2012) and Ticktin (2011) analytical work in their exploration of "compassionate politics" and the emergent "apolitical humanitarian regime" through which "practices of care and compassion" come to rely on recognizing a certain kind of "suffering body"—that of the asylum claimant and *not* of the 'economic migrants' as marginalized or disenfranchised groups—for establishing moral legitimacy (Ticktin 2011: 2-4). In particular, Ticktin unpacks the compassionate rationale of medical practitioners and healthcare experts corroborating the claims of the asylum seekers in France. She examines the asylum medical advocates' professional practice and political beliefs and ideologies on multiple registers: their everyday professional encounter with asylum seekers during identification of visible scars and signs of trauma, their recommendation for particular care/treatment on case-by-case basis, and the medical documentation of a generic "expert report" on claimants' conditions. In contrast to Ticktin's interlocutors, who understood their professional roles as strictly providing medical expert reports on the medical conditions of the claimants, while acknowledging the constraint and the sometimes-contradictory positions they ended up taking either on behalf of or in opposition to claimants' legal claims, my legal and human rights interlocutors often

conceive of themselves *as* asylum legal experts and reason infinitely not only their ability to potentially transform individual claimants' legal status and lives but also their contribution in the emergent progression and direction of the asylum system as a whole. I have argued, however, that asylum lawyers and human rights advocates' strong moral inclination and the rationale of everyday compassionate practice in relation to asylum work allows these supporters and advocates an anticipation and understanding of constantly imminent judicial predicament—either that of a successful or unsuccessful asylum verdict. Factoring unpredictability in the legal and judicial process causes them to strengthen the purportedly untenable US asylum culture, which activates and leads to legal uncertainty during every stage of the asylum seeking process to begin with. Their institutional beliefs, legal practice, and professional culture instigate the spread of extra legal-uncertainty (chapter 4) and its amplification through materialization in concrete of the phrases like 'claimant credibility' or underappreciated work of compassion (chapter 5 and 6). What predicts asylum decisions in the end is not directly contingent on the legal advocates and human rights workers' much-invested present orientation toward their claimants' specific conditions, but the deliberate expansion of their legal practical skills as "suspension of disbelief" added by their declared compassionate action that fit perfectly well with the narrative of alleviating suffering that underpin the US as liberal, democratic, and compassionate state.

Second, investigating the relationship between dominant asylum representations and legal culture and their effects reveals how asylum procedures and institutionalized socio-legal culture gets implemented in the asylum system in liberal societies. As such, my approach has been an attempt to bring together the anthropology of asylum that inquires into the relationship between asylum experts/legal practitioners (Alvarez and Loucky 1992; Daniels 1996; Mahmood 1996; Good 2007) and critical humanitarian theories (Fassin 2011; Ticktin 2011; Bornstein and Redfield 2011; Feldman 2011) to understand how compassionate actions, in particular, may be performed legally. Anthony Good (2007) has employed an anthropological perspective on the study of asylum process through focusing on the role of "country condition" experts and how lawyers and judges use the expert reports and evidence in assessing asylum claims that actively shape asylum cultural practices: these reports are used to legitimize certain key concepts (say, 'race,' 'religion,' or 'social belonging') and are incorporated into the institutionalization of asylum legal decision-making. Didier Fassin (2011), with a completely different focus on the study of asylum practices, has investigated into the relationship between the production of asylum suffering and the "compassion protocol" followed by medical expert witnesses. By analyzing how asylum medical narrative and witness testimonies of claimant-suffering are mutually constitutive, by examining contrasting criteria of 'truth' and 'evidence' are negotiated and ultimately established during asylum testimonies, Fassin's research offers a critical study of humanitarian reasoning

underpinning the compassionate actions and performances of medical staff and healthcare providers witnessing and corroborating in the asylum claims.

Pro bono lawyers and human rights advocates and interlocutors' key legal justification for their rethinking of asylum assisting process and job accountability and efficiency are the dual notions of 'claimant credibility' and compassionate actions, which distill their professionalized legal habitus mixed with personal commitment, serving as an ideal template for how asylum legal protocol, including their own actions and behaviors, materialize on the ground. I have documented predicated views and opinions surrounding asylum claimant credibility that more often than not result in unanticipated asylum legal and judicial decision-making, contrary to asylum experts and advocates intense emphasis on the phrase and its practicability during asylum interpretation sessions and extended interviews and engagements. Despite being a purportedly asylum legal 'blueprint' for taking asylum claims, assisting asylum claimants and ultimately making claims legitimate, asylum claims once denied based on undermining or questioning of claimant credibility, during judicial procedure and merit hearing, becomes simply irreversible. What is more, the legal experts and human rights advocates not only have a prior knowledge but also anticipate this possible asylum outcome. As such, asylum legal templates cannot be assumed in advance to have desirable, if not unexpected, effects. Therein lies the central question: what other particular yet generalize-able template for functioning of asylum legal practice exists with even more explicatory power?

