Gaining Freedom through a “Well-Founded Fear”:
Uncovering the Voices of Modern Slaves in Asylum Applications in the United States

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In February 2005, Evie escaped slavery on an airplane with only a passport, a little blue address book, and a man she didn’t know. She knew that this man would take her from Nigeria to Mexico. She knew that Mexico was far away from Benin City, far from the men who had traded a promise of money and political power in exchange for what her body offered them, outside the reach of the elders of the ancestral village who would help the men enforce this ominous contract. A suicide attempt weeks earlier, prevented by her mother at the last minute, confirmed Evie’s resolve that she would rather die than be enslaved.

At a young age, her father told her that she was promised to marry a powerful village elder. The first time she met this man she begged him to reconsider – after all, the ceremony had not yet taken place. He raped her to demonstrate the certainty of his purchase. When she told her parents, her shame was met by her father’s bitter warning that if she continued to resist the village elders would bury her alive. The transaction took place when she was a very young child. The bride price was paid.

Flying out of Lagos, as she felt herself leave the earth for the first time in her life and rise over the Nigerian landscape, she had already made up her mind that she wanted to live and that she must be free. How she would remain free, how she would gain the protection of legal residency in another country, remained unknown.

The Hidden Voices of Modern Slaves

The use of legal documents by scholars of slavery is nothing new. From the insurance records of the slave ship Zong, deeds, wills, mortgages, the transcripts of innumerable trials in the Ante-Bellum South, and the ledgers of complaint from the Office of the Protector of Slaves, the voices, actions, and intentions of slaves and slaveholders have been filtered through the legal process and then recorded. If there is a difference in the study of asylum application documents

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2 Evie is a pseudonym that provided by Evie’s attorney in order to protect the narrator’s identity.

to explore modern slave narratives it is that these records can be argued to capture, especially in their initial form, greater clarity of the ex-slave’s own memories. There is, in these contemporary proceedings, the attempt to ensure equality before the law for the applicant, a condition not possible in times of legal slavery. That fact, when added to sympathetic support by the ex-slave’s advocate, establishes a context for narrative collection rare in most forms of social or historical research. In this paper, we hope to show how such contemporary legal records can illuminate the study of slavery and the lived experiences of slaves.

One hundred and forty years after the Fourteenth Amendment granted citizenship and constitutional protection to American- and African-born slaves and their descendants, the struggle to gain citizenship and equal protection of the law continues in the United States for African survivors of contemporary slavery. Having escaped the immediate violence of their bondage, survivors of past and potential enslavement within Africa find their way to the United States and strive to secure a more lasting form of freedom through a grant of asylum. These survivors face the very real threat of physical violence in their home countries, often from family, community members, or former slaveholders, who still hold a considerable grudge over the fact of their escape and, in many cases, still wish to find them and take them back into slavery.

In order to gain asylum, an ex-slave must tell her story. Her memory of enslavement becomes the heart of her application. Asylum applications prepared on behalf of modern slaves thus provide significant insight into the lived experience of modern slavery through the narratives contained within them. The narratives found in asylum applications are, in fact, particularly valuable for the researcher of modern slavery because the voices they reveal may otherwise be hidden from view. Since shame may silence even the most resilient, modern slave narratives are as elusive as those spoken by the slaves of the past. These narratives are gathered by rescue and rehabilitation programs, through the statements given at legislative hearings, by journalists and scholars working in the field, and from ex-slaves who have chosen to themselves become advocates who rescue others from slavery. The voices we hear are most often from


4 At the time Evie came to the United States, the federal Victims of Trafficking and Violence Protection Act of 2000 allowed individuals who had been trafficked from another country and enslaved within the U.S. to be eligible for legal residency via specially-designated T-visas for qualifying survivors. The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 continues to provide access to T-visas to those enslaved within the U.S. Former slaves like Evie, who experienced enslavement solely within Africa, are not eligible to receive this type of visa. For survivors like Evie, asylum is the only way to remain in the U.S. legally. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No-106-386 Division A, 114 Stat. 1464 (codified as amended in scattered sections of 22 U.S.C.); William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044 (2008).

5 Due to our focus here on the enslavement experienced by women who escape forced marriage, we will refer to all applicants as she.

