

**SANTA CLARA UNIVERSITY SCHOOL OF LAW
INTERNATIONAL AND UNITED STATES REFUGEE LAW
Summer 2018**

HYPOTHETICALS FOR USE IN CLASS

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REFUGEE LAW

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Prof. Abriel

**Hypotheticals Set 1:
International and Regional Definitions of “Refugee”**

Which of the following situations would be covered by (i) the definition in the 1951 Convention and its Protocol, (ii) the OAU Convention, (iii) the Cartagena Declaration?

1. Civil war in Fredonia pits a leftist insurgency against an autocratic government dominated by a few wealthy families that have traditionally controlled the political life of the country. Both sides are heavily armed and frequently employ indiscriminate bombardment or shelling of areas held by their opponents. Thousands of civilians flee the destruction, some going to the capital city, while others cross the river into a neighboring country.
2. The divisions in a civil war in Ruritania generally follow ethnic lines, and both sides have engaged in “ethnic cleansing” in areas they control. Reports of atrocities are plentiful. Classical military battles are also heavy at times, causing extensive damage to cities and towns. Internal relocation is matched by the volume of flight to neighboring countries.
3. A radical group inspired by Mao Tse Tung and Pol Pot takes over the government of Stanistan and implements a rigid “back to the land” program that forces city-dwellers to leave their jobs and join work teams in the countryside. Food is equitably shared among the team members, but years of economic mismanagement and poor harvests have results in widespread hunger and malnutrition. Stanistan’s borders are heavily guarded, but thousands manage to escape. Those who are caught are punished severely for breaking the law. Reportedly some have been tortured, and others have been stoned to death.
4. A category 5 hurricane left over 300,000 people homeless in Isthmia, devastating farms and businesses. Disaster experts say that reconstruction will require five to ten years. Meantime, the population of the affected area has dispersed throughout the region, many living in squalor in shantytowns.

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Hypotheticals Set 2: Refugees and Displaced Persons

The state of Krasívaja had been in an armed conflict with the state of Hickovia for several years, before, in August 2012, the hostilities have ceased. In January 2013 a peace agreement has been concluded between the two states under the auspices of the Organization of the African Union. Krasívaja is still in a state of disorder due to the armed conflict, and there are several complicated situations that have called for the attention of General Ivana and General Mir, the military leaders of the state.

Krasívaja has ratified the four Geneva Conventions, the two Additional Protocols, as well as the major universal and regional human rights treaties and signed on to the declarations.

You are the legal counsel of the ministry of defense and the ministry of homeland security and are asked to submit your legal opinion on the above mentioned situations to the Generals Ivana and Mir, and make recommendations to the steps to take so as to resolve this situations as soon as possible.

- Several thousands of prisoners of war (POWs) have to be repatriated. The camp commanders though report that a few hundreds of the POWs don't want to be repatriated, and it seems that several among them would be confronted with serious problems if sent home.
- There are problems in the Refugee Camp „Orbit“ that is situated in the east of Krasívaja. The camp is populated by persons who fled different situations: there are Krasívajan nationals who had to leave their villages, because they were destroyed by the enemy during the war. Then, there are people from the neighbouring state of Sputnik, who came there after the 2001 outbreak of the Balschój volcano which had destroyed their homes. Finally, there are deserters from the Hickovian army who have sought refuge in the camp. According to reports submitted by the UNHCR, which takes care of the camp, there are Krasívajan military troops who enter the camp from time to time in order to get food and to recruit young men for the armed forces.

Are any of the above-mentioned persons refugees under the UN Convention or under a regional definition or are they entitled to any protection under those documents?

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**Hypotheticals Set 3:
Expedited Removal**

1. You have a Mexican passport with a valid tourist visa to come to the United States. Your sister and brother-in-law are U.S. citizens and they have just had a baby girl. You are coming to the United States to visit your niece. When asked the purpose of your visit you tell the officer that you are here to spend time with your niece, and if possible to improve your English skills. You are not permitted to enter, but are referred to secondary inspection.

2. You are an asylum seeker from Algeria. You were able to board a plane to the U.S. using a false Spanish passport. After boarding the plane, you disposed of your false passport. Upon arrival to the United States, you try to tell the officers that you have no passport and you want to apply for asylum. The officer at primary inspection refers you to secondary inspection. The officer at secondary has difficulty understanding you because you do not speak much English, and the officer has not called for an interpreter. Several times you attempt to communicate that you want to apply for political asylum, but the officer repeatedly tells you that you are going back to Algeria.

3. It is the late 1990s and you are an asylum seeker from Albania. It is a time period in which there has been conflict between the north and the south of the country. Some men tried to recruit your husband to fight, but he did not want to go. He went into hiding. You remained in the family home. One day men came looking for your husband, and when they could not find him, they told him that he would pay the price. These men gang-raped you. When you arrive in the U.S. with a valid passport, you are questioned and you immediately say that you are seeking asylum. You are ashamed to mention the rape, so you only say that men were after your husband. You are referred to a credible fear interview and don't mention the rape there either. You finally mention it when you go before a judge to review your negative credible fear determination.

4. You are a Cuban national. You have many family members in the United States, and want the freedoms that they enjoy. Using a false Canadian passport, you fly to the United States. Upon arriving you ask for asylum. Will you be put in expedited removal?

5. You are an asylum seeker from Haiti. You have come to the U.S. by boat, and managed to come ashore without being caught by the U.S. authorities. You have been in the U.S. for a year when you are stopped by immigration enforcement officials. Can you be put in expedited removal?

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**Hypothetical Set 4:
The definition of persecution**

General instructions:

The two following hypotheticals are intended to create a discussion of what constitutes persecution. Counsel should draw upon and incorporate in their presentations the readings in the text, U.S. statutes, the provisions of the U.N. Convention and Protocol Relating to the Status of Refugees, and the provisions of the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*.

For the following hypotheticals, consider the following questions: (1) did the applicants suffer persecution, (2) does the applicant have a well-founded fear of future persecution, and (3) who was the persecutor? Counsel and judges are not required to do outside investigation, but you may find it interesting and enlightening to do a little outside reading. For example, for Evgueni's case, you may want to look at the State Department Country Reports on Human Rights Conditions for Russia, available on the Department of State website (link on our website). For Juliana's case, you might want to google the term "trokosi."

1. Evgueni T.

Evgueni T was born in 1999 in Vladivostok, Russia, with infantile cerebral paralysis, or cerebral palsy. His disability resulted chiefly from the negligence of members of the staff of the Russian state-owned hospital, who induced his mother's labor in the evening and then left her alone until the next morning, abandoned her for the entire night. The fetus did not receive enough oxygen during the night. The next morning, because the induced labor had stopped, hospital personnel decided to forcibly extract the child, breaking his neck in the process. Upon seeing the child's injuries, they initially disposed of Evgueni into a container holding medical waste. Against all odds, Evgueni survived and was retrieved from the disposal bin.

Evgueni's mother, Victoria, asked to see her son. At first, she was told that he was severely disabled and that she should "refuse" him. After five days, Victoria managed to convince a nurse to let her visit Evgueni. Victoria and her husband Dmitri refused to consent to the government's placing Evgueni into a state-run orphanage, but the hospital

transferred him to an institution for orphaned children with birth defects. Victoria and Dmitri repeatedly sought to visit Evgueni, but the hospital director denied permission for the first two months.

When Victoria and Dmitri finally gained entrance to the hospital for children with birth defects, they were horrified. The children were wrapped in old, wet, dirty linens and were crying, Victoria suspects from hunger. They received attention only infrequently from the overworked staff. They were not held or talked to. Victoria and Dmitri began efforts to secure Evgueni's release and, despite the hospital and government officials pressure to consent to his permanent institutionalization, they secured his release and put him in a private clinic.

Once Evgueni was diagnosed as having infantile cerebral palsy, he was permanently labeled as disabled and received no special public medical support for his condition, although he was able to receive regular medical care. In search of better medical care for him, Victoria and Dmitri managed to travel to the Osteopathic Center for Children in San Diego, California. This was when Evgueni was eight. As a result of the treatment he received there, Evgueni was able to walk.

When the family returned to Russia, Victoria and Dmitri, in accordance with the recommendation of his American doctor, refused to allow Evgueni to be vaccinated. The American doctor was concerned about Evgueni's fragile immune system. Because he was not vaccinated, it became difficult for Evgueni to receive any medical care in state-run medical facilities.

The diagnosis of cerebral palsy resulted in Evgueni's being denied access to public school, despite the fact that his disability was a physical and not a mental one. The Russian government doctor recommended that, if Evgueni's parents insisted on refusing to allow him to be institutionalized, he "be isolated at home" and not taken out into public places.

When Evgueni did go to public places, he experienced some negative treatment. Victoria would often hear parents say to their children: "Get away from that boy, can't you see that he's abnormal!" or "Don't get near him, he's sick." Children would throw things at him.

Two incidents resulted in Evgueni's hospitalization. On one visit to a park when he was eight years old, several young men attacked him. He suffered a broken arm and severe head trauma and had to be hospitalized for two months. The injuries led to insomnia, spontaneous crying, shaking, and paranoia. Victoria and Dmitri filed a report with the police, but there was never any investigation. On another occasion, a woman yelled at Victoria, "Get your ugly imbecile out of here," and shoved Evgueni to the ground. Victoria and Dmitri rushed him to the emergency room, where he received several stitches in his head, from which he still has a visible scar. Victoria again filed a police report, but this time the police told her that the case was insignificant and to settle it

herself. Evgueni became so frightened of the dangers he had faced when going outside that he refused to leave the house.

Victoria and Dmitri decided to take political action in order to try to create a normal life for Evgueni and other disabled children in Russia. They joined together with other parents of disabled children and founded an association called "Mothers Unite!" In 2008, Dmitri was fired from his job as a civil engineer and was unable to find employment for two years. In two of his job interviews, he was urged to stop advocating for the rights of the disabled. The family left Russia in 2014 and applied for asylum in the United States.

The 2015 State Department on Human Rights Practices for Russia confirms that Evgueni's treatment as a child with cerebral palsy reflects the standard practice in Russia. Russia institutionalizes its "orphans," more than 90 per cent of whom are so-called "social orphans" – children who have at least one living parent but who, like Evgueni, are so-classified by the state because they have been deemed undesirable in some respect. The State Department Report states: "[T]he prospects of children/orphans who are disabled physically or mentally are extremely bleak. The label of "imbecile" or idiot, which signifies "uneducable is almost always irrevocable. The most likely future is a lifetime in state institutions."

The Asylum Officer referred the matter to removal proceedings, and the case is now before the Immigration Judge. Evgueni and his parents filed an application for asylum and have presented their testimony and documentary evidence, including the State Department Report referred to above. The parties are now ready to present oral argument before the Immigration Judge.

2. Juliana Dogbadzi.

Assume the year is 2000.

Juliana Dogbadzi was a victim of trokosi (fetish slavery) in Ghana for almost 17 years. When she was 7 years old, her parents took her to a shrine to pay penance to the gods because her grandfather had allegedly stolen some money. Juliana cleaned the shrine and worked in the priest's fields. She received only meager amounts of food. She lived with eleven other women and child slaves in one small room. She was not allowed to go to school. Juliana attempted to escape several times. On one occasion, her parents returned her to the shrine, fearing revenge by the gods. On another occasion, when the priest found her, he beat her. Juliana, like the other trokosis, had to wear only black or blue clothes to indicate her status. When she was 23, she escaped with the help of an uncle. \

In August 1998, the Parliament of Ghana passed and the President signed into law the following statute: "Whoever sends to or receives at any place any person or participates

in or is concerned with any ritual or customary activity in respect of any person with the purpose of subjecting that person to any form of ritual or customary servitude or any form of forced labour related to customary ritual shall be guilty of a second degree felony and liable on conviction to imprisonment for a term of not less than three years.

With her uncle's help, Juliana was able to come to the United States on a student visa. She applied for asylum. The Asylum Officer referred her case to the Immigration Judge, and the matter is now before the Immigration Judge. Juliana filed her application and presented her testimony. Counsel is now ready to give closing argument before the Immigration Judge.

