UNHCR’s Mandate

● Provide international protection & assistance to refugees
● Seek permanent, durable solutions for refugees
● Prevent and reduce statelessness and protect the rights of stateless people
International Refugee Law Instruments

- 1951 Convention on the Status of Refugees
Foundational Principles

• Non-refoulement
• Right to seek and enjoy asylum
• Non-discrimination
• Non-penalization
UNHCR Multi-Country Office Office Washington

- U.S. Protection and Solutions Unit
  - Ensure access to territory
  - Advance fair and efficient asylum procedures
  - Align interpretation of the refugee definition with international law
  - Consider detention only as a measure of last resort
  - Prevent and reduce statelessness
Relevant Law & Guidance

- 1951 Convention & 1967 Protocol
- Conclusions on International Protection ("ExCom Conclusions")
- Guidelines on International Protection
- Country guidance, e.g., Eligibility Guidelines
UNHCR’s U.S. Protection and Solutions Unit offers resources to assist asylum seekers and attorneys represent them in the United States. These materials provide an overview of international refugee law, address how it applies to U.S. asylum adjudication and include guidance to support claims by individuals seeking protection in the U.S. The cover six core topics: children’s asylum claims, gender-based asylum claims, Central American and Mexican asylum claims, detention issues and statelessness. Most thematic pages include a cover note explaining how to use international law and UNHCR publications to leverage an asylum claim, with links to key resources.

International Law and UNHCR Guidance in U.S. Asylum Adjudication

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol Relating to the Status of Refugees are key international instruments governing the protection of refugees. The United States is a party to the 1967 Protocol and therefore bound to comply with its provisions, and it has incorporated the substantive provisions of the Protocol into domestic law through the 1980 Refugee Act. Accordingly, the Refugee Act should be interpreted in a manner consistent with the United States’ international law obligations.
UNHCR Country Information & Guidance

Eligibility Guidelines & International Protection Considerations
- Offer guidance on the eligibility for international protection of specific at-risk groups or profiles.

Positions on Returns
- Contain country-specific policy guidance regarding the reasonableness and feasibility of return based on country conditions.

Guidance Notes
- Contain country-specific policy guidance on issues other than eligibility or return.
Country Information and Guidance

UNHCR Eligibility Guidelines & International Protection Considerations

- Afghanistan (2018)
- Colombia (2015)
- Czech Roma (1999)
- El Salvador (2016)
- Eritrea (2011)
- Guatemala (2018)
- Honduras (2016)
- Iraq (2019)
- Kosovo (2009)
- Nigeria (2016)
- Pakistani Members of Religious Minorities (2017)
- Slovak Roma (1998)
- Somalia (2010)
- Somalia: City of Galkacyo (2010)
- Southern & Central Somalia (2014)
- Sri Lanka (2012)
- Syria (2021)
- Ukraine (2015)
- Venezuela (2018)

UNHCR Positions on Return

- Afghanistan (2021)
- Burkina Faso (2021)
- Democratic Republic of the Congo (2019)
- Ethiopia (2022)
- Gaza (2022)
- Libya (2018) and Designations of Libya as a Safe Third Country and as a Place of Safety for the Purpose of Disembarkation Following Rescue at Sea (2020)
- Mali (2022)
- South Sudan (2021)
- Ukraine (2022)
- Yemen (2021)

UNHCR Guidance Notes

- Afghan Claims (2022)
- Gang-Based Claims (2010)
- Nicaraguan Claims (2018)
- Venezuelan Claims (2019)
Example: El Salvador Eligibility Guidelines

II. Overview of the Situation in El Salvador

A. Background

The increasing exodus of Salvadorians in search of international protection is rooted in the human rights, social, political and economic impact of the increasing reach, power and violence of organized criminal groups in El Salvador. The extent of the violence is reflected in the fact that the small and densely-populated country of El Salvador presently has the highest rate of homicides of any country in the world. This surge of violence is driven by the activities of powerful rival and competitive street gangs that operate across El Salvador and also by the severe response of the State security forces. At the same time, the influence of other organized crime groups, as well as widespread domestic and societal abuse of women and children, also fuels the flight of Salvadorians seeking international protection.

10. Teachers and educators working in public schools and educational institutions

Due to the youthful membership of the gangs in El Salvador, gangs reportedly often seek to exert influence in and on public schools and educational institutions in the zones where they operate. Gang members may also be present as students in those schools and educational institutions. Teachers and other educators working in parts of the country where gangs are present reportedly find themselves subject to extortion demands. Moreover, those teachers and educators who represent an alternative source of authority or resist or oppose the gangs and their recruitment of local youth have reportedly been threatened and killed by the gangs.

Depending on the particular circumstances of the case, UNHCR considers that teachers and educators working in public schools and educational institutions may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.
UNHCR Database: Refworld

In Focus
UNHCR Position on Returns to Ethiopia
As the situation in parts of Ethiopia remains fluid and uncertain, UNHCR will rely on all countries to allow seasons in Ethiopia access to their territories and to ensure respect for the principles of non-refoulement at all times.

Latest Refworld Updates
- CASE OF ECO DEFENCE AND OTHERS v. RUSSIA (Applications nos. 9085/13 and 90 others – see appended list)
- LB v. Lithuania (Application No. 38102/06)
- UNHCR Analysis of the Legality and Appropriateness of the Transfer of Asylum Seekers Under the UK- Rwanda arrangement
- VSH UN, Lushnje 27.01.2012 – A 4 S 0443/21 – Junta
- K.S. and M.B. v. Switzerland

Gender Equality and Women
Refworld documents related to gender equality and women, including legal, policy and background information. This "Special Feature" on gender equality and women is regularly maintained and contains legal, policy and operational material.