6 For examples of scholarly, journalistic and personal accounts of modern slavery that use these types of narratives, see: Kevin Bales, Disposable People: New Slavery in the Global Economy (Los Angeles: University of California Press, 2004); Kevin Bales, Ending Slavery: How We Free Today’s Slaves (Los Angeles: University of California
those modern slaves who have chosen to speak out, who have wanted their stories to become public. In this way, their narratives reflect that exceptional character of ex-slaves, like Frederick Douglass, who have both the strength and motivation to speak out openly in the presence of others.

If modern slave narratives are elusive, then the narratives found in asylum applications are exceptionally hidden voices of modern slavery. These survivors share their experiences with their attorneys and the Asylum Officer at the United States Customs and Immigration Service (USCIS) for one reason alone: to hold on to the freedom they claimed for themselves the moment they walked away from slavery. Enduring the asylum application process may be their one, and often final, effort to relive the details of their enslavement. The resulting record may be the only written evidence of the experiences of slaves who thereafter may never tell their story again. The reasons for this are many. Often survivors do not wish to share their stories with scholars or journalists or become modern abolitionists in the fight against slavery. Some, like Evie, want only to move on with their lives and try their best to put the ghosts of their mistreatment out of their minds. Others are still too afraid and traumatized to tell their stories freely, particularly in a way that may identify their whereabouts to their families and former masters. Although they value their lives and their freedom, they may not wish to broadcast that they are still alive, still afraid, and perhaps, like Evie, still hunted.

But these narratives can still be found. The pursuit of asylum based on prior enslavement, a relatively recent movement in asylum law, has given rise to a growing wealth of contemporary slave narratives that rest silently in legal and administrative offices across the United States. A growing body of scholarship explores how survivors of international human trafficking use asylum protections to guard themselves against future persecution. But there is little, if any, exploration into how ex-slaves who experienced enslavement outside the United States use U.S. asylum proceedings to remain free. We believe that it is time to begin this exploration in earnest, in order to know more about the brave and desperate souls who escape the...
seemingly inescapable and search for lasting freedom on U.S. shores. The affidavits, correspondence, and memoranda of law that form a complete asylum application may reveal as much about forms of modern enslavement in Africa and elsewhere as they do about contemporary U.S. legal and social policy toward the previously enslaved. At the very least, these documents deserve attention in the broader study of how modern slaves have used their voices and the persuasive force of their experiences to assert their own human dignity in the face of an oppressive past, and can shed light on the experience of earlier forms of slavery.

The narratives contained in asylum applications require the same critical analysis as any other archival source. This paper explores the methodology of researching contemporary slavery through the use of asylum applications, with particular attention given to the administrative framework within which the applications are crafted, their persuasive nature, and the tensions inherent in the asylum process between the factors that may hinder full disclosure of the master-slave relationship and the factors that promote absolute disclosure of even the most intimate details of enslavement.

The Accuracy of the Narrative

Any methodological inquiry into personal narratives must begin with an analysis of how to gauge the truthfulness of the account. All researchers of modern and historical slavery face this challenge. The credibility of slave narratives is uniquely relevant in the context of modern slave research because the insight gained from modern narratives inform the creation of rescue and rehabilitation programs and social and legal policy that affect the lives of both present and formerly enslaved individuals.

Because the human memory is imperfect, because this is especially so for those who suffer the effects of brutal treatment, we must always inquire as to the accuracy of this kind of storytelling and the motivations that underlie its documentation, in whatever form the recording may take. As responsible investigators of a process in which desperate people are convinced that their lives are at stake if they return to their home countries, we must recognize that those factors create the possibility of fabrication. However, we have reason to have particular confidence in the truthfulness of the narratives gained from survivors’ asylum affidavits that were prepared on their behalf by pro bono counsel, due to the consequences that would face both the survivors and their advocates if it later became known that any detail within the application was fabricated on purpose. Understanding the consequences of misrepresentation for the survivor and her advocate helps us to determine how much faith we should place in the accuracy of these records.