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**Hypotheticals Set 5:
Well-Founded Fear and Past Persecution**

Client A is a young man from El Salvador who left his country at the time when it was embroiled in civil war; when he was sixteen years old, he participated with a guerrilla group fighting against the government. He was with this guerrilla group for 6 months. During this time the military suspected him of participation and arrested him. They kept him overnight and tried to get information from him. Numerous times during the night they covered his head with a lime-filled bag. He would be choking for air, and when he breathed in the lime, it would make him feel that he was suffocating even worse. Finally he was released and a week later he fled the country. Since then, there has been a peace accord, and the government and the guerrilla groups have entered a peace agreement. He tells you that he is deeply committed to justice and that if he returns to El Salvador, he will speak out in favor of many of the goals that he fought for when he was a young man – such as agrarian reform, and redistribution of wealth. When you research country conditions, you learn that former members of the guerrilla group with which he fought currently hold positions of power in government, although there has recently been some killings of human rights activists. How would you analyze his claim?

Client B is a man from China who violated the population control rules which permit one couple per child. When he and his wife violated the rule for the first time by having a second child, the family was fined a large amount of money. When he and his wife violated it a second time by having a third child, the government authorities took him against his will and forcibly sterilized him. He and his wife fled to the United States to seek asylum. What result in his claim for asylum?

Client C is a young woman from Mexico. From the time she was five years old her father battered her, her mother, and the other female members of the family. At the age of 15 she could stand the abuse no more. She thought of trying to escape her father by moving to another place within Mexico, but she did not have friends or family anywhere else in the country, had never lived on her own, and did not know how she survive. When she told an aunt of hers, who lived in the U.S., about her plight, the aunt encouraged her to come to the U.S. to get away from the terrible situation. She crossed the U.S.-Mexico border illegally and applied for asylum. While her claim is pending in the United States, she learns that her father has been murdered. How would you analyze her claim? How would you analyze it if her father had not been murdered.

Client E is a member of the ethnic Chinese minority in Indonesia. During times of social, economic or political unrest, anti-Chinese sentiment has erupted into pervasive, severe violence. Even during times of “relative calm” ethnic Chinese Indonesians suffer discrimination and harassment. Client D never personally experienced problems in Indonesia, although her father was arrested and beaten during a time of unrest. She came to the United States on a tourist visa to study. While she was in the U.S., there was a resurgence of anti-Chinese sentiment, and she learned that her uncle had been attacked and beaten. How would you analyze her claim?

Client F is a young woman from Guinea. When she was an infant, she was subjected to female genital cutting. She has suffered physically and psychologically as a result of undergoing this practice. When she was sixteen years old, her father told her that she was to marry a rich man in her ethnic group. The man she was going to marry was old enough to be her grandfather, and she did not want to marry him. When she told her father this, he beat her. She managed to secure a student visa, and against her father’s permission she traveled to the United States, where she is seeking asylum. How would you analyze her claim?

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**Hypothetical Set 6:
Race, nationality, religion**

General instructions:

The following hypothetical is intended to create a discussion on the Refugee Convention protected grounds of race, nationality, and religion. You may also consider the other elements of the refugee claim we have discussed in previous classes. In analyzing the case, you should draw upon the cases in the text, U.S. statutes, the provisions of the U.N. Convention and Protocol Relating to the Status of Refugees, and the provisions of the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*.

For the following hypothetical, consider the following questions: (1) did the applicant suffer persecution or a threat to life or freedom, (2) does the applicant have a well-founded fear of future persecution or a likelihood of future threat to life or freedom, (3) assuming persecution or a threat to life or freedom, was it on account of one of the five protected grounds, and (4) can the applicant show the required nexus?

Althea and Mohammed Faruk

The Faruks entered the United States on tourist visas and applied for asylum. Please prepare to present a brief oral argument to the asylum officer adjudicating their application.

Althea Faruk is Christian and native Fijian. Mohammed Faruk is a Muslim of Indo-Fijian heritage. When Mohammed and Althea began dating in 1992, their relatives and neighbors threatened them. Althea's father punched her when she refused to stop dating Mohammed. Her friends said they would "take the law into their own hands," and that she would be lucky if she got back to her house alive. She took the threats seriously, knowing that her friends had contacts who would carry out threats against an interracial couple.

When Mohammed's family and Muslim neighbors found out about the relationship, they found Mohammed in the middle of town and punched him. They shoved him into a car, took him to the house of another Muslim, and kept him there for half a day. Two of his abductors held Mohammed down while another punched and hit him. On another occasion, Mohammed's uncle, who was also his employer, threatened Mohammed's life if he continued seeing Althea.

For months, Mohammed and Althea knew that they were being closely watched. In August 1992, they went secretly to the capital city of Fiji and attempted to get a marriage certificate. The registrar refused to issue the certificate. When the couple left the registrar's office, a "whole bunch of Muslims" stopped them and threatened Mohammed that if he got married they would beat him again. Mohammed and Althea were afraid that if they continued their relationship, one of them would be permanently harmed. Althea went to the United States. Mohammed followed her, in November 1992, and they resumed their relationship.

In the United States, an American pastor who was going to Fiji volunteered to perform their wedding ceremony in Fiji. They paid a Fijian to obtain a marriage certificate for them, and in early 1993 they were married in secret in Fiji. They wanted to remain in Fiji because it was home and they hoped that things would be better once they were married. Instead, Althea's family disowned her. Mohammed was fired from his job at the family business. The harassment continued. Every week, Muslims would come to their home, and tell Mohammed he had to leave his wife. Each time the Faruks went through town, people would call them names, threaten them, and throw rocks at their car. They tinted the windows of their car to avoid being seen, but people still recognized the car and threw stones. Mohammed hired a Fijian bodyguard for their safety.

The police refused to assist the Faruks. Mohammed called the police about the repeated stone-throwing, but the police would not file a report. In February 1993, when Althea was home alone, her two brothers and two other Fijians came and threatened her. Although an Indo-Fijian police officer arrived at the scene, he stood to the side when he saw how violent Althea's native Fijian attackers were. He told Althea point blank that he could not help her, even though he had back up in the police car downstairs. The attackers threatened the police officer, threw the Faruks' TV off the balcony, and only backed off from abusing Althea when two civilian Fijians intervened. Soon afterward, the Faruks left Fiji without telling anyone and fled to the United States.

Background country information:

U.S. STATE DEPARTMENT FIJI 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT

Section I. Religious Demography

....According to the 2007 census, approximately 64.5 percent of the population is Christian, 28 percent Hindu, and 6.3 percent Muslim. The largest Christian denomination is the Methodist Church, which makes up approximately 34.6 percent of the population. Other Protestant denominations account for 10.4 percent of the population, Roman Catholics 9.1 percent, and other Christian groups 10.4 percent. There are also small communities of Bahais and Sikhs.

Religious affiliation runs largely along ethnic lines. According to the 2007 census, most indigenous citizens, who constitute 57 percent of the population, are Christian. The majority of the country's traditional chiefs belong to the Methodist Church, and the Church remains influential among indigenous people, particularly in rural areas where 49 percent of the population lives. Most Indian Fijians, who account for 37 percent of the total population, are Hindu, while roughly 20 percent are Muslim and 6 percent Christian. Approximately 60 percent of the small Chinese community is Christian. The small community of mixed European and Fijian ancestry is predominantly Christian.

Government Practices

Prime Minister Voreqe Bainimarama continued to emphasize religious tolerance during public addresses at home and overseas, stating the country is a multifaith nation with religious freedom guaranteed in the constitution. As keynote speaker at a September 15 celebration for the Hindu Ganesh Utsav, the prime minister said "When people of all faiths come together in tolerance and understanding...peace, justice and prosperity flourish." Representatives of the minority Hindu community expressed support for the prime minister's message.

U.S. STATE DEPARTMENT FIJI 2017 Country Report on Human Rights Practices

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National/Racial/Ethnic Minorities Tension between indigenous Fijians and the Indo-Fijian minority is a longstanding problem. Indigenous Fijians make up an estimated 58 percent of the population, Indo-Fijians comprise 36 percent, and the remaining 6 percent is composed of Europeans, Chinese, Rotumans, and other Pacific Islander communities. The government publicly stated its opposition to policies giving "paramountcy" to the interests of ethnic Fijians and Rotumans, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another. Although Indo-Fijians dominated the commercial sector, indigenous Fijians continued to dominate the security forces.

Land tenure remained a highly sensitive and politicized issue. Indigenous Fijians communally held approximately 87 percent of all land, the government 4 percent, and the remainder was freehold land held by private individuals or companies. Most cash-crop farmers were Indo-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers must lease land from ethnic Fijian landowners. Many Indo-Fijians believed that limits on their ability to own land and their consequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. Many indigenous Fijian landowners believed that the rental formulas prescribed in the national land tenure

legislation discriminated against them as the resource owners. By law all indigenous Fijians are automatically registered upon birth into an official register of native landowners known as the Vola ni Kawa Bula (or native land register). The register also verifies access for those in it to indigenous communally owned lands and justifies titleholders within indigenous communities.

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Hypothetical Set 7:
Political opinion and nexus

General instructions:

The following hypothetical is intended to create a discussion on the Convention ground of political opinion and a discussion of how the nexus requirement is applied. In analyzing the case, you should draw upon the cases in the text and supplemental readings, U.S. statutes, the provisions of the U.N. Convention and Protocol Relating to the Status of Refugees, and the provisions of the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*.

For the following hypothetical, please consider the following questions: (1) has the respondent established a well-founded fear of persecution; (2) has the respondent established the Convention ground of political opinion; and (3) if so, has the respondent established that the persecution was on account of political opinion.

We are at the end of the respondent's removal proceeding, and the Immigration Judges have asked counsel to present a brief closing argument on the foregoing issues.

Assume the year is 2011.

Facts:

Anita Kurzban, was born in 1984 in the country of Croatia. Her father, John Kurzban, was a reporter who worked at the local television news station in Zagreb, Croatia. Throughout the course of his employment, Ms. Kurzban's father became interested in making a documentary about the mob in Zagreb. The mob was a powerful organization that controlled the city completely, but very few people in the city knew what it did or who controlled it.

Through the course of his investigation, Mr. Kurzban learned critical information about Caro Tortolucci, a wealthy Croatian businessman who had made his fortune in the sex and drug trafficking industry. Caro Tortolucci was alleged to be the leader of the mob in Zagreb.

When Mr. Tortolucci learned of Mr. Kurzban's plan to reveal him as the leader of the mob on national television, he threatened to kill Mr. Kurzban if he ever said a word about him. Mr. Kurzban feared for his safety and that of his family; nonetheless, he

decided to air his documentary. In April 2008, his documentary entitled "The Mob of Zagreb and Its Leader," aired on national television. Soon after, Mr. Kurzban received threatening notes at home and work. One day on his way home from work, two men pulled Mr. Kurzban over, beat him, and then set his car on fire. Before they left, one of the men told Mr. Kurzban, "This is what happens when you don't keep your mouth shut." Mr. Kurzban thought of calling the police, but decided not to because of rumors that the mob controlled the police.

In December, 2010, Anita and her father decided to leave Croatia and entered the United States on tourist visas. Mr. Kurzban's wife and son remained in Croatia to look after the Kurzban home. Anita and her father settled in California. In January, 2011, John Kurzban decided to return to Croatia, when he learned that Mr. Tortolucci's men had set his house in Zagreb on fire while his wife was still inside. Worried that something would happen to Anita if she returned with him, Mr. Kurzban decided to leave her behind in the United States.

While back in Croatia, Mr. Kurzban was kidnapped and shot because of his documentary depicting Mr. Tortolucci as the leader of the Zagreb mob. Mr. Kurzban survived, but when he reported the incident to the police, the police stated that they would not investigate the matter. In further retaliation, Mr. Tortolucci and his associates kidnapped and beat Anita's brother and her teenage cousins. While they were beating up Anita's brother, Mr. Tortolucci threatened, "The Kurzban family is going to pay for everything. This is what you get for having a father like yours." Local authorities were unable to stop the violence against the Kurzban family, so Mrs. Kurzban went into hiding, as did most of the Kurzban family that remained in Croatia.

