

Quick Reference

Asylum Quick Reference Outline

I. Definition of a Refugee

- **Definition:** A person who is outside their country of nationality (or last habitual residence if a stateless person) and 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.

Persecution or Well-Founded Fear of Persecution

- **Past Persecution:** The applicant must show they suffered persecution in the past on account of a protected ground.
 - **Relevant Regulations:** 8 CFR 208.13(c)(1).
- **Well-Founded Fear of Future Persecution:** A presumption of a well-founded fear of future persecution unless the government demonstrates by a preponderance of the evidence that conditions have fundamentally changed such that a fear of future persecution is not warranted.

III. On Account of a Protected Ground

- The persecution or fear of persecution must be based on one of the five protected grounds:
 - **Race:** Nationality, Marital Status, Social Group (PSG)
 - **Religion:** Religious Beliefs, Political Beliefs, Sexual Orientation (PSG)
 - **Nationality:** Nationality, Political Beliefs, Sexual Orientation (PSG)
 - **Particular Social Group (PSG):** A group of persons who are persecuted or feared to be persecuted on account of their membership in the group. The group must be at least one central reason for the persecution.

Applicant's Burden of Proof and Credibility

3. **Particularity:** The group is defined with sufficient clarity to have discernible boundaries, allowing decision-makers to determine who is and who is not a member. The group must not be "too amorphous."
- III. Significant**

PSG Categories and Related Case Law

- **Family-Based Groups:**

- *Matter of L-E-A-*, 27 I&N Dec. 40 (BIA 2017), reversed in part by 27 I&N Dec. 581 (A.G. 2019), and *Matter of M-R-M-S-*, 28 I&N Dec. 757 (BIA 2023); This line of cases has addressed whether membership in one's own family can constitute a PSG.

IV. Nexus Requirements in PSG Claims

Matter of M-R-M-S-, 28 I&N Dec. 757 (BIA 2023): This line of cases has addressed whether membership in one's own family can constitute a PSG.

- **The initial task in a PSG membership claim is to establish that there is persecution or the imposition of (the nexus to) membership in the PSG.** The BIA has recognized that immediate family members can form a PSG, depending on the specific facts. The focus has often been on whether the

V. Procedural Considerations

family membership itself, rather than for other reasons (e.g., criminal or pecuniary motives). *Matter of M-R-M-S-* emphasized that family membership must be at least one central reason for the harm,

- *Matter of W-Y-C- & H-O-B-*, 27 I&N Dec. 189 (BIA 2018): This decision requires asylum applicants in removal proceedings to clearly identify their proposed PSG not merely incidental or subordinate to another goal of the persecutor. The BIA may not consider newly proposed PSGs raised for the first time on appeal.

and Evolving Law

- It is critical to note that interpretation and application of PSG standards, particularly concerning nexus and specific types of groups (like gang and family-based claims), can vary among the different U.S. Circuit Courts of Appeals and between the Circuits and the BIA. This means the case law in a specific circuit may differ from the BIA's precedent. (See Result [7] and Result [8] of search regarding variations and the impact of changing administrations on PSG interpretation).

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