We emphasize here both the survivor and her advocate because a survivor’s real appreciation for the legal consequences of dishonesty in an asylum proceeding requires the knowledge and advice of expert legal counsel, which most asylum applicants do not receive due to limited or nonexistent financial resources. For most survivors of slavery, the financial difficulties they face on arrival and the pioneering nature of their cases within asylum law make it so that pro bono representation is their only viable option. Former slaves often escape their
servitude with barely more than the clothes they are wearing. As was true for historical slavery, the economic exploitation at the heart of slavery can make modern freedom a contradictory existence in which the joy of self-determination is overwhelmed by the stark reality of economic despair. It is true that a survivor who claims asylum in the U.S. must have had access to some monetary resource within her home country in order to arrive at the U.S. border in the first place. But for those survivors who arrive alone, those resources on average cannot match the cost of for-profit legal counsel, and even those exceptionally rare ex-slaves who have sufficient money upon arrival to pay for legal services are nonetheless most in need of the expertise offered by non-profit legal organizations that specialize in gaining asylum for disadvantaged groups. Evie’s experience tells us that some survivors of unfree forms of marriage may not be as financially vulnerable as other types of former slaves. The familial nature of this form of forced ownership meant that she was not isolated in her enslavement and had access to sympathetic family members who were willing to help finance her escape in secret. The fact that Evie had a mother nearby who reached for help across the Atlantic, and a maternal uncle in the United States who was willing and able to support her escape, makes her a valuable case study of the social impact that African emigration can have on the rescue of slaves. But even her uncle’s American dollars could not buy her lasting freedom. Evie needed a type of expertise only found in the offices of a non-profit legal organization that specialized in representing asylum seekers who escaped forms of gender-based and slavery-based persecution. This combination of individuals – a former slave eager for asylum and a specialized non-profit advocate to help substantiate her case – creates an ideal context for slave narrative collection. As explained below, each individual has something at stake that encourages extraordinary precision and candor in the construction of a survivor’s affidavit.

Despite the lies that Evie was prepared to tell in order to escape her enslavement, by the time her asylum affidavit was written it was very clear to Evie that only the truth would bring her lasting freedom in the context of United States asylum law. The Immigration and Nationality Act contains several important provisions intended to ensure the accuracy of evidence submitted in an asylum application, including that found in the testimonial evidence provided in a survivor’s affidavit. First, during the applicant’s credibility interview, the Asylum Officer will scrutinize her oral testimony against the story provided in her affidavit. She will be denied asylum if the Asylum Officer does not believe she is telling the truth. Therefore, her ability to recount the entire story without diverging from the written record is a critical and highly stressful part of the process. The applicant’s best chance at success, therefore, is to tell the truth in that

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9 The Immigration and Nationality (Walter McCarran) Act of 1952, Pub. L. No. 82-414, 66 Stat. 163 (1952). (INA) 10 §208(b)(1)(B)(ii) of the INA, regarding the applicant’s burden of proof, states that the testimony of the applicant “may be sufficient to sustain the applicant’s burden without corroboration, but only if the applicant satisfies the [Asylum Officer or Immigration Judge] that the applicant’s testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee. In determining whether the applicant has met the applicant’s burden, the [Asylum Officer or Immigration Judge] may weigh the credible testimony along with other evidence of record.” In practice, this means that the affidavit and all other evidence submitted on behalf of the applicant may be weighed against her testimony and used to determine her credibility. In addition, §208(b)(1)(B) (iii) allows the Asylum Officer to consider the applicant’s “demeanor, candor, or responsiveness,” “the inherent plausibility of [her] account,” and “the consistency of [her] written and oral statements.”
affidavit, as opposed to attempting to memorize fictional details that were fabricated to enhance her story.

Secondly, if the Asylum Officer denies a survivor, her claim will be appealed to an Immigration Judge and may ultimately be appealed outside of the agency to a court of law, where her attorney will argue her claim within a full adversarial legal hearing. Such a hearing would include the introduction of contradictory evidence and cross-examination by government attorneys. This process would likely ferret out inaccuracies in her story, and those inaccuracies would disqualify her for asylum. Thirdly, a grant of asylum provides the survivor with legal residency status and most refugees eventually wish to attain full citizenship. At the point she applies for citizenship, some years down the road, all of her immigration records, including her application for asylum, will be reviewed anew. If there is any evidence that she misrepresented herself on any document, she will be denied citizenship and will be deported at that time.