After hearing what had happened to her family in Purifica, Anita decided to apply for asylum out of fear that she would suffer the same fate as her family members if she were forced to return to Croatia. She applied for asylum to Citizenship and Immigration Services on March 30, 2011. CIS referred her case to the Immigration Court. She is applying for relief from removal in the forms of asylum and withholding of removal.

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The Washington Times

The Official Newspaper of 2012

KUHNER: A modern mafia state

Communist-era corruption still persists

By [Jeffrey T. Kuhner](#)

The Washington Times

Thursday, September 30, 2010

Croatia is at a crossroads. The former Yugoslav republic is on the verge of entering the European Union. Accession talks have begun, and many Croatians hope the nation will join the EU by next year.

They falsely think membership in the coveted club will transform Croatia into a prosperous, Western-style state. Zagreb's political elites - both right and left - imagine that the EU will serve as the panacea for the nation's systemic problems. It won't.

In fact, the frenzied dash toward EU membership is papering over the moral rot at the heart of the country - a social cancer that threatens to devour this small nation of more than 4 million. Croatia's major problem is that it has never confronted its tragic communist past.

Under Serb-dominated Yugoslavia, Croatia was reduced to an economic vassal of Belgrade. From 1945 until his death in 1980, Communist dictator Josip Broz Tito imposed a brutal police state. His multiethnic empire subjugated Yugoslavia's constituent peoples - especially Croatians.

Tito sought to smash the two great sources of opposition to his totalitarian rule: the Croatian peasantry and the Roman Catholic Church. His regime murdered more than 200,000 Croatians, including countless priests and nuns. Churches were confiscated. State-sponsored atheism was inculcated systematically in the youth. Press freedoms were abrogated. Dissidents and anti-communist intellectuals were shot or imprisoned. The environment was ravaged. Economic collectivism destroyed private enterprise and personal responsibility. Cronyism and corruption became rampant. Croatian nationalism was suppressed savagely. In short, Croatia's moral and historic core - traditional Catholicism fused with Central European civilization - was eradicated.

After a four-year war with rebel Serbs, the country achieved its national independence. But it came at a high cost: A Balkan criminal underworld took root, smuggling guns, drugs and cigarettes during much of the fighting. Many gangsters infiltrated the government. Also, many former communists simply changed the Titoist red star for the Croatian red-and-white checkerboard. They retained their authoritarian, corrupt habits. The Croatian state became pregnant with a new criminal elite - one whose tentacles reach into every sector of society.

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The governing Croatian Democratic Union, known by its acronym HDZ, is the political expression of this gangster ruling class. Its former prime minister, Ivo Sanader, is under investigation for embezzlement, bribery, corruption and influence-peddling. High-ranking sources both within the government and outside say that, along with his cronies, Mr. Sanader plundered public assets. They have amassed huge personal fortunes - all at the expense of the Croatian taxpayer. The HDZ elite have stolen or siphoned off about \$1 billion - a grotesque sum for such a small nation. Mr. Sanader belongs in one place: the dock. He should answer for his crimes to the Croatian people.

Moreover, the HDZ refuses to implement sweeping reforms needed to kick-start Croatia's sluggish economy. Zagreb continues to embrace a bureaucratic corporatist model marked by a bloated public sector, stifling regulation and crushing taxes. The reason is simple: Creating a genuine free-market economy would dissolve the stranglehold the ruling class has on society. Croatia's politicians derive their power - and wealth - from statism and the massive bureaucracy, creating a vast patronage machine dispensing jobs to loyal allies.

Hence, there is little transparency and openness. Political connections and bribery are necessary to personal advancement. A healthy, vibrant society is based upon pluralism, the rule of law, entrenched private property rights and meritocracy. Croatia has none of these. The HDZ may pay lip service to these goals. In reality, it seeks the very opposite: a Balkan-style kleptocracy, which exerts considerable influence upon the media, business and the economy.

The status quo may serve the elites well, but not the vast majority of Croatians. Unemployment is at 18 percent. The economy actually contracted last year. The soaring national debt threatens the country's long-term future. Foreign investment and much-needed business capital are fleeing. Economic stagnation has set in. The gap between the rich and the poor is growing dangerously large, potentially leading to social instability. The middle class is shrinking. Croatia is becoming a two-tiered society, divided between the haves and have-nots. This is not the independent Croatia many dreamed of - or died for.

Croatia's fledgling democracy has the potential to become the Switzerland - or to be more accurate, the Austria - of southeastern Europe. It has a talented, innovative and intelligent population. Its natural beauty and stunning Adriatic coastline already are making the country a tourist mecca. Its ancient ties to the Austro-Hungarian Empire firmly anchor its culture to the West. Its press can be lively, combative and brainy - when allowed to function free of political harassment.

Yet Croatia will never achieve its national potential or civilizational destiny until it wages a serious war on corruption. Its gangster regime is not only stunting the country's development, but draining it of precious energy and treasure. Numerous skilled and educated Croatians are emigrating, a massive brain drain depleting the country of vital human capital.

Many states have a mafia. In Croatia, however, the mafia has a state. Until this is recognized and genuinely resolved, the relentless slide toward an economic abyss will continue. No amount of spin or EU subsidies can change this.

Jeffrey T. Kuhner is a columnist at The Washington Times and president of the Edmund Burke Institute, a Washington think tank.

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SANTA CLARA UNIVERSITY SCHOOL OF LAW
REFUGEE LAW

Summer 2018

Prof. Abriel

**Hypothetical Set 8:
Particular Social Group**

General instructions:

The following hypothetical is intended to create a discussion on the Refugee Convention protected ground of membership in a particular social group, but you may also consider the other elements of the refugee definition that we have considered in earlier classes. In analyzing the claim, you should draw on the cases in the text, U.S. statutes, the provisions of the U.N. Convention and Protocol Relating to the Status of Refugees, and the provisions of the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*.

For the following hypothetical, consider the following questions: (1) did the applicant suffer persecution or a threat to life or freedom, (2) does the applicant have a well-founded fear of future persecution or a likelihood of future threat to life or freedom, (3) assuming persecution or a threat to life or freedom, was it on account of membership in a particular social group (and any other protected ground you think applicable), and (4) can the applicant show the required nexus?

Assume it is 2001.

A. The facts of John L's case:

John is a native and citizen of Uganda. He is 19 years old. He applied for asylum in the United States. His claim was referred to the Immigration Court. He conceded removability and requested relief from removal in the form of asylum and withholding of removal.

In Uganda, John lived with his parents on farmland in a village in the Gulu District of Northern Uganda. In August, 1997, when he was 15 years old, rebels from the Lord's Resistance Army ("LRA"), a rebel force that opposes the Ugandan government, attacked his home and killed his parents.

Q. The night that your parents were killed, what happened first?

A. The rebels come and they start to kick the door and start shooting. And then my parents, they opened the back door and then when we start to run, the rebels, they shoot

my parents.

Q. And what happened after your parents were shot?

A. The rebels, they take me.

Q. And how did the Lord's Resistance Army take you? How did they force you to go with them?

A. They tie me on the rope, on the hand with other three people and then they take us to the camp.

Q. Were there other children with you? Were you alone [while marching to the LRA camp after his abduction]?

A. No. Older people than me. Three people.

Q. Older than you?

A. Yes.

Q. Three?

A. Yes.

While at the camp, John stayed in a tent with other kidnapped children where they were guarded by armed rebels. Both adults and children were held captive at the camp. The LRA forced him to perform manual labor using threats of physical harm. He testified,

A We had to fetch water, to fetch firewood and also when we go to fight, they also give us the gun and they put us in the front and, and we go to fight [for the rebels against the government soldiers]. Also when we fight, they tell us to, to remove the uniform from the dead soldiers. The uniform and the, and the gun and the shoes.

Q Did you fight in any battles?

A Yes.

Q How many battles did you fight in?

A I think about ten.

John was threatened and was beaten on more than one occasion for failing to adhere to LRA orders. He was exposed to the killing and physical torture of his fellow captives,

innocent civilians, and government soldiers. He stated,

A We steal those people's food, their animals, bombing their houses and sometimes the rebels, they cut the people's, the people's lips like this here. This and sometime they, their fingers.

Q. Were there any people being held [at the LRA camp] that you could tell as captives other than children?

A. Yes. And us, they were big, bigger than us. Bigger than us.

Q. Yes.

A. Yes.

Q. How many of those were there?

A. There were many. I don't know the number.

John testified that he was threatened he would be killed if he tried to escape. He witnessed the shooting of two captive children who failed in their attempt to escape. After one rebel battle, Stephen and Joseph, his friend at the camp, were carrying stolen weapons and uniforms back to the camp. Joseph became too tired to keep marching and the rebels beat him, but he was unable to continue. John testified that the rebels forced him to help place a heavy rock on Joseph's chest and to sit on the rock until his friend stopped breathing. John escaped two weeks later while collecting firewood. In total, John was held captive for approximately four months.

After escaping, John went to his uncle's home where he stayed for ten days. He eventually made his way to the United States.

Q Are you afraid to go back to Uganda?

A Yes, I am afraid.

Q Why?

A After I escaped, I was afraid to be seen by the government because I was the rebel fighting against the government. So I am afraid the government soldiers will kill me. But I am also afraid that the LRA will kill me because I escaped.

B. Excerpts from expert evidence and country reports offered into evidence.

- Expert testimony of Dr. Susan Erlich: The LRA practice of abducting children is “very well documented in the Human Rights Watch reports, Amnesty International as well as the United States State Department reports on human rights practices in Uganda. The LRA abducts children during raids on villages and schools. If children who try to escape are caught by the LRA, they are usually killed to make an example out of them.”

Any person the government suspects of being a rebel will be killed. The official Ugandan government position is that child rebels “are usually taken to an army barracks in Gulu in particular and then they're given to some of the NGOs [non-governmental organizations], in particular there is an NGO World Vision Uganda that takes some of the child soldiers and does psychological treatment for them.” Dr. Erlich concedes that the government has “given more sympathy to child soldiers in general.”

- Department of State Advisory Opinion: Applicant stands the likelihood of being subjected to torture by the Lord's Resistance Army upon his return, especially given the evidence that former child soldiers are punished, detained in pits, and used to clear minefields. The treatments meted out to children who escape from the LRA and then fall back into their hands suggest that a person within this category would be in grave danger if members of the rebel forces were to see and recognize him/her. The government policies towards abducted LRA child soldiers who escape or are captured has generally been more lenient; it detains LRA child soldiers for several months.
- Amnesty International, “Uganda: ‘Breaking God's Commands’: the destruction of childhood by the Lord's Resistance Army,” 18 Sept. 1997. For the LRA, taking children is a systematic choice: most of those abducted are between 13 and 16 years old. Younger children are generally not strong enough to carry weapons or heavy loads while older children are less malleable to the will of their abductors.
- Amnesty International, “Uganda: Breaking the Circle: Protecting Human Rights in the Northern War Zone,” 17 March 1999: The LRA has abducted thousands of children and adults, has unlawfully killed hundreds, possibly thousands, of civilians, has raped thousands of women and beaten thousands of men, women and children. The control of the civilian population is a strategic issue for the government's Uganda Peoples' Defence Forces (UPDF) as well as for the LRA. . . . This puts civilians of all ages at the heart of the conflict, rendering them especially vulnerable to human rights abuse on both sides.
- 1997 Amnesty International country report: The government is following a policy of encouraging LRA soldiers to give themselves up. The authorities emphasize that the majority of LRA fighters are abducted children who have fought against their will. Although they may have committed gross human rights abuses, the fact of abduction and childhood allows the government to follow a policy of

reintegration rather than punishment. Officially escaping or captured LRA soldiers remain only a short time in military barracks before being transferred to the non-governmental organizations World Vision or GUSCO for counseling and therapy. It appears that this official policy is in general what happens in practice. The vast majority of former child soldiers who were interviewed stated they were treated well.....