Legal Documents Related to Gender Equality and Women
- Resolution 1960 (2010) [on women and peace and security]. Adopted by the Security Council at its 6453rd meeting, 16 December 2010
- Resolution 1888 (2009) [on acts of sexual violence against civilians in armed conflicts]. Adopted by the Security Council at its 6185th meeting, 30 September 2009
UNHCR has long recognized the specific protection needs of children in asylum procedures. Children might have independent claims to refugee status separate from those of their parents or other family members. In part due to the possibility that they may experience certain child-specific forms of persecution that could give rise to a distinct claim for protection. In addition, children have inherent vulnerabilities that mandate additional safeguards as they move through the asylum process.

UNHCR offers the following summary of its position on these topics as relevant to pursuing asylum in the United States:


Key UNHCR Resources

For a discussion of substantive and procedural considerations relevant to child-specific asylum claims, including in the U.S. context, see:

- Guidelines on International Protection, Child Asylum Claims under Articles 1(A)(2) and (3) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees (2009)
- UNHCR Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child (2021)
- Amicus Brief, Moncayo-Perez v. Barr (2020)
- Amicus Brief, Gracia v. Barr (2019)
- Amicus Brief, Matter of O-L-O (2019)
- Amicus Brief, Mejia-Rodrigo v. Holder (2010)
- UNHCR Recommendations to Support the Work of the Interagency Task Force on the Reunification of Families (2022)

For a discussion of the reasons why children who flee Central America and Mexico may need international protection, see:

- Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection (2014)
- Uprooted (Amnistia Internacional) (2014)

Additional Materials

- Webinar by UNHCR, KIND, & The Young Center: Representing Children from Central America: Leveraging International Law to Strengthen Gang-Based Asylum Claims (2017) (recording and slides)
## Cover Notes Expressing UNHCR’s Views

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### UNHCR's Views on Asylum Claims based on Sexual Orientation and Gender Identity

**Using international law to support claims from LGBTQ+ individuals seeking protection in the U.S.**

September 2022

The United Nations High Commissioner for Refugees (UNHCR) has long recognized the specific protection needs of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ+) individuals and those who are perceived as holding such identities. This note articulates UNHCR’s views on LGBTIQ+ asylum claims, highlights particular issues which may arise under such claims, and provides guidance on how to use UNHCR’s views in assisting asylum seekers in the United States. It is generally applicable to claims with a sexual orientation or gender identity component from all over the world.

### UNHCR's Views on the Detention of Asylum Seekers

**Using International law to advocate against detention of individuals seeking protection in the U.S.**

September 2022

The United Nations High Commissioner for Refugees (UNHCR) has had a longstanding interest in the situation of detained asylum seekers and the legality of detention of this population under international law. UNHCR takes the position that, consistent with international refugee and human rights law and standards, detention of asylum seekers generally should be avoided and considered only as a measure of last resort. Because seeking asylum is not a crime, an individual’s status as an asylum seeker is not in and of itself a valid basis for detention. Instead, detention is an exceptional measure that can be justified only by a legitimate purpose and when its necessity, reasonableness, and proportionality are based on an individualized assessment for each person.
Using Int’l Law and UNHCR Materials in Direct Representation
Using Int’l Law and UNHCR Materials in Impact Litigation
The lawyers must do the basic work, finding, analyzing, and referring us to, that [comparative law] material. I know there is a chicken and egg problem. The lawyers will do so only if they believe the courts are receptive. By now, however, it should be clear that the chicken has broken out of the egg. The demand is there. To supply that demand, the law professors, who teach the law students, who will become the lawyers, who will brief the courts, must themselves help to break down barriers - barriers that exist between disciplines, so that the criminal law professor as well as the international law professor understands the international dimension of the subject ….

Access CGRS Technical Assistance

CGRS provides free expert consultation to attorneys and organizations representing asylum seekers, including legal technical assistance, strategy development, sample briefs, unpublished decisions, country conditions evidence, and expert witness affidavits.


Email: CGRS-TA@uchastings.edu with your CGRS Case Number if you have follow-up questions.

Reach out to CGRS: cgrs-ABtracking@uchastings.edu to request CGRS’s amicus support in a case involving Matter of A-B- before the BIA or courts of appeals.
# CGRS Technical Assistance Resources

## Practice Advisories
- Domestic violence
- Children’s asylum
- Fear-of-gang claims
- Gender-based claims
- CAT protection claims
- EAD Rule

## Country Conditions Reports
- Specific topics in individual countries (e.g., children, indigenous, LGBTQI+, gang)

## Unpublished Case Law
- IJ and BIA decisions

## Expert Declarations
- Country-specific (e.g., violence against women, children, LGBTQ)
- Topic-specific (e.g., domestic violence, incest, trauma and memory)

## Sample Pleadings
- Case documents: declarations, indices, expert affidavits
- Legal briefs
Contact CGRS for Amicus Support in the Courts of Appeals

- Gender-based, gang-related, and family-based PSG claims
- Thorny nexus issues
- Social group cognizability findings turning on the “circularity principle”
- Issues surrounding state protection (asylum/withholding) or a state’s acquiescence to torture
- Bars to asylum
- The rights of children or pro se respondents
- Individuals affected by climate displacement
- Failure to admit or credit expert evidence, including universal or global declarations

EMAIL: cgrs-ta@uchastings.edu with your request and CGRS case number
Questions?