Although the risk of deportation may be convincing enough, sincerity within an affidavit is motivated by more than the weight of the legal process that comes to bear on an individual survivor – there are consequences as well for her attorney. Although asylum attorneys deeply wish for their clients to receive the legal protections and access to social services offered by legal residency, there is little risk that they would jeopardize their professional reputations or face the threat of sanction by professional ethics boards through the deliberate presentation of false evidence. It is one thing for an Asylum Officer to distrust a story based on his own intuition and it is quite another for it to be discovered that there was a deliberate misrepresentation of the facts upon which an asylum grant was based. In a close case, an attorney will construct a more creative argument, a more imaginative interpretation of how the facts apply to the law, but there is little risk of willful misrepresentation.

This is especially true of the pro bono attorneys who work for legal aid organizations that represent former slaves and other disadvantaged groups. Non-profit organizations have greater incentive than their for-profit counterparts do to ensure the credibility of the applicants that they represent with limited resources and without compensation. As is the case for all non-profit organizations, those that provide direct legal services face overwhelming pressure to maintain their own reputations for reliability and sound judgment, so that they may continue to attract the limited funding opportunities that keep them in business and allow them to continue to advocate on behalf of future refugees. The training programs that staff attorneys undergo within pro bono organizations focus mainly on the importance of evaluating the validity of a potential client’s story. With such limited means, organizations that provide free representation simply cannot risk the wasted time, lost resources, and embarrassment that results from a false claim. These factors create an overwhelming incentive on the part of the attorneys themselves to ensure the sincerity of their clients’ experiences.

The good news for survivors is that Asylum Officers, Immigration Judges and the federal judiciary are well aware of the extensive evaluation process that non-profit attorneys insist upon

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11 INA §§242(a)(1), (e)(4).
12 INA §209(a)(1).
13 INA §208(c)(3).
when approaching their clients and preparing applications. *Pro bono* advocates express that this creates a dynamic in which clients of *pro bono* counsel tend to receive somewhat fairer treatment by immigration officials. With the knowledge that a reputable non-profit organization has chosen to represent a certain asylum applicant, the Asylum Officers and judges tend to assume that if the applicant has convinced her *pro bono* attorney to take her on, then there must be something there on which to base a valid legal claim.

So while there may always be the temptation to exaggerate what has happened or to fabricate past events, the survivor and her attorney will be well aware of the immediate and long-term consequences of doing so. These consequences create an overwhelming incentive on the part of the survivors to be truthful in their affidavits, and *pro bono* attorneys will do everything in their power to ensure not only that the applications are compelling but also that they are absolutely accurate representations of the past.

*The Initial Interviews*

What makes these records so unique is that there are in fact two types of narrative to analyze from the same survivor. There are those memories that a survivor initially shared at the beginning of her relationship with her attorney, which exist now in the form of the attorney’s private notes and, in the best of circumstances, in recorded form. And there is that same narrative as presented in the more formal, legal presentation of those experiences to the immigration agency, in the form of affidavits, legal memos, and briefs. Each type of narrative, which arise at different stages of the same process, requires different considerations in terms of analytical approach.

The narrative found in an asylum affidavit is not the unedited voice of a former slave. It is the product of a prolonged and delicate process that involves the gaining of trust, the pain of recollection, and the careful construction of that experience so that it will persuade an Asylum Officer that the survivor’s story is consistent and believable and that all legal requirements to gain asylum have been satisfied. Although the affidavit tells the story of only the asylum seeker, the affidavit that is finally submitted to the agency represents an intimate journey that began weeks or months earlier between two individuals: a former slave struggling to be understood and an advocate helping her use her voice so that it may be heard in a highly formalized and, at times, highly cynical legal proceeding. Understanding this process and this relationship is critical to our analysis of these records and our ability to gain insight from them into the modern slave experience, both in terms of their limitations and their unique strengths. To do that, we must imagine the beginning of this journey, from the first moment that this former slave heard one simple and often terrifying question: “Evie, what can you tell me?”