Northern villages shunned escaped abductees, for fear of reprisal by the LRA.

- Human Rights Watch country report: Some children have been detained on treason charges and subjected to physical abuse while in government custody.

Failed attempts to escape from the LRA end in death. In addition, even when escape attempts are successful the LRA engages in retaliatory conduct. Failed escape attempts continue to be punished by death, and successful escape attempts lead to retaliation: if one sibling escapes, the rebels often kill the other sibling, or return to the child's home village and slaughter any surviving relatives.

SANTA CLARA UNIVERSITY SCHOOL OF
REFUGEE LAW

Summer 2018

Prof. Abriel

**Hypothetical Set 9:
Ineligibility for Asylum and Withholding**

General instructions:

The following hypothetical is intended to create a discussion on the grounds for exclusion from eligibility for asylum and withholding under the Refugee Convention and Protocol and U.S. law. In analyzing the case, draw upon the cases in the text, U.S. statutes, the provisions of the U.N. Convention and Protocol Relating to the Status of Refugees, and the provisions of the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*.

For the following hypothetical, assume that the client can meet the standard of proof and establish the statutory elements for both asylum and withholding, and consider whether, regardless of establishing the statutory elements, he is ineligible for either asylum or withholding, or both. We are at the end of the respondent's removal proceeding, and the Immigration Judges have asked counsel to present a brief closing argument on the issue of whether the respondent falls under any of the ineligibility, or exclusion, grounds for asylum or withholding. .

Facts

Hakob is a citizen of Azerbaijan who entered the United States without inspection on September 4, 2001. On October 2, 2004, CIS granted his application for asylum. About two weeks later, on October 18, 2004, he was convicted in the California Superior Court of the offenses of residential burglary, in violation of section 459 of the California Penal Code, and sexual battery, in violation of section 243.4(a) of the California Penal Code, and sentenced to two years confinement on each count, to be served concurrently. On December 14, 2005, CIS served the respondent with notice of intent to terminate his asylum status.

Based on the convictions, ICE began removal proceedings against Hakob through the issuance of a Notice to Appear, dated December 15, 2005, charging him with removability pursuant to INA § 212(a)(2)(A)i(I). Hakob admitted the factual allegations in the Notice to Appear and conceded the charge of removability, and the Immigration Judge found that the concession and admission established removability. Hakob submitted an application for asylum and withholding of removal.

Here are the basic facts of Hakob's claim for asylum and withholding. He is the product of a mixed marriage; his father was born in Armenia and his mother, in Azerbaijan. During 1988 and 1990, there were efforts in Azerbaijan to exterminate or exile ethnic Armenians. Hakob's brother and his brother's family were taken from the village where they and Hakob lived and were killed. Hakob went into hiding, living in the basement of his ethnic Azerbaijani uncle and venturing outside only occasionally. This continued until 1994.

In 1994, Hakob escaped to Russia, where he stayed with a family friend and did remodeling jobs. He went to the immigration office in Moscow to request employment authorization and/or lawful resident status, but was told that there was no provision under Russian law for him to have either employment authorization or lawful status. He was arrested twice by the police as an illegal alien. Each time, he was able to secure his release by bribing the officers, but on the last occasion, they told him that he needed to find a solution to his status because they could not continue to arrest and release him indefinitely. Hakob obtained a visa to enter Mexico, then made his way across the United States border without inspection or admission.

Hakob says that he was intoxicated at the time of the incident that resulted in his October 18, 2004, conviction for burglary and sexual battery, and that as a result, his recollection of those events was unclear.

The probation officer's report gives the following description of the facts that resulted in Hakob's conviction. There is nothing in the probation report that indicates where the probation officer obtained the information, and the report does not state or otherwise indicate that the probation officer spoke with the victim. .

The victim was outside her residence playing with her pet iguana when the defendant approached her, started petting her iguana and questioning her about the pet. All of a sudden, the defendant grabbed the victim's breast and groin area. The victim is a fourteen year old female who has never met or knew the defendant. The victim reports being in "shock" as the defendant groped and fondled her that she froze. The defendant even reached inside her shirt. The victim broke free and began walking back to her apartment, but the defendant followed her. The victim remembers the defendant telling her as she walked away something to the effect of "what a fine ass you have." The victim walked into her apartment, attempted to close the door on the pursuing defendant, but he grabbed the door and forced himself inside the victim's apartment. At this point, the defendant again fondled the victim's breast, but a pet parrot inside the house started screaming loudly, which distracted the defendant. The victim called out for her mother, which caused the defendant to sit down on the couch and ask the victim for coffee. The victim's brother walked into the apartment and saw the victim crying and shaking hysterically. The victim and her brother ran out of the apartment to summon for help. The defendant was last seen walking into an adjacent apartment. Police arrived and arrested the defendant accordingly.

The probation officer's report concludes with the following:

The actions of this defendant in this offense are so appalling and serious that releasing him back into the community is irresponsible. The defendant preyed upon this young victim and his intentions were obvious to this officer. It is evident that the defendant is a danger to the community at large and should be imprisoned for as long as legally possible.

The Immigration Judges admitted the probation officer's report into testimony.

This was Hakob's only arrest and only convictions.

After Hakob completed his criminal sentence, he was transferred to ICE custody and detained at the ICE detention facility. While there, he was evaluated by Anne Wideman, Ph.D. Dr. Wideman's report and excerpts from Hakob's medical records during detention are attached.

EXCERPTS FROM CALIFORNIA PENAL CODE

Article 459.

Every person who enters any house, room, apartment, or other building.... with intent to commit grand or petit larceny or any felony is guilty of burglary.....

Article 243.4(a).

Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).



U.S. Citizenship
and Immigration
Services

DEC 14 2005

Hakob [REDACTED]
c/o Deportation Officer J. [REDACTED]
Immigration & Customs Enforcement
1705 E. Hanna Rd. #343
Eloy AZ 85004

RE: [REDACTED]

Dear Mr. [REDACTED]

Notice of Intent to Terminate Asylum Status and Hearing before an Immigration Judge

The purpose of this letter is to notify you of the intent of Citizenship and Immigration Services (CIS) to terminate the asylum status you were granted on September 24, 2002. This office has received the following information indicating that your asylum status could be terminated pursuant to 8 CFR 208.24(a)(2):

On May 24, 2004 in the Superior Court of California, County of Los Angeles, you were convicted of the crimes of First Degree Burglary in violation of Section 459 of the California Penal Code, and Sexual Battery in violation of Section 243.4(a) of the California Penal Code. For each offense the term of imprisonment imposed was two (2) years, to run concurrently.

It is thus determined that you have been convicted of aggravated felonies as defined in Sections 101(a)(43)(F) and (G) of the Immigration and Nationality Act. These convictions meet the condition described in section 208(c)(2)(B) of the Act as it refers to section 208(b)(2)(A)(ii). (Also see section 208(b)(2)(B)(i) of the Act for rule that all aggravated felony convictions are considered to be convictions of particularly serious crimes for purposes of section 208(b)(2)(A)(ii).)

In order to give you the opportunity to respond to this adverse information, you are scheduled for a hearing in front of an immigration judge on a date and at a location to be determined.

You will have the opportunity at the hearing to present information and evidence to show that you are still eligible for asylum. Your asylum status will not be terminated unless a preponderance of the evidence supports termination. You may be represented at the hearing before the Immigration Court. Attached to this letter is a list of legal providers that may provide you with legal assistance at no or low cost.

Sincerely,

George S. Mihalko, SAO
George S. Mihalko
Director, Los Angeles Asylum Office
U.S. Citizenship and Immigration Services
Department of Homeland Security

Attach: Legal Provider List

UNITED STATES DEPARTMENT OF HOMELAND SECURITY
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

In the Matter of the Application for Withholding of Removal of Hakob [REDACTED]

STATE OF ARIZONA)
COUNTY OF PIMA)

ss. AFFIDAVIT

Anne Wideman, Ph.D., being duly sworn, deposes and states:

1. I am an American psychologist licensed in the State of Arizona, currently working at Southern Arizona Mental Health Corporation, as a clinical supervisor and at the Pima County Juvenile Detention Center as a psychologist.
2. I graduated in 1993 from George Washington University with a Doctorate of Philosophy degree in Clinical Psychology. My internship was at Patton State Hospital, Patton, California. I earned a Master of Philosophy in 1989 in Clinical Psychology from George Washington University, and a Bachelor of Arts degree in 1983 from the University of San Diego.
3. In response to a request from the Doctors of the World, I evaluated Hakob [REDACTED] on February 10, 2006 at the Eloy Detention Facility in Eloy, Arizona. The interview took approximately 1-½ hours and consisted of a mental status exam and a clinical interview. Mr. [REDACTED] speaks Russian and Armenian. His English was basic but he was able to participate in the evaluation without an interpreter.
4. Prior to meeting with Mr. [REDACTED] I reviewed his Human Rights Clinic Intake Form.
5. Informed Consent and Mental Status Exam
Hakob [REDACTED] is a 33 year old, never married, man from Azerbaijan. He is currently detained in the Eloy Detention Center.

The nature and purpose of the evaluation was discussed with Mr. [REDACTED]. Mr. [REDACTED] indicated that he understood the purpose of the evaluation and the limits of confidentiality regarding the evaluation. He gave his verbal consent to the interview.

Mr. [REDACTED] is a well-built man who was appropriately dressed in detention clothing. He is oriented to day, date, time and situation. Mr. [REDACTED] was cooperative with the interview. However, he verbalized a sense of hopelessness and futility about the outcome of his legal proceedings. He made very poor eye contact. His affect was restricted and his mood was

EXHIBIT # 9

SHK

JUDGE

4/12/06
DATE

000236

irritable and depressed. At times during the interview, when discussing his experiences, Mr. [REDACTED] would become very vehement in his posture and verbalizations. He became tearful several times during the interview. During the entire interview Mr. [REDACTED]'s affect and presentation was consistent with the content of his verbalizations.

Mr. [REDACTED] appears to be of average to above average intelligence. He verbalizes that the culture in the US has been difficult for him to learn. His level of general information is consistent with being in a fairly new culture. He discusses the many transitions he has had to make in his adult life as he has moved from country to country seeking safety. In each place he has concentrated primarily on survival and has not become well acculturated.

Mr. [REDACTED]'s thinking and speech were coherent and goal directed. His mood depressed. Depression is experienced as sadness and hopelessness, all day every day. He has difficulty sleeping and intrusive ruminative thoughts and memories. He experiences suicidal ideation most days and has attempted suicide on at least one occasion. He is being treated with antidepressant medication in the detention center and was treated with antidepressants while in prison. He states that without medications "the thoughts are going on. I can't stop thinking."

Mr. [REDACTED] states that he never has a feeling of being safe. Although he has felt safe, at times, in the US, he is always ready for something bad to happen. He has never married or formed a serious relationship due to his feelings that safety is not secure and his concern about having to move a wife and family in the event of danger.

Mr. [REDACTED]'s thinking is pessimistic and hopeless. He states "I'm not going to be surprised by anything that happens. If I open that door and all the glass falls on me I would not be surprised. Too much bad things happen. What can I do if it is my destiny?"

Mr. [REDACTED] is bothered by vivid memories of events that have happened. He states that he can smell, hear and feel traumatic events from his past. He has difficulty sleeping and sometimes avoids sleep to avoid these problems.

Mr. [REDACTED] experiences frequent suicidal ideation. He attempted suicide one time, in Russia. There is a large and deep scar on his right inner forearm consistent with this. He states that he does not verbalize suicidal ideation due to his fear of being placed on suicide watch – in an observation cell and without clothing. This has been his experience of suicide watch in the past.

6. Clinical Interview

Mr. [REDACTED] was born in Azerbaijan. His mother was Azeri and his father was Armenian. His father died when he was about 3 years old and his mother

raised him. He states that life was ok until he had completed high school and begun college.