Compassionate Actions

Examining pro bono lawyers and human rights advocates' exemplary legal culture of engagements with individual asylum claimants, emphasis on establishing claimant credibility, and the work of compassion offers a crucial window onto the ways in which the asylum processes ensure production (or at least reinforcement) of compassionate actions among advocates and experts in general. My own mediating position as an ethnographer-interpreter at these private law firms and human rights organizations highlighted the intensity of legal interpretation and established for me the sheer impracticality, if not incommensurability, of a cross-cultural communication and understanding of the asylum process—say through elaborate explanation and usage of concepts like "making paper" and "work of suffering" among Nepali claimants, which existed in a stark contrast from that of legal experts/advocates' notion of "claimant credibility" and their "work of compassion." Moreover, I realized that these concerns surrounding compassionate actions could yield into insight into the legal culture restructuring the US asylum institution and experts as advocates (in both private institutions and non-profit human rights organizations) at large, as both were enactments of the same *habitus* of contemporary asylum culture. Through the examination of key discourses and practices on the ground (Chapter 5 and 6) and how they are deployed in specific contexts of asylum configuration within private law firms and human rights organizations, I was able to test their template of establishing

'claimant credibility' and think through their alignment of certain beliefs, practices, and actions as compassionate was affected both within and without.

Contrary to my expectation, I learned that pro bono lawyers and human rights advocates' job experiences, investment into asylum procedures, prolonged engagement with claimants, do not afford them much empathy or understanding for the plight of refugees and asylum seekers, Nepalis or not, of the general asylum applicant in the contemporary political climate surrounding immigration debate and policies. Why do asylum legal advocates and human rights workers continue to, and even insist on, describing their professional face-to-face encounters with asylum claimants as compassionate actions despite strict legal protocol they follow and perform notwithstanding the many inconsistencies surrounding actual asylum-assisting process? Part of this conundrum has been laid out in previous chapters: the extensive period and routinization of the interpretation and documentation sessions, during which their role as advocates and supporters are particularly accentuated over prolonged engagements with asylum claimants and co-production of asylum suffering narrative, which in turn allow them to sharpen not only their legal practical skills but also continual self-reflection and critique of the nature of "unpaid" and "underappreciated" work of compassion. Recall my legal interlocutors' self-characterizations of job efficiency, hard work, empathy, and "alleviating suffering" in implicit contradiction to the present, material inequalities and legal anxieties produced

by protracted asylum uncertainty among Nepali claimants that are illegible and illegitimate asylum claims.

As a way to conclude, in this chapter, I revisit the legal and human rights interlocutors' compassionate action as a central component of the asylum legal and institutional culture. The centrality of compassion not only solidifies legal practitioners and human rights experts' professional outlooks, habitus, and performances, which in turn inform the US asylum system. This engenders a persistent practice of compassion among asylum lawyers and supporters advocating for asylum claimants because, and not in spite, of the uncertain future of asylum judicial decision-making, which in turn sets in motion the prolonged legal representation: I-589 asylum documentation, suffering narration and interpretation, and merit hearings in the courtrooms. Further, it also sets the transfer and continued imposition of asylum cultural template of suffering onto individualized claimants' suffering narrative. Along with the claimant credibility notion being highlighted in assisting asylum claimants, what is actualized in concrete is the legal practitioners and human rights advocates' rationale of compassion—establishing institutional model of (legal) compassion and themselves as benefactors of that model. In other words, pro bono lawyers and human rights advocates and supporters' compassionate action both produces and is produced by their professional justification as very embodiments of the asylum assisting process, as the ultimate "compassionate" professionals. Thus, it is precisely this compassionate action as cultural template, often obscured and

interpreted in abstract (whether seen as a universalized or a particularized fact), which not only describes and analyzes but also performs the asylum legal system. Given the limited reach of pro bono lawyers and human rights advocates, their personal investment into and institutional culture inherent to asylum assisting process are dramatized in the production of compassionate work.

Selling compassion?