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14 We say “two individuals” here because that is the most simple relationship that may exist. But in many cases, a team of attorneys will work on an individual’s case, with one main attorney conducting the interviews and enjoying the most intimate relationship with the client while the others work in support of the case.
Any affidavit begins with a survivor's telling of her own memory to her attorney, whom she has likely met only very recently. Like a confession, the telling of that story begs the listener simply to understand her as an individual, without blame and with an open heart. Advocates state that a survivor’s early account is a deeply intimate call for understanding and help, expressed through the memories of an abused individual – out of chronological order, perhaps pleading and defensive, or angry and apologetic simultaneously. These initial interviews serve several purposes, only some of which strictly serve the legal process. For a former slave, as for most persecuted people, this early stage of the interview process is about being understood as much as it is about testing the boundaries of her own safety with a person who may represent to her a threatening authority figure often feared in her former community.  

For the attorneys, this is a critical time to earn a survivor’s trust so that she will reveal even the most intimate and painful details of her enslavement, detail essential to a successful asylum application. These early interviews are also about allowing the survivor’s natural internal conflict to play itself out, so that she may reach a point at which she will be able to communicate her story clearly and calmly during her one interview opportunity to demonstrate her credibility to the Asylum Officer.

Survivors of any type of brutality do not typically know the legal mechanisms for asserting their legal rights when they share their experiences with their attorneys. They simply tell all that they are able to tell, sometimes with more detail than is relevant to a legal claim, and many times with less detail, due to the shame, distrust, and self-blame that haunt the mistreated. The narrative conveyed in these initial interviews is more pure and unedited in a traditional sense, if more elusive, due to the legally privileged nature of that stage of the legal process and the particular interview technique of any given attorney.

Sometimes attorneys take hand-written notes of these early interviews, a method that Evie’s attorney preferred. In such cases, evidence of the early unfolding of the survivor’s story remains only on those legal pads, which are normally kept intact in the case file, and in the memories of those two individuals. Any additional insight into the sharing of that narrative will only come through interviews with either person after the fact. Later interviews will most likely provide somewhat different versions of the same encounter, as different perspectives shape memories of that process.

Other times, attorneys document the early interviews with audio or video recording, particularly if the survivor does not speak English and the attorney wishes to later verify the instant translation of those interactions. When such a recording exists, that recording allows us to learn about the nature of modern enslavement from a former slave’s own words – a modern slave narrative in its purest form, giving access to facial expressions, tone of voice, and gestures. But those tapes reveal much more than simply the description of a past enslavement. Such recordings also provide an exceedingly rare opportunity to observe how a former slave recalled that memory over time and managed, in her own way, to confide in someone who may

16 For a collection of unedited narratives as told by survivors of modern slavery, see: Kevin Bales and Zoe Trodd, To Plead Our Own Cause: Personal Stories by Today’s Slaves (Ithaca: Cornell University Press, 2008).
be in a perceived position of power. They can reveal how a former slave learned to trust the persuasive power of her own voice in a setting that allowed her to feel respected and valued, perhaps for the first time in her life. They are the windows through which we may bear witness to a former slave understanding what it means to be free.

Writing the Affidavit

Evie’s attorney conducted six to eight interviews with Evie before moving to the next stage of the process: writing the affidavit. The importance of the affidavit cannot be underestimated; it is the focal point of the entire application. The affidavit serves two important functions. It is the formal declaration of a survivor’s experiences, with which an Asylum Officer will determine the legal basis for her asylum claim. As mentioned above, it is also the written reference used by the Asylum Officer to test how accurately she can narrate her own story from memory.

As opposed to the more inward-looking “in their own words” recordings of the initial interview process, the individual voices that come through in the formal application documents are not unfiltered and care must be taken to understand them within the context of the purposes for which they are used. Their purpose is to secure a more lasting form of freedom for a former slave through a grant of asylum and to further the evolution of social policy within U.S. immigration law. Like many of the most influential slave narratives of the Antebellum Era, the survivor’s affidavits are a highly stylized documenting of memories that project outward with purpose and persuasion. Their purpose is to use the truth of the lived experience of enslavement in order to change minds, in the hope of a better future for that individual and for all the others who follow her.

If Evie had written her own affidavit, as is the case for many unrepresented applicants, it might be considered a more “genuine” accounting of her enslavement. However, an asylum affidavit must leave no room for doubt that all of the statutory requirements are satisfied. Evie’s attorney was simply the only one with the experience to frame her story in this way. One must, therefore, understand the burden of legal requirements that Evie had to prove in order to understand why certain details of Evie’s experience were given particular emphasis in her affidavit and why others were left out.

