

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 stateless) 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(b)(1).
- **Well-Founded Fear of Future Persecution:** The applicant must show a present or future fear of persecution on account of a protected ground.
 - **Relevant Regulations:** 8 CFR 208.13(b)(2).

III. On Account of a Protected Ground

- **The persecution or fear of persecution must be based on one or more of the five protected grounds:**
 - **Race:** Nationality, ethnicity, or social group (PSG).
 - **Religion:** Religious beliefs or practices (PSG).
 - **Nationality:** Nationality (PSG).
 - **Membership in a Particular Social Group (PSG):** A group of persons who are persecuted or feared persecution on account of a common characteristic that is immutable or fundamental to their identity or conscience.
 - **Political Opinion:** Political beliefs or activities (PSG).
- **Relevant Case Law:** *Matter of Acosta* (1992) (persecution based on sexual orientation); *Matter of Velazquez* (1997) (persecution based on political opinion); *Matter of Sison* (1992) (persecution based on religious beliefs); *Matter of Hernandez* (1996) (persecution based on membership in a particular social group).

Applicant's Burden of Proof and Credibility

- credible, pe
required wh

Statutory Bars to Asylum

- ## VII.

- **Epiphyseal Union:** The process of the epiphysis fusing with the shaft of the bone, typically occurring by age 16-18 in females and 18-20 in males.

Discretion

- **Relevant Law:** INA § 208(b)(2)(A)(i), 8 USC § 1522(b)(2)(A)(i).

- **Revised Lappin Act, 208(b)(1)(A), 8 USC § 1515(b)(1)(A):** If a refugee and is not subject to a mandatory bar, asylum is a discretionary form of relief.

Adjudicators can deny asylum based on negative factors.

PSG Quick Reference Outline

I. Foundational Principles and Definitions

- Subsequent to the Supreme Court ruling in *Blasi* (1985), which is the foundational case of the *harmful and applied* (H&A) model of defining a PSG, the court decided that members of a PSG must share a common, immutable characteristic. This characteristic is one that members either cannot change or should not be required to change, because it is fundamental to their individual identities or consciences. Examples provided include sex, color, kinship ties, or shared past experience (like former military leadership or land ownership).

Evolution of the PSG Framework (Three-Part Test)

3. **Particularity:** The group is defined with sufficient clarity to have discernible boundaries, allowing decision-makers to determine who is and 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 (Rev. 2019), cert. in PSG Claims Dec. 304 (A.G. 2021), reaffirmed by *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 BIA has recognized that immediate family members can form a PSG, depending on the specific facts. The focus has often been on whether the 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, not merely incidental or subordinate to another goal of the persecutor.

- Gen...**
 - M...*
- IV. **Nexus Requirements in PSG Claims**
- V. **Procedural Considerations**

- 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 on the record before the Immigration Judge. The BIA may not consider newly proposed PSGs raised for the first time on appeal.

Circuit courts may interpret the nexus requirement differently in family-based claims (see Result [2] of search).

Splits
- 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).
- Revision #1

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