Mr. [REDACTED] states that in 1988 the Azeri people killed more than 300 Armenians. Armenians retaliated by punishing Azeri people in Armenia. He states that before that time the Azeri and Armenian people in Azerbaijan had been living together peacefully. They did business together and lived intermixed in neighborhoods. But then, in a town near his, 280 were killed and the search for Armenians living in Azerbaijan started.

Mr. [REDACTED] states that on 1/13/1990 a massacre of Armenian people started. He states that "suddenly people were armed with guns. Not regular guns but automatic guns, AKs. They were searching for Armenians and were like crazy. They were killing them. And you would be happy just to be killed. They burned them. Did terrible things and to women and kids. It went on for six days and the police and army do nothing. Only the Russian army comes on the fourth day and they did not really help."

He states that the massacre appeared to be organized. He states "they do anything they want. Not just kitchen knives. Civilians don't have AKs. They have addresses and never go to the wrong house. They never hurt an Azeri." He states that they had a financial incentive as well as the Armenians were good at business and their cars, houses, businesses and churches were taken over.

Mr. [REDACTED] states that media accounts are not correct. "Telling is not correct. It was bigger. I don't know how many people survived. I am one of them." He states that his brother, who had recently been married and who had a small child, and his brother's family was murdered. He states that the bodies were burned in a big heap.

Mr. [REDACTED] states that his uncle, who was Azeri, came to the house where Mr. [REDACTED] lived with his mother. January 13 is a holiday to the Armenian Christians, an "old style New Year." The family was preparing the dinner and celebration. His uncle came and said "something terrible is about to happen. You must leave now." Mr. [REDACTED] states that the family had to flee. "Not one minute to take anything." His uncle hid he and his mother in the basement of his house. He said that it was 1/2 to 1 hour before the start of the massacre. He could hear the killing occurring outside. He states that he lived in that basement for almost two years, until his mother died in 1994. At that time he left the country. He states "I didn't want to be a problem for my uncle and family. If they know that he is hiding an Armenian it will be trouble."

Mr. [REDACTED] states that "the war is always continuing. The Azeri government became crazy. Thousand hundreds of Armenians used to live in Azerbaijan. They started cleaning Armenians. Don't think there are any

longer any Armenians there. If they are they hide their identity. They can't say they are Armenians." He fled to an autonomous region that was being claimed by Armenia. However, there he found that he was also not accepted because he was part Azeri. He states that he fit in neither place because of his mixed heritage.

Mr. [REDACTED] went by military plane to Russia. He states that he lived in Moscow until 2001. He had no papers or legal standing there so it was difficult to live. He stayed with a friend of his mother's at times because "she had a good heart to help." He states that he became unable to stay in Russia after the Russian trouble with the Chechens started. Then "all Caucasian people are cleaned up. They don't want to know you are Armenian, Azeri - you are Caucasian you are a terrorist." He was living on the streets and, at times, the police would question him. He worried that they would take him to the police station but that had not happened. He states that a policeman he knew told him "this cannot be continued forever. One day they are going to take you" and he knew he had to leave Russia.

Mr. [REDACTED] came to the United States and requested asylum. He settled in Glendale, Ca. where there is a large Armenian population. He became a large truck driver and was supporting himself doing this. However his life was very empty. None of the things he had enjoyed doing prior to the massacre were part of his life. He didn't want to learn or go to college anymore. He used to enjoy sports and training but no more. He said "they turn off everything in me. I'm empty now. I don't like anything."

At times when he could not empty his mind of the thoughts or memories Mr. [REDACTED] would drink heavily and it was during one of those times that he committed the instant offense for which he was incarcerated. Following incarceration he was detained at Eloy.

Mr. [REDACTED] is very afraid at the prospect of returning to Azerbaijan. He states that he would be "glad if all they did was shoot me" because the ways that people were killed by the Azeri were so horrific. He states "you think you know what violence is. You don't know. Violence is when they shoot AKs at kids. I can hear them screaming. I can smell of burning bones in my nose. Violent is when they cut the pregnant woman open and take out her baby. Then they cut off the husband's head and put it into her belly."

Mr. [REDACTED] states that he does not believe Azerbaijan is safe. He states that "they put on a show because they want to be part of the European Union." But Aliev is the son of the Aliev that was there when the killing happened."

Mr. [REDACTED] expresses hopelessness. He states "I'm finished, I'm tired." He states that he often just wants to die.

7. SUMMARY AND CONCLUSIONS

Hakob [REDACTED] is a 33 year old man who fears being returned to Azerbaijan. He has lived through an episode of ethnic cleansing in that country. He has almost no relatives left there and believes that his presence would endanger those who are there. He is not accepted in either Azerbaijan or Armenia due to his mixed heritage.

Mr. [REDACTED] has been deeply scarred by his experience of witnessing the murders that took place – through seeing them and hearing them outside the basement where he was hiding. He suffers symptoms consistent with a diagnosis of Post Traumatic Stress Disorder. In addition he suffers symptoms consistent with a Dysthymic Disorder. PTSD is an anxiety disorder in which a person has experienced a catastrophic event in which they feared death or imminent serious bodily harm. The symptoms he experiences include flashbacks, intrusive and disturbing memories, affective disruption, difficulty sleeping, diminution of emotional responsiveness and loss of enjoyment. Dysthymic disorder is a disorder in which a person experiences symptoms of depression and sadness, most of the day, every day, for at least two years. He has been unable to establish a sense of safety and security that would mediate these symptoms at all.

In my professional opinion Mr. [REDACTED]'s presentation is consistent with the experiences he describes. He is not malingering symptoms nor experience. In my professional opinion Mr. [REDACTED] has been harmed psychologically by his experiences. He has had difficulty forming loving relationships. He has had difficulty managing his recurring symptoms of depression and anxiety symptoms of panic, flashbacks and hypervigilance. He is very hopeless and thinks often about dying or killing himself. He does not believe his life is worth living but does not want to return to Azerbaijan and be killed or tortured by someone else. Mr. [REDACTED] is very isolated, even in the midst of a large Armenian community. He has used alcohol to cope and has received some benefit from antidepressant medications.

Mr. [REDACTED] would benefit from individual therapy addressing his experiences and helping him to learn strategies for sleeping, managing mood and managing intrusive memories without alcohol or avoidance.

In my professional opinion Mr. [REDACTED] genuinely fears for his life if returned to Azerbaijan. In my professional opinion it will be detrimental to Mr. [REDACTED]'s psychological well being to remain detained or to be returned to Azerbaijan. He will benefit most from return to his home, job and community in California.

** LIMITED OFFICIAL USE **

FEDERAL BUREAU OF PRISONS
ELOY DETENTION CENTER
ELOY, ARIZONA

SCR AND NURSE REFERRAL

January 29, 2006

~~REDACTED~~, HAKOB Reg #: ~~REDACTED~~

time:1500

B/ Pt seen on referral from medical and scr. Pt stated he stopped taking lithium b/c of headaches. Takes Remeron-less of a headache. Pt has depression since 1990--war in Armenia--pt saw and experiences terrible things and feared for his life--his uncle saved him. Fears going back b/c the Turks do terrible things to the Armenians--not just shoot them. Pt stated he is tired of going through this and sees dying as relief. Discussed suicide--pt denies based on his religion and hope that life will improve and that he will have a family. States we do not have to protect him from himself. Currently working the kitchen makes him more depressed--discussed his options--unit mgr asked him for one week work in kitchen--pt will meet with mgr tomorrow--pt may be required to move over to green side if he doesn't work.

o/ alert, oriented, coherent, dysphoric, no si or avh expressed, i and j intact

a/ hx depression; consider secondary to ptsd

/refer pt back to m3 for med eval. *5th placement considered - under circumstances writer believes, would be considered productive*

JACK SHAUGHNESSY, PHD

[Signature]
J. Shaughnessy, PHD/PSYCH
Eloy Detention Center

8
ELOY DETENTION CENTER

SHK
JUDGE

2/13/06

J0243

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** LIMITED OFFICIAL USE *

FEDERAL BUREAU OF PRISONS
ELOY DETENTION CENTER
ELOY, ARIZONA

MH CCC

January 4, 2006

~~REDACTED~~, HAKOB Reg #: ~~REDACTED~~

Pt was seen by psychiatrist.

Dx: Axis I: 311 Depressive d/o, nos
r/o bipolar d/o

Axis II: None V71.09

Axis III: none

Axis IV: legal

Axis V: 50

PLAN: 1. Continue Remeron
2. Start Lithium
3. In two weeks - lba - lithium level, BUB/CR, and TSH
4. RTC 4-5 weeks

J. DELAVAN, MS

SANTA CLARA UNIVERSITY SCHOOL OF LAW
REFUGEE LAW

Summer 2018

Prof. Abriel

Hypothetical Set 10:

The process for adjudicating claims for asylum, withholding, and CAT relief

1. Ahamed H.

Ahamed is from Tunisia. He is 22 years old. He is gay. Tunisian law contains strict punishment for homosexual activity. While living in Tunisia, Ahamed was picked up by the police repeatedly, detained, and beaten. Two of his friends were severely injured during a police detention. Ahamed is functionally illiterate and speaks only Arabic. He came to the United States on a tourist visa on August 1, 2006, and was granted authorized stay of six months. Some of his friends have also left the country.

2. Mr. Pok.

Mr. Pok is from Cambodia. He and his wife are seeking asylum in the United States, after having entered the United States on tourist visas. Mr. Pok is a civil engineer. In 1978, both Mr. and Mrs. Pok were placed in labor camps by the Khmer Rouge. They provided slave labor for some fifteen hours a day, with inhumane living conditions and inadequate food and medical attention. Many people imprisoned with them died of starvation and disease. They each lost many family members. Mrs. Pok was then married to her first husband; he and their son died during the Khmer Rouge's regime; Mr. Pok's father and brother also died.

The Poks were released when the Khmer Rouge lost power and enjoyed a peaceful existence for several years. Then a three-star general with the Royal Cambodian Armed Forces Fifth Military Region obtained a house next to the Poks' house. The general complained that Mr. Pok's house was on his property and demanded payment. Mr. Pok refused and said that the general's claim was unlawful and reported it to the authorities. Mr. Pok tried to get help from the United Nations Transitional authority in Cambodia, which talked to the general and stopped the damage. After UNTAC left Cambodia, however, the general sent a message to Mr. Pok to appear in his office. When Mr. Pok did not appear, a truckload full of soldiers appeared at Mr. Pok's house and began to tear it down.

3. Hamid Z.

Mr. Z is from Syria and is Kurdish. He joined the democratic Kurdish organization, a secret organization, when he was 17. The purpose of the organization was to work to have the Kurdish language taught and to stop discrimination against the Kurds. The organization collected funds and distributed papers at mosques in Kurdish areas calling on Kurds to join. Mr. Z also collected funds from members of the organization and gave it to Kurdish families who needed help. The Syrian police arrested Mr. Z. and took him to an intelligence building; told him he was arrested for distributing papers about his organization. He was detained for four months, during which time he was never formally charged with a crime and was subjected to severe recurrent beatings. During one, his ankle was broken and he received no treatment for it. He was in very poor health and very afraid when he was released and left Syria soon thereafter.

GOLDEN GATE UNIVERSITY SCHOOL OF LAW
IMMIGRATION AND REFUGEE LAW AND POLICY SEMINAR
Spring 2018 Prof. Abriel

Hypothetical Set 11:
Convention against Torture

Facts:

Alazar Radi, petitioner, is a native and citizen of Ethiopia (AR 20) and first migrated to the United States as a refugee under Section 207 of the Immigration and Nationality Act, in November 2006, when he was fourteen years old. He adjusted his status to that of lawful permanent resident in 2007. Mr. Radi's mother and his two sisters are also lawful permanent residents.