The Immigration and Nationality Act defines a “refugee” as any person who is outside the country of that person’s nationality or last country of residence 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.  

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17 INS §101(a)(42)(A).
In the context of Evie’s claim, this means that Evie was required to convince the Asylum Officer of three separate but interrelated facts. First, she had to show that she was unwilling to return to Nigeria. It is fair to say that the fact that she sought asylum in the first place proves this element, but there was still the need to demonstrate that she wished never to return. Second, she had to show that this unwillingness was due to her fear of persecution if she returned to Nigeria. In practice, this means that Evie was required to show more than just past persecution. She had to show why she was afraid to return. Third, she had to show that there was a nexus between the persecution and one of the enumerated grounds. In other words, her persecution must have been “on account of” her race, religion, nationality, membership in a particular social group, or her political opinion. If she could not prove this nexus – for example, if the Asylum Officer believed that she suffered persecution but that her persecutors did not target her based on one of those specific categories – her asylum claim would fail and the Government would deport her back to Nigeria.

Understanding the legal argument that an affidavit intends to support allows us to analyze more accurately why some details are emphasized more than others and why some are left out entirely. For example, the details that Evie’s attorney chose to highlight, as well as those she left out, reflect the legal arguments that Evie needed to successfully advance in order to gain asylum. For this reason, the affidavit is not the complete narrative that Evie shared with her attorney during the initial interview sessions. It is true that Evie may have never shared certain details of her experience. We cannot assume, however, that the omission of certain details in the affidavit itself was necessarily due to Evie’s silence. The legal argument advanced on her behalf primarily determined how her story must be told.

Evie had to show that she underwent and would continue to face “persecution” in Nigeria. She argued that her own persecution was her domestic enslavement in the form of a forced marriage to the man who purchased this betrothal from her father when she was a child, her rape by the same man, and the very real threats to her life upon refusal to consent to this forced marriage. While those details may prove past persecution, Evie also needed to show why she was afraid that this persecution would continue upon her return, and that there was no community in Nigeria in which she would be safe from the fear of this fate.

To satisfy the nexus requirement, Evie made several arguments. She needed only to convince the Asylum Officer that she was persecuted based on one of the grounds, so it was to her benefit to attempt to meet this requirement in a number of different ways. She argued that this persecution was on account of: 1) her religious beliefs, as a Christian woman who would be forced against her will to practice a traditional pagan religion if the forced marriage took place; 2) her membership in the social group of women who have not been subjected to the traditional practice of female genital cutting and who oppose the

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practice, to which she would be subject if the forced marriage took place; 3) her membership in the social group of unmarried women who oppose forced marriage; and 4) her political opinion that forced marriage is an oppressive social norm.¹⁹

When Evie’s legal argument is juxtaposed against her affidavit, we begin to see why some details were highlighted and some were excluded. For example, there is clear emphasis in Evie’s affidavit of her father’s extensive government connections. ²⁰ This was included in order to demonstrate why she is convinced that would never feel safe anywhere in Nigeria. In contrast, the description of her emotional response to her rape is only four sentences in length.²¹ That she attempted suicide afterwards reveals the enormous impact of that event on her psyche; at that moment, she would rather have faced death than be forced against her will to be the wife of her rapist. But the detail ends there. This example highlights a particular limitation of an asylum affidavit from a researcher’s perspective – those details that provide meaningful insight into the emotional experience of enslavement may be left out if they are not necessary to the legal claim. This is because the primary purpose of the affidavit is to prove that she has satisfied the legal requirements of asylum in a way that is believable and clear. Yet within the confines of the legal process, an applicant’s affidavit does provide the key elements of her narrative organized in a way to make their chronological and causal order clear.

*Hidden Voices Revisited: Supplementary Affidavits*

A well-researched asylum application may also include supplementary affidavits that support the survivor’s story. These supplementary affidavits provide additional details of a more intimate, emotional nature about the survivor’s experience that were not included in applicant’s main affidavit for the sake of legal clarity. It is in the supporting affidavits, like the one written by Evie’s uncle, that we may begin to fill in the gaps of the story of Evie’s enslavement.