I began this dissertation with Nirmala didi's poignant reflection on the plight of Nepali asylum seekers and their experiences of "making paper" as "selling suffering" and her sharp, if indirect, critique of the asylum-seeking process in the US. I end this discussion by sharing another equally moving ethnographic account—a case of what I call selling compassion. I recount at length a conversation I had with Amanda, a former asylum lawyer and current legal advocate at one of the human rights organizations assisting private lawyers on pro bono asylum cases. She was a wealth of information about the contemporary asylum culture and institutional intricacies of asylum process. As a person in charge of recruiting lawyers from private law firms for pro bono asylum representation, she was gathering video testimonies of successful asylum cases—interviewing both asylum lawyers in participating private firms and their former asylum claimants. In this conversation, she discussed with me both the long-term potential of the video project and the immediate, short-term use of collecting live testimonies as a powerful approach for recruiting private lawyers for future "asylum work." Amanda described how the professional collaboration

between non-profit human rights organizations, like the ones she worked for, and private law firms would result in actualization of the work of compassion central to asylum legal representation. Her interview questions for pro bono lawyers and their claimants highlighted materialization of compassionate actions in two different but interconnected ways: a) the role of non-profit human rights organizations in introducing and recruiting private lawyers to take up asylum cases; and b) and the life-changing experience for successful claimants and rewarding professional experience for the pro bono lawyers.

> A: Asylum legal work is different from other legal work that most lawyers are used to, you see. Because it is pro bono work that requires lot of unpaid hours, which means pro bon lawyers willing to take up asylum cases are not making any money for their firms although those who have been engaged in this work know the value and satisfaction one obtains after assisting asylum claimants. But it is difficult to retain lawyers to volunteer their time and energy. So we are making this video for highlighting the importance of this kind of work. And what better way to convince others to get involved that by showing live testimonies of the successful asylum cases, where lawyers and their respective asylum claimants describe their experience of working together? So the issue is two fold. Our program depends as much on compassionate lawyers taking up pro bono asylum work and as asylum claimants coming forward with their suffering. In other words, we have to appeal to *human* side of potential lawyers who may be ambivalent in representing asylum claimants because of the long hours and personal investment into it. As for the claimants, as you have seen with Nepalis, they do not always feel comfortable to come forward and give

testimonies because of the lack of resources and awareness about free legal assistance.

TS: So how do you think the video testimonies would help raise awareness about the organizations' program for potential asylum seekers and pro bono lawyers?

A: Because asylum work is as much about compassion as it is about sharpening professional legal skills that lawyers are rarely aware of. So highlighting the connection between personal and professional experiences of asylum pro bono lawyers, we can appeal to lawyers to take up asylum work. The claimants, on the other hand, are fearful about their legal status but the video testimonies of successful claimants would also allow them to come forward and share their stories to potentially transform their suffering lives.

TS: So you hope that the successful asylum cases—stories of claimants' suffering and experiences of compassionate pro bono lawyers—turned into video testimonies would eventually help sustain the refugee protection program?

A: Yes, precisely. But I think it can also help highlight the humanity and compassion that this country in built upon, you know. Some of the cultural aspects of compassion, the ideals we have in this country are quite unique if you think about it. It is a country where immigrants' dreams come true. For example, my grandparents were refugees from Eastern Europe, who settled in this country long time ago. My own family's history motivated me to do this work. And now, there are so many refugees and asylum seekers who are not

> adequately represented. So I want the *asylum lawyers to talk about their personal histories and compassionate reasons for assisting asylum claimants and the rewarding experiences thereafter and the successful claimants to highlight their journey of seeking asylum and finally living in this country with free of suffering* (my emphasis).

Amanda's detailed explanation gave me a window to the current configuration of compassionate practices in the US asylum legal process and into the institutional environment of pro bono lawyers and human rights advocates—the worldviews and ethical practices they are encouraged to nurture, along with anticipation of their actions and values. The asylum legal practice initiated and sustained by pro bono lawyers and human rights advocates and their creative responses to professional collaboration and their declared compassionate approaches to asylum work, are both constitutive of, and constructed by, their relationship with asylum claimants and their particularly compartmentalized suffering lives. As Amanda hints, there exists an intimate relationship between successful asylum claimants' experience of seeking asylum and lawyers' compassionate action drawn not only from their professional commitment but also from their assumed "personal histories." Strikingly, her comment about appealing to the "human side" of potential pro bono lawyers that the video testimonies of successful asylum cases are assumed to tap on is perhaps the ultimate effect of compassion: it is not the question of it being 'genuine,' 'intentional,' 'political,' 'temporary,' or even the central to creation of an ideal-type society, but simply to allow socially privileged actors to act on their ideological, professional, and

personal interests unopposed and unseen. In sum, compassionate actions of social actors and private citizens, like asylum lawyers and human rights advocates to assist asylum claimants, exist along side suffering lives (however broadly or narrowly defined) of potential asylum claimants. The latter is as much a mediating object for professional and personal commitments of asylum advocates, as it is central to the current configuration of asylum legal culture in the U.S.

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