In 2008, Mr. Radi was convicted of armed robbery in violation of Sections 13-1904, 1901, 1902, 3105, 610, 701, 702, 702.01, 801 of the Arizona Revised Statutes. Mr. Radi explained at his removal hearing that he was driving his mother's car, and a friend asked for a ride. The friend put a bag in the trunk of Mr. Radi's car. They stopped for gas, and the friend told Mr. Radi to get the bag. The bag contained a shotgun and, on his friend's instructions, Mr. Radi took the gun and pointed it at occupants of another car while the friend told the occupants to give him their money. Mr. Radi was tried as an adult, convicted, and sentenced to four years in the Arizona Department of Corrections. This is the minimum sentence under Arizona law. No one was injured as a result of the offense, and the Probation Department characterized the offense as non-dangerous and non-repetitive. Mr. Radi was seventeen years old when he committed this offense.

At his removal hearing, Mr. Radi's mother, Elizabeth Yewen, testified about her own and her family's experiences in Ethiopia and about what she thought would happen to Mr. Radi if he were returned there.



U.S. STATE DEPARTMENT
BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
2008 Country Reports on Human Rights Practices
February 25, 2009

(EXERPTS)

Ethiopia is a federal republic led by Prime Minister Meles Zenawi and the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition. The population was approximately 77 million. In the 2005 parliamentary elections, the EPRDF won a third consecutive five-year term. In local and by-elections held in April the EPRDF and allied parties won virtually all of the more than three million seats contested, severely diminishing opportunities for mainstream political opposition. Prior to the vote, ruling coalition agents and supporters used coercive tactics and manipulation of the electoral process, including intimidation of opposition candidates and supporters. Political parties were predominantly ethnically based, and opposition parties remained fractured. During the year fighting between government forces, including local militias, and the Ogaden National Liberation Front (ONLF), an ethnically based, nationalist, insurgent movement operating in the Somali Region, resulted in continued allegations of human rights abuses by all parties, particularly diversion of food aid from intended beneficiaries suffering from a severe drought. Although there were fewer reports of extrajudicial killings and other similar human rights violations in the Ogaden than the previous year, nongovernmental organizations (NGOs) and others reported persistent abuses.

....

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution and law prohibit the use of torture and mistreatment, there were numerous credible reports that security officials tortured, beat, or mistreated detainees. Opposition political party leaders reported frequent and systematic abuse and intimidation of their supporters by police and regional militias, particularly in the months leading up to the local and by-elections held during the year (see section 3). In Makelawi, the central police investigation headquarters in Addis Ababa, police investigators reportedly commonly used physical abuse to extract confessions.

In December 2007 student Ayena Cheri was arrested in Nekempt on suspicion of being a member of the OLF. The lower court dismissed his case and ordered his release, but he

remained in prison until the High Court ordered his release on February 11 following a 1,000-birr (\$98) bail. He alleged repeated severe beatings while in detention. On January 11, police and security forces arrested Coalition for Unity and Democracy (CUD) member Alemayehu Seifu while he was on his way home from work in Addis Ababa. He was conveyed to Makalawi where he was allegedly tortured for eight days while his captors sought to force a confession that he was part of a plot to overthrow the government. He was released on January 21 without appearing in court.

On February 9, police and militia broke into the home of Gelaye Tadele, a resident of Arba Minch town in the Southern Nations, Nationalities, and Peoples' Region (SNNPR), and beat him. They then took him to a detention facility in Kofele where they fractured his right leg and beat him unconscious. He was eventually taken to the local police station and later admitted to Arba Minch hospital. His mother filed a complaint but local authorities took no action by year's end.

....

d. Arbitrary Arrest or Detention

Although the constitution and law prohibit arbitrary arrest and detention, the government frequently did not observe these provisions in practice.

Role of the Police and Security Apparatus

The Federal Police Commission reports to the Ministry of Federal Affairs, which is subordinate to the parliament; however, this subordination is loose in practice. Local militias also operated as local security forces largely independent of the police and military. Corruption remained a problem, particularly among traffic police who solicited bribes. Impunity also remained a serious problem. According to contacts at government agencies, the government rarely publicly disclosed the results of investigations into abuses by local security forces, such as arbitrary detentions and beatings of civilians. The federal police acknowledged that many of its members as well as regional police lacked professionalism.

The government continued its efforts to train police and army recruits in human rights. During the year the government continued to seek assistance from the ICRC, JFA-PFE, and the Ethiopian Human Rights Commission (EHRC) to improve and professionalize its human rights training and curriculum by including more material on the constitution and international human rights treaties and conventions. JFA-PFE conducted human rights training for police commissioners and members of the militia.

Arrest and Detention

Authorities regularly detained persons without warrants and denied access to counsel and family members, particularly in outlying regions. Although the law requires detainees to be brought to court and charged within 48 hours, this generally was not respected in practice.

Opposition party members consistently reported that in small towns, authorities detained persons in police stations for long periods without charge or access to a judge, and that sometimes these persons' whereabouts were unknown for several months. Opposition parties registered many complaints during the year that government militias beat and detained their supporters without charge in the run-up to the local and by-elections held earlier in the year. For example, at a May wedding in Chendiba town in Chilga District, Amhara Region, officials arrested nine AEUP supporters: Wagnew Tadesse, Mekuanent Seneshaw, Alehegne Mekuanent, Kifle Tadege, Demissie Yehualla, Kolagie Jegne, Teffera Akemu, Setegne Tadege, and Endale Tadege. Officials accused them of holding an illegal political gathering. At year's end, all nine remained in jail, held without bail, formal charges, or communication with their families.

....

In late October, officials arrested at least 53 ethnic Oromos (some reported as high as 200), including university lecturers, businessmen, and housewives, many with no apparent political affiliation, for alleged support to the banned OLF. Many supporters of the mainstream political opposition OFDM were also arrested during the same time period for the same charges.

....

Just before the Ethiopian New Year in September 2007, security forces arrested individuals suspected of supporting the OLF or terrorist activity. Many were members of the opposition United Ethiopian Democratic Forces (UEDF) or OFDM parties. Approximately 450 arrests were reported to opposition party offices in Addis Ababa. At year's end, 148 detainees remained in jail.

....

Most of the 180 persons arrested in Nazret, Oromiya Region, in 2006 were released in 2006, but there was no information available on the remaining three detained at year's end.

....

Security forces continued to detain family members of persons sought for questioning by the government.

....

National/Racial/Ethnic Minorities

There are more than 80 ethnic groups, of which the Oromo, at 40 percent of the population, was the largest. Although many groups influenced political and cultural life, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.

There were occasional reports that officials terminated the employment of teachers and other government workers if they were not of the dominant ethnic group in the region.

Government and ONLF forces were responsible for widespread human rights abuses in the Somali Region (see section 1.g.).

EHRCO reported that ethnic conflict made up the majority of its human rights reporting this year. Ethnic conflict in the western, southern, and eastern areas resulted in killings and injuries above levels in 2007 and resulted in the death of hundreds and displacement of tens of thousands of persons. There were also clashes among ethnic groups in the Oromiya, Benishangul-Gumuz, and SNNP regions.

For example, on February 22, an Oromo student stabbed to death Zewdu Abate, an ethnic Amhara and fellow classmate at Dilla University in the SNNPR, allegedly due to ethnic tension. The suspect was in custody.



U.S. State Department
Bureau of Democracy, Human Rights, and Labor
2017 Country Reports on Human Rights Practices

(EXERPTS)

....

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits such practices, there were reports that security officials tortured and otherwise abused detainees. In its May report HRCO reported that victims testified authorities hung SOE detainees by their feet and tortured them during interrogations. Detainees in Finote Selam Prison in Amhara region told HRCO investigators that prison officials beat and tortured detainees and immersed some in latrine pits full of human feces. The report stated maltreatment of members of the Oromo and Amhara ethnicities, and some religious minorities, occurred. The HRCO reported authorities kept several SOE detainees in overcrowded detention centers without sufficient food, water, medical care, toilets, and other facilities. Authorities did not permit these detainees to have visitors. It also found that detainees in several detention centers experienced inhuman treatment including beatings/whippings, forced physical exercises, and denial of food. Authorities forced detainees in Awash Arba to walk barefoot and sit exposed to the sun for three consecutive days.

Multiple sources reported general mistreatment of detainees at official detention centers, unofficial detention centers, police stations, and in Kilinto federal prison. Interrogators administered beatings and electric shocks to extract information and confessions from detainees. Police investigators used physical and psychological abuse to extract confessions in Maekelawi, the federal crime investigation center in Addis Ababa that often held high-profile political prisoners. Authorities restricted access by diplomats and NGOs to Maekelawi; some NGOs reported limited access.

....

Authorities regularly arrested, detained, and harassed persons for criticizing the government. NGOs reported the torture of individuals critical of the government. The government attempted to impede criticism through intimidation, including continued detention of journalists, those who express critical opinions online, and opposition figures. Additionally, the government monitored and interfered in activities of political opposition groups. Some citizens feared authorities would retaliate against them for discussing security force abuses. Authorities arrested and detained persons who made public or private statements deemed critical of the government under a provision of the law pertaining to inciting the public through false rumors.

....

National Security: The government used the antiterrorism law and the SOE laws to suppress criticism. Journalists feared covering five groups designated by the parliament in 2011 as terrorist organizations (Ginbot 7, the Ogaden National Liberation Front (ONLF), the Oromo Liberation Front (OLF), al-Qaida, and alShabaab), citing ambiguity whether reporting on these groups might be punishable under the law.

....

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. The ruling party's electoral advantages, however, limited this ability.

....

Political Parties and Political Participation: The government, controlled by the EPRDF, unduly restricted political parties and members of certain ethnic groups, particularly the Amhara and Oromo, who stated they lacked genuine political representation at the federal level. SOE regulations restricted political parties' ability to operate. For example, the regulations prohibited any political party "from briefing local or foreign journalists in a manner that is anticonstitutional and undermining sovereignty and security."

Authorities arrested and prosecuted political opposition members including under allegations of terrorism (see section 1.e., Political Prisoners and Detainees). Government officials stated that many members of legitimate Oromo opposition parties were secretly OLF members and, more broadly, that members of many opposition parties had ties to Ginbot 7.

Testimony of Elizabeth Yewen

1 JUDGE TO MS. Yewen

2 Q. Okay. Ma'am would you please stand and raise your
3 right hand? Do you swear that the testimony you're about to
4 give in this proceeding shall be the truth, the whole truth and
5 nothing but the truth?

6 A. Yes, I do.

7 Q. Thank you, please be seated. Would you state your
8 name for the record, please?

9 A. Elizabeth Yewen.

10 JUDGE TO MR. OBEASI

11 Okay. Go ahead, Mr. Obeasi.

12 MR. OBEASI TO MS. SIYOUN

13 Q. What is your date of birth, madam?

14 A. 02/03/1969

15 Q. What is the name of your country of nationality?

16 A. Ethiopian.

17 Q. What is the name of your ethnic or tribal group in
18 Ethiopia?

19 A. Oromo.

20 Q. And do you know the respondent?

21 A. Yes.

22 Q. What is the nature of your relationship with the
23 respondent?

24 A. He's my son.

25 Q. If you can remember, when was the first time you

1 entered the United States?

2 A. In 2002.

3 Q. And what was your Immigration status the first time
4 you entered the United States?

5 A. I was a refugee.

6 Q. Are you single, married or divorced?

7 A. I'm a widow. I don't know where my husband is so I
8 consider myself as a widow.

9 Q. And how many children do you have?

10 A. Three.

11 Q. And do all three children reside in the United States?

12 A. Yes.

13 Q. And do you know their Immigration status in the United
14 States?

15 A. They have green cards.

16 Q. Did you file a refugee petition for all your children?

17 A. Yes, when I came I petitioned for my children, yes.

18 Q. And do any of your close family members belong to or
19 associate with any political organization in Ethiopia?

20 A. Yes.

21 Q. What are the names of the family members?

22 A. My husband. My father. And, and my husband's
23 brothers.

24 Q. And what was called the organization that they
25 belonged to in Ethiopia?

1 A. They associated with Oromo Liberation Front.

2 Q. What position did your husband hold in the Oromo
3 Liberation Front or what was the nature of his involvement with
4 that organization?

5 A. Yeah, he used to hold meetings and then print flyers
6 and materials and communicate with, with them. And also, and
7 also distribute all the front materials.

