

EVIDENTIARY CHART¹

Legal Element	Statute and/or Regulations/Caselaw	Facts that Support	Evidence (Who or what proves the fact?)	Facts that Detract and Detracting Evidence	Rebuttal Facts and Evidence for Facts that Detract
Past persecution	INA 101(A)(42); 8 CFR 208.13(b)(1) Past persecution on account of protected ground leads to presumption of future persecution				
Government cannot rebut presumption of future persecution – no internal relocation or changed circumstances	8 CFR 208.13(b)(1)(i)(A), (B); 8 CFR 208.13(b)(3) Presumption of future persecution can be rebutted where there are changed circumstances or where internal relocation is possible and reasonable (internal location presumed not possible where state actor)				

¹ This chart will vary significantly in each case, depending on the individual facts, evidence available and forms of relief in questions.

Future persecution	INA 101(A)(42); 8 CFR 208.13(b)(2); <i>Matter of Mogharrabi</i> (BIA) Subjective and objective test. Can be shown by past threats or pattern and practice of persecution of similarly situated people				
Protected ground –					
Nexus – On Account Of	INA 208(b)(1)(B)(i) Protected ground must be “at least one central reason” for persecution				
State Action	<i>Matter of Acosta</i> (BIA) Must be government actor or private actor that the government is unable or unwilling to control				
Credibility	INA 208(b)(1)(B)(iii) – IJ may base a credibility				

	determination on demeanor, responsiveness, plausibility, consistency between statements (whether made and whether or not under oath), internal consistency of any statement and consistency of statements with evidence of record				
Ineligibility grounds	One-year filing deadline INA 208(a)(2)(B)				