Supplementary affidavits also provide the additional perspectives of other people who were present at the time. Given her uncle’s hesitation to allow his own niece to know the very existence of his written testimony, it is fair to say he would not have agreed to interview with a researcher, advocacy group, or journalist, and his perspective would have been lost to a more traditional research process. Her uncle’s affidavit indicates that there is something special about these proceedings, a certain gravity of consequence, that coaxes family members and others to tell their own version of events, and to openly share the narratives that they would otherwise never agree to perform.²²

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¹⁹ See attached Memorandum of Law in support of Evie’s case.
²⁰ See Evie’s Affidavit, No. 22.
²¹ See Evie’s Affidavit, No. 12: “After the rape, and my father’s telling me I had no choice – my rapist was to be my husband -- I felt broken. I tried to kill myself with an overdose of pills. My mother stopped me right as it was happening. She saw to what extent I would go to end my awful feelings and hopeless situation.”
Whatever their motivations, this collection of other perspectives allows a triangulation of facts and events extremely rare in the study of the slave experience.

**How to Find Asylum Affidavits**

Gaining access to modern slave narratives in asylum applications requires a more interpersonal approach than is typically necessary in historical research. It requires the establishment of good relationships with individual attorneys and, in certain circumstances, the survivors' consent. Thus, gaining access to these narratives is not as straightforward as for some other types of archived legal material. But it is worth it. The final section of this paper will outline how a researcher of modern slavery can find these affidavits, including the special considerations to take into account to protect the safety and the legal rights of survivors.

Asylum proceedings are conducted by the USCIS, an agency under the Department of Homeland Security. Because the USCIS is an administrative agency, not a court of law, the proceedings are private to the public and confidential and do not become part of the public record unless the case is appealed to a federal court. Relatively few asylum cases ever reach the federal appellate level. When they do, the rulings given by the Courts of Appeal are publically accessible, but typically contain only a brief summary of an applicant’s personal story and focus predominantly on whether the applicant is a refugee as a matter of law. But the affidavits used by Courts to make that determination remains hidden from public scrutiny.

The public is entitled to access certain documents controlled by federal government agencies under The Freedom of Information Act (FOIA), but in practice that right does not provide access to the narratives we discuss here. Despite FOIA, the USCIS frequently withholds the detailed records of individual asylum seekers from public view, including affidavits and the questions and answers applicants provided under oath during the asylum interview. Therefore, a FOIA request for the complete asylum application of a particular individual will only return a copy of her green card, if granted, and a copy of the original application form. Neither document will provide any indication of a survivor’s detailed life experience.

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22 A prime example of this in the Memorandum of Law in support of Evie’s case, which points to the existence of a letter sent to Evie from her father after her escape, describing Evie’s role in the E’s household as membership in a “harem.” Needless to say, it is unlikely that Evie’s father would have welcomed an interview about this matter with a researcher of slavery. Yet, his thoughts regarding Evie’s duty to her family are part of the application she submitted to the agency and are in the possession of her attorney.


24 In large part, the Government withholds these records so that it may use them to impeach an applicant at appeal or another future proceeding. See: Larry R. Fleurantin, “Nowhere To Turn: Illegal Aliens Cannot Use The Freedom Of Information Act As A Discovery Tool To Fight Unfair Removal Hearings,” Cardozo Journal Of International and Comparative Law (Spring 2008), 16: “The Government takes the firm position that, unlike the alien who is not entitled to a copy of the interview notes, the Government has a right to use the interview notes to impeach aliens who provide inconsistent answers to questions posed by the Government during the removal proceedings.”
As a result, the affidavits of ex-slaves seeking asylum are to be found almost exclusively in the offices of pro bono immigration attorneys, who most often will have worked through or for a non-profit legal organization that provides direct representation to the disadvantaged. For-profit lawyers do not usually represent ex-slaves, except perhaps if a high-profile case encouraged the firm to waive its fees. Even then, those non-profit organizations that devote their time and resources to the advancement of social and legal policies that seek to protect ex-slaves through asylum provide the most experienced and specialized legal counsel to survivors. Evie herself was referred to a pro bono attorney by a U.S. trauma counseling center, who then referred her case to a non-profit immigration advocacy organization that specialized in gaining asylum for victims of forced marriage.