8 Q. What position did your father hold in the Oromo
9 Liberation Front or what was the nature of his involvement with
10 that organization?

11 A. My father, my father also used to help in such a way
12 that he used to supply food in the hideout places. Used to
13 contribute funds and also communicate with them.

14 Q. If you can remember, madam, when did your husband
15 begin his association with the Oromo Liberation Front?

16 A. I don't remember the exact date and time.

17 Q. And you like, not the exact date, but something close
18 to the exact date.

19 A. It has been a long time since I, since I remember, I
20 was under 20 years under this activity (indiscernible).

21 Q. And what was your occupation in Ethiopia?

22 A. I, okay, I used to work and then after that I was just
23 a housewife.

24 Q. And what was your husband's occupation?

25 A. He was a technical manager at the highway

1 construction.

2 Q. And if you can remember, madam, was your husband ever
3 arrested in Ethiopia in connection with his political
4 activities?

5 A. Yes.

6 Q. And if you can remember, madam, how many times was he
7 arrested?

8 A. Two times.

9 Q. And if you can remember, who arrested your husband?

10 A. Police.

11 Q. And do you know why your husband was arrested by the
12 Ethiopian police?

13 A. Yes, since he was participating in the political, in
14 this political organization and that he was being followed.

15 Q. If you can remember, was he detained by the police
16 each time he was arrested and for how long?

17 A. One time, one time he was arrested for about seven
18 months and then the next time close to about one-year but I'm
19 not exactly sure.

20 Q. If you can remember, was he mistreated or harmed by
21 the police each time he was arrested and detained?

22 A. Yes.

23 Q. And how did you know he was mistreated or harmed by
24 the police?

25 A. He was actually physically harmed because his face was

1 actually bruised and it was obvious his hand he had scars and he
2 was limping coming home. And when he was bit, where it was
3 bitten on his back there were scars and all kinds of wounds.

4 Q. All kinds of what?

5 JUDGE TO INTERPRETER

6 All kinds of what?

7 INTERPRETER TO JUDGE

8 Wound.

9 JUDGE TO INTERPRETER

10 Wounds? Okay.

11 MR. OBEASI TO MS. *Yewan*

12 Q. And, madam, have you ever been arrested in Ethiopia?

13 A. Yes.

14 Q. If you can remember, when were you arrested?

15 A. I don't remember the exact month but I, I was
16 arrested.

17 Q. And who arrested you, madam?

18 A. The police.

19 Q. And why were you arrested?

20 A. First, they, first, they arrested my husband then,
21 then after 15 days, they took me also.

22 Q. Were you detained when you were arrested?

23 A. Yes.

24 Q. If you can remember, how long were you detained?

25 A. About seven, seven months.

1 Q. Were you mistreated or harmed during your detention?

2 A. Yes.

3 Q. And why were you mistreated or harmed during your
4 detention?

5 A. Yes, I was actually questioned for so many different
6 reasons as to what I know they're asking me what I know or to
7 tell them if there's any secrets. If we have any weapon or who
8 we are communicating with in regard to our involvement.

9 Q. Your, your involvement with what, madam?

10 A. You mean particularly me?

11 Q. You said you were interrogated regarding the family's
12 involvement. What involvement? What family involvement?

13 A. Yes, they were asking us, I mean, in general about
14 what we do, how we help the Oromo organization.

15 Q. Can you please describe in detail how you were
16 mistreated or harmed by the Ethiopian police?

17 A. Yeah, I was mistreated and I was abused a lot. I was
18 beaten. I was raped.

19 Q. I know this is difficult, madam, but how often were
20 you beaten?

21 A. Actually, since I was, since I was arrested, since I
22 was detained.

23 Q. How often were you beaten, madam?

24 A. Anytime they come in for questioning, they beat me
25 two, three times, whenever, however they can.

1 Q. And what were you beaten with, madam?

2 A. With rubber, with rubber stick, like rubber handles.

3 Q. And what did they use the stick or rubber for?

4 A. Okay. They were using the, they were using it to beat
5 me. When they ask me, they consider that I'm telling them a lie
6 or they don't believe me so they beat me.

7 Q. And were you provided medical care during your
8 detention?

9 A. No.

10 Q. And do you suffer from any medical condition as a
11 result of your detention by the Ethiopian police?

12 A. Yes. Yes. Yes, still I have a long-term problem with
13 my leg and also my back.

14 Q. When was the last time you saw your husband?

15 A. I don't remember the, the exact time.

16 Q. Do you know if your husband is still alive?

17 A. No, I don't know.

18 Q. Do you know what happened to your husband?

19 A. I, I don't know.

20 Q. Do you believe your husband is still alive?

21 A. I tried to find him. I went around to find him but if
22 he was alive, he would have showed up or come I'd of heard but I
23 don't think so.

24 Q. The last time you saw your husband was it when he was
25 arrested by the Ethiopian police?

1 A. Yes, the last time I saw him was when they came, they
2 were actually blindfolded. I mean they were, they had a cover
3 on their face and they came to house, blindfolded him and took
4 him away.

5 Q. Was your father also arrested in connection with these
6 political activities?

7 A. You mean killed?

8 Q. Was he ever arrested, your father, in connection with
9 his political activities?

10 A. Yes, he was arrested. And then, at last, they killed
11 him.

12 Q. Do you know who arrested your father?

13 A. Yes, I know, the police.

14 Q. And, if you know madam, was he harmed or mistreated by
15 the Ethiopian police?

16 A. My father, yes.

17 Q. And does your father still reside in Ethiopia?

18 A. My father was killed.

19 Q. And do you know what the cause of death was for your
20 father?

21 A. He was killed and left, thrown out in the street.

22 Q. And, if you know, madam, can you describe how your
23 father was killed?

24 A. My father, my father was hiding and he was looked
25 after at 24, a long time, and finally they found him and killed

1 him. And somebody, somebody told us that he was killed.
2 Q. And who killed your father, madam?
3 A. Police.
4 Q. How many brothers and sisters do you have, madam?
5 A. One brother and two sisters. My, my brother was 16
6 years old and he was taken with him.
7 JUDGE TO INTERPRETER
8 Did you say 16 or 60?
9 INTERPRETER TO JUDGE
10 Sixteen.
11 MR. OBEASI TO MS. *Yewan*
12 Q. And you said your brother was taken?
13 A. Yes, with my husband. He was taken with my husband.
14 Q. And have you heard from your brother that was taken
15 with your husband?
16 A. No, I have not heard of him.
17 Q. Do you believe your brother is still alive?
18 A. I, I don't think so because I happened to find, I, I
19 tried, I went around to look for them and I couldn't find them.
20 Q. Did any of your other siblings experience harm or
21 mistreatment as a result of your family's political activities?
22 A. Yes.
23 Q. Can you briefly explain what happened to your siblings
24 in Ethiopia?
25 A. Actually, I came, when I was coming out of Ethiopia, I

1 paid my sisters and after I took out my kids, I was planning to
2 take them out too. But I couldn't find them again.

3 Q. And what have you done to locate your sisters in
4 Ethiopia to find out if they're still alive?

5 A. I, I put them actually with one of my friends and I
6 asked her she was arrested too. So, I didn't know where they
7 are and I tried to find them.

8 Q. And who arrested your sisters?

9 A. Since I'm not there, I'm assuming it should be the
10 police.

11 Q. If you can remember, madam, did any of your husband's
12 siblings experience any harm or mistreatment as a result of your
13 husband's political activities?

14 A. Yes, his brother also disappeared and nobody knows
15 where he is.

16 Q. Why did you leave Ethiopia, madam?

17 A. Because I couldn't live and I was afraid for myself.

18 Q. Why were you afraid, madam?

19 A. Because of so many warnings I received, actually,
20 threats I received in such a way that I can't look for them
21 anymore and I can't talk about this issue to anyone. And I
22 can't communicate officially to anyone and complain.

23 Q. What threats or warnings did you receive and who
24 issued those threats and warnings?

25 A. No, I was told verbally when I was released. Finally,

1 they told me verbally not about all these warnings.

2 Q. And what did they tell you, who told you?

3 A. Yes, who asked me was the police provider, finally,

4 gave me the final word when I was released from my detention.

5 They, no, he ordered me that I can't talk about what has

6 happened or I can't expose them. And I can't question or I

7 can't even impose any question about whereabouts of my family or

8 relatives are.

9 Q. And, did the incidents concerning the disappearance of
10 your siblings occur after you left Ethiopia?

11 A. Yes.

12 Q. Is your name on any government lists in Ethiopia?

13 A. It could be since I came, when I came out I came by

14 the name of a merchant's trade.

15 Q. And what do you believe will happen to your son if he
16 returns to Ethiopia?

17 A. The same thing what has happened to them will wait for
18 him.

19 Q. Can you please explain what you mean by the same thing
20 that has happened to them?

21 A. Okay. Since they were hidden and they were not just
22 back actually they disappeared from their hidden area, place, I
23 presume that he, same thing will happen to him also that he may
24 disappear same way. Actually he was hidden before even he came
25 out so that's how I had to take him out. And second, by his

1 name. His name alleges to the Oromo tribe and so that he can be
2 spotted, you know, very easily. And since now, since he's going
3 back from the, you know, from foreign country, they may think
4 that he might have organized and coming back with issues
5 against.

6 Q. And, now, who do you believe will harm or mistreat
7 your son?

8 A. The government.

9 MR. OBEASI TO JUDGE

10 I have no further questions, Your Honor.

11 JUDGE TO MR. LIPKIND

12 Mr. Lipkind?

13 MR. LIPKIND TO JUDGE

14 Thank you, Your Honor.

15 MR. LIPKIND TO MS. *Yewan*

16 Q. Ma'am, what political activity has your son engaged in
17 in the United States?

18 A. Nothing.

19 Q. And in Ethiopia, he was a young boy when he came out,
20 correct?

21 A. Yes.

22 Q. He did not participate in any of the activities of you
23 and your husband?

24 A. No.

25 Q. So, you fear that just by him having an Oromo sounding,

1 name, he would be targeted somehow?

2 A. Yes, since his father and his grandfather's is also
3 attached then that gives them a clear hint and that's what I'm
4 thinking.

5 Q. What is your husband's name?

6 A. [Same as respondent's middle name.]

7 Q. Can you spell that?

8 A.

9 Q. Is that his family name or first name?

10 A. First name.

11 Q. What is his last name?

12 A. Radi

13 Q. Okay. And your father's name?

14 A. Alemayehu Yewan

15 Q. Can you spell his first name, please?

16 A. A L E M A Y E H U.

17 Q. Last name Yewan?

18 A. Y E W A N

19 Q. And your brother, was he your only brother?

20 A. Yes.

21 Q. What is his name?

22 A. Tesfaye.

23 Q. Spell it, please.

24 A. T E S F A Y E.

25 Q. And his last name?

1 A. Yewan.

2 Q. Yewan. What is the Oromo Liberation Front?

3 A. It's the Oromo Liberation Organization.

4 Q. What kind of organization is this?

5 A. Since the Oromo tribe is known to be oppressed and

6 actually, seen as the second class then this organization is

7 trying to exercise a freedom for that group. So, it's a

8 liberation organization.

9 Q. Okay. And does this organization support the

10 overthrow of the Ethiopian government through violence?

11 A. Yes. Yeah, they are still contributing to the fight

12 up to now.

13 Q. Okay. And does the, does this organization have a

14 political arm that participates in elections?

15 A. Yes, they used to participate but last time they were

16 avoid, or they were taking out of the ballot.