The organizations that represent ex-slaves in asylum proceedings are many and varied, and finding the attorneys who have represented ex-slave clients requires only patience and a little creativity. Legal clinics that operate out of local law schools are a good place to begin. Particularly useful are those clinics that specialize in immigration and asylum law. The directors of asylum clinics are often leaders in the field who have networked with similar non-profit organizations within the area and across the country. Other options may include becoming a visiting scholar, if such an arrangement is available.

A direct approach is often met with at least a curious response. In our experience, it can be as simple as reaching out through a thoughtful email, an explanation of the nature of the research, and a phone call to establish a more personal relationship. We received every record of Evie’s experience from a generous and caring attorney, a leading advocate for forced marriage asylum claims in the United States, whom we have never met face to face. One must not forget that these advocates are on the front line of an enduring struggle in United States law to secure the recognition, protection, and human dignity of former slaves, in ways that are often overlooked in the modern abolitionist movement. Their goal is to force a closer union between what the laws of the United States promise in regards to slavery and what they fall far short of delivering. They spend countless hours, for little pay, fueled only by the hope that those persecuted in slavery anywhere in the world will be acknowledged, will be heard, and should be allowed to join our society and call it home. While there will be an appropriate level of inquiry into the motivations of a researcher asking for access to privileged legal documents, the likelihood is great that an asylum advocate will facilitate and welcome the creation of responsible scholarship that will eventually support their own legal arguments in defense of ex-slaves.

Once a researcher establishes a relationship with an asylum advocate, other special considerations must be taken into account in the research process. Protection of the survivor’s identity is the most vital concern, particularly if the survivor does not want her story to become public in a way that may identify her to her present or former community or to her former slaveholder. This is the most important ethical and legal factor in the study of modern slavery. It is common practice amongst immigration attorneys to redact identifying information from the documents they share with each other. These are often very short summaries of an individual case, mostly because the details become less necessary when seeking answers to procedural
questions of law. Not surprisingly, the obligations imposed by attorney-client privilege apply to researchers who wish to document modern slavery. Getting at the more detailed affidavits, like those of Evie and her uncle, requires an additional layer of trust and reassurance. This may require a legal agreement, drafted by the attorney, to assure that the researcher will not compromise the legal rights of the survivor or the legal ethics of her advocate. The legal consent of the survivor is not legally necessary before an attorney may share a redacted version of her affidavit, although morally many attorneys will ask their clients anyway. The fact that attorneys will protect the interests of their clients simply comes with the territory, just as scholars of modern slavery must protect the interests of the people whose voices they uncover and share with the world. In this context, any methodological limitation imposed on a researcher is far outweighed by the fact that this union of scholarship and legal practice creates a mutually reinforcing partnership that will advance the legal rights, the public understanding, and the human dignity of former slaves.

Conclusion

Evie never again set her eyes on the Nigerian landscape after that day she took to the air with a stranger by her side. The USCIS granted asylum to Evie three weeks after her final interview, in early 2006. With a stamp and a signature, she became able to choose her own destiny under the protection of the laws of the United States. Although Evie has chosen not to become a vocal advocate against slavery, her choice in freedom to return to university for a degree in social work suggests that she nonetheless will support others who endure their own forms of powerlessness within American communities.

Not long ago, Evie’s attorney set a plan in motion to film a short documentary about women who gained asylum based on forced marriage. Evie initially agreed to document the details of her past, but backed out at the last minute, with the cameras at her door. Whether it was her fear of retribution, refusal to look backwards, or another reason known only to Evie, she vowed that she would not tell her story again. This fact makes her affidavit that much more valuable to our study of the unique and varied experiences of survivors of modern slavery.

We must continue to search for the life stories of former slaves and allow their narratives to reveal the painful truth of what it means to be enslaved in the twenty-first century. But part of that truth will always elude us unless we look for it through a variety of lenses. The narratives in asylum documents are another lens through which to discover this reality. We turn to them now in the knowledge that it is only through our ability to seek out and understand their voices and their silence that we may reach the immediate goal of helping the broken to become whole again, and achieve our mutual, foreseeable dream of a world where slavery resides only in the historical record.