17 Q. Are you referring to the elections of 2008?

18 INTERPRETER TO MR. LIPKIND

19 I'm sorry, can you repeat that?

20 MR. LIPKIND TO MS. Yewan.

21 Q. Are you referring to the elections of 2008?

22 A. Yes, I'm not aware of the details, yes, most likely.

23 Q. How old were you when you left Ethiopia?

24 A. Twenty-nine.

25 Q. How old are you now?

1 A. Forty-three.
2 JUDGE TO INTERPRETER
3 Excuse me. How old was she when she left?
4 INTERPRETER TO JUDGE
5 Twenty-nine.
6 JUDGE TO INTERPRETER
7 Twenty-nine.
8 MS. *Yewan* TO JUDGE
9 Twenty-nine or 30.
10 JUDGE TO MS. *Yewan*
11 Okay.
12 MR. LIPKIND TO MS. *Yewan*
13 Q. What involvement did you yourself have in the Oromo
14 Liberation Organization?
15 A. When my, when my husband prints and duplicates
16 leaflets and communication material, I, all, I used to take
17 those materials and discuss it with the woman group about the
18 Oromo oppression.
19 Q. Now, how long after your release from detention did
20 you leave Ethiopia?
21 A. About one-year.
22 Q. So when you were in detention, you were approximately
23 age 28?
24 A. Yes.
25 Q. Now, you were asked by your son's lawyer whether your

1 name is on any lists and I have to admit I did not understand
2 the answer.

3 A. Since I came out of the country by the name, with
4 other merchants may name might be on that list, on the merchants
5 list.

6 Q. What is the merchants list?

7 A. There was actually a commerce exchange forum between
8 Ethiopia and Egypt so there was a group going to that forum and
9 I went with that group.

10 Q. Is that how you escaped from Ethiopia by going, by
11 going out to Egypt to attend the conference?

12 A. It's not a meeting. It's a trade exchange. So, we
13 had merchants from Ethiopia met, meet with Egyptian merchants so
14 they make a trade exchange. That is how I came out that way.

15 Q. Okay. And while you were on that exchange, you stayed
16 in Egypt and applied for refugee status?

17 A. I didn't have any connection with that trade exchange
18 but people help, somebody helped me and I just left with them.

19 Q. Okay. And once you're in Egypt, you applied for
20 refugee status to come to the United States?

21 A. Yes, that's true.

22 Q. Okay. And your son stayed behind in Ethiopia?

23 A. Yes.

24 Q. Where did he stay?

25 A. Out of town in, in a province by the name Arsi. I left

1 him with somebody.

2 Q. Who did you leave him with?

3 A. She is my relative by the name Mintouwa (phonetic
4 sp.).

5 Q. Okay. Was your son ever harmed by the government?

6 A. No.

7 Q. Have you had any communication with the government of
8 Ethiopia since you left?

9 A. No.

10 Q. To your knowledge has your son, Alazar, had any
11 communication with the government of Ethiopia since he came to
12 the United States?

13 A. No.

14 Q. When you were arrested and detained, was that the only
15 time you were arrested and detained in Ethiopia?

16 A. Yes.

17 Q. Were you given any type of charges?

18 A. What do you mean by charge?

19 Q. Did they, did they give you information about why you
20 were being detained?

21 A. They were questioning me every now and then but
22 nothing official. They were, I was just being questioned as to
23 who we communicate and what we're doing kind of stuff.

24 Q. How did it happen that you were released?

25 A. Finally, I couldn't walk and I was very ill so that

1 was the reason.

2 Q. While you were there did you give up any information
3 about the Oromo Liberation Organization?

4 A. No, there wasn't because I didn't know anything.

5 Q. What is the name of the town or city that you lived in
6 in the Oromo region?

7 A. Arsi.

8 Q. A R S I?

9 A. Right.

10 Q. You told us that your father was killed by the police
11 and thrown into the street. Did you see him?

12 A. Yes, yes, somebody called me and I went and I looked
13 at.

14 Q. You saw his body in the street?

15 A. Yes, I did.

16 Q. And was this in Arsi, also.

17 A. No, it's not. It's --

18 Q. Adis Ababa?

19 A. -- Adis Ababa.

20 Q. And, how old were you when this happened?

21 A. I was about 20. I don't remember.

22 Q. And your brother you testified he was 16 when he was
23 taken. How old were you?

24 A. I don't remember it exactly but about 27, 28.

25 Q. Okay. I only ask this so I can get a sense of when

1 all these things happened because you don't remember the year.

2 Do you have any relatives remaining in Ethiopia?

3 A. No, I don't have anyone.

4 Q. Are you communicating at all with any friends who are,
5 who are in Ethiopia?

6 A. No, I don't communicate with anyone.

7 Q. Okay. And the Oromo Tribe, as you call it, represents
8 about 40 percent of the population in the country, correct?

9 A. I'm not sure.

10 Q. It's a lot, it's a lot of people though, yeah?

11 A. Yes, that's a lot, that's a lot.

12 MR. LIPKIND TO JUDGE

13 I have no further questions of this witness, Your Honor.

14 JUDGE TO MR. LIPKIND

15 All right.

16 JUDGE TO MR. OBEASI

17 Any redirect?

18 MR. OBEASI TO JUDGE

19 Yes, Your Honor.

20 JUDGE TO MR. OBEASI

21 Go ahead.

22 MR. OBEASI TO MS. *Yewan*

23 Q. You stated earlier during cross-examination that you
24 spent about one-year in Ethiopia after you were released. Is
25 that correct?

1 A. Yes, yes, I did.

2 Q. After you were released, did you seek medical
3 attention for the injuries suffered as a result of the
4 detention?

5 A. Yes.

6 Q. Where did you seek medical attention, madam?

7 A. I got a treatment where, by traditional medicine in
8 Arsi region where I put or where I was hiding the, the kids.

9 Q. And how long did you spend receiving medical
10 treatment?

11 A. About five months. Actually, I continued using the
12 medication, the treatment, the, I was given also the ointment
13 and even all the way through Egypt, I was, was carrying that
14 treatment with me.

15 Q. And, did you spend time in Ethiopia looking for your
16 husband after you were released?

17 A. Yes.

18 Q. And, how long did you spend looking for your husband
19 and where did you look for your husband?

20 A. I was actually asking most of the people I came across
21 which were released from, from prison. And I also went out of
22 town wherever I could go to ask for that.

23 Q. How long did you spend looking for your husband?

24 A. I didn't stop looking for him since I was released
25 until I left, house of it, going back get my medication and come

1 and look for him.

2 Q. And while you were being detained, what happened to
3 your children? Who were the people looking after them during
4 your detention?

5 A. My neighbors.

6 Q. And after you were released did your children continue
7 to stay in Addis Ababa?

8 A. No. No, I took them away.

9 Q. And where did you take them to?

10 A. I took them to Arsi.

11 Q. And why did you take them to Arsi?

12 A. Because I was afraid that they will be killed.

13 Q. And while your children were in Arsi were they in
14 hiding?

15 A. Yes.

16 Q. And who hid your children, madam?

17 A. That lady by the name Entowerp (phonetic sp.).

18 Q. And, madam, do you believe -- I'll rephrase the
19 question -- do you believe if you go back to Ethiopia today, you
20 will be arrested by the government?

21 A. Yes.

22 Q. And why do you believe you will be arrested by the
23 government?

24 A. Because of the fact that I came out unofficially and I
25 was hiding my children and since I took out my children, also.

1 And I was, I was a (indiscernible) a lot while I was there.

2 That is why I'm afraid to go back.

3 MR. OBEASI TO JUDGE

4 No further questions, Your Honor.

5 JUDGE TO MS. *Yewan:*

6 Q. Ma'am, do you know what the Oromo Federalist
7 Democratic Movement is?

8 A. Yes, I know.

9 Q. What is it?

10 A. This is a movement to support the, to support the
11 Oromo community or the population because Oromo is a very
12 separate and forgotten community. So, this is the movement to
13 get a democracy to that group to that community.

14 Q. Were you a member of that movement?

15 A. No, I'm not.

16 Q. So, it's completely separate from the Oromo Liberation
17 Front?

18 A. Yes, this is different. There is another group
19 organized under the government's umbrella where the government's
20 organizing by the name of Oromo group. But that's a different
21 one.

22 Q. Do you know what political party is in power in
23 Ethiopia today?

24 A. Yes, I do.

25 Q. What, what party is in power?

1 A. Are you referring to the leader?

2 Q. No, just the political part. What political party is
3 in power?

4 A. The Hadic.

5 Q. That, that's a political party?

6 A. Yes, the governing party.

7 Q. Well, what's the name of it?

8 A. In Amharic it is Arabicishadic (phonetic sp.) if I
9 can, and in English it is abbreviated as EPRD.

10 Q. Okay. EPRD?

11 A. EPRD party.

12 Q. I don't have any other questions. Thank you, ma'am.
13 You can have a seat in the back.

14 JUDGE TO MR. OBEASI

15 Mr. Obeasi, any other witnesses or?

16 MR. OBEASI TO JUDGE

17 No, I just like to call the respondent and just ask him a
18 few questions.

19 JUDGE TO MR. OBEASI

20 Okay. He's been sworn so go ahead.

21 MR. OBEASI TO MR. *Rad*

22 Q. (Indiscernible). Now, I'll just ask you one question.
23 Do you believe you will be tortured if you return to Ethiopia?

24 A. Yes, from what I gather information from what I hear,
25 yes, I do.

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REFUGEE LAW
Summer 2018

Hypothetical Set 12:
Immigration relief for victims of human trafficking

Assignment:

1. Analyze case to determine whether individual is a victim of human trafficking. Why or why not?
2. Assuming individual is a victim of human trafficking, identify the victim's legal and other needs.
3. Is the victim eligible for a T visa?
4. Draft a plan for resolving the victim's needs.

Su-chi's Story

I was born on a farm in rural Thailand and we were very poor. I have three children and we lived with my mother. I always tried to help my family because I am the oldest daughter and a mother. One day, I heard some neighbors talking about jobs in the United States, and they told me about a job for sewing, which I could do well. At first, I was scared and not sure that I wanted to go, but I thought that if I didn't come, how could I provide enough to eat for my children. The recruiter told me that they would charge me \$4,800 for the plane fare and the expenses getting to Los Angeles. He said that the employer would pay us about \$1000 or \$1,200 a month, and that we would have one day off on the weekend.

I agreed to go to Los Angeles, and the recruiter gave me a Thai passport with another person's name in it and a tourist visa for Mexico. We flew to Mexico, and then a coyote brought me into the United States.

The coyote took us to an address in San Diego where the employer was waiting for us. He took us directly to the factory. The employer told us that he would keep our documents, so I gave him the passport and my birth certificate. The factory was in an apartment building. We lived on the second floor and worked on the first. The employer had several people who were supervisors for us workers. They told us that the police would arrest us and deport us if we left the building.

We worked 12 hours a day, every day of the month. The boss kept saying that we were behind schedule on our work. I never actually understood how much I was getting paid since it was a different amount every month. They deducted the cost of rent and food

from our pay. You got yelled at if you asked too many questions, like how much you would be paid. I was only able to send home \$100 or so every month.

I began to have back problems because of the work I was doing. Now my lower back hurts very badly almost all of the time.

One day after I had been there about six months, I got so angry I just told the boss I didn't care if the police got me and that I was getting out of there. He said I was stupid and more trouble than I was worth and that if I wanted to leave and get deported to go right ahead. I asked for my birth certificate, but he would not give it to me. My friend and I sneaked out that night. I went to the Thai community center that I had read about in the paper.

I am worried because I still owe the people in Thailand for the money I borrowed to come to the United States. My mother wrote me that those people have come to the house and threatened her and my children if I do not pay back the money, but I do not have any way to pay that money back now.

The FBI sent me a letter asking me to come to their office next week for an interview about Sergei's case.

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Hypothetical Set 13:
Issues of Persecution, Nexus, and CAT Relief

1. **Mr. A** is an asylum seeker from Afghanistan who lives in an area where there are many members of the Taliban. Mr. A runs a store, and provides supplies to members of the NATO troops that are currently in Afghanistan. The Taliban have come to his home on a number of occasions and asked him to assist by informing on the movement of the NATO forces. Many times he has lied to them, and told them that he knows nothing. The last time that the Taliban came, they told him that they knew he had lied to them because they had been watching him, and they saw him in conversation with the NATO soldiers. They told him that if he did not inform the next time they came to his house, they would kill him. If he flees Afghanistan, will he be eligible for any form of relief?

2. **Mr. B** is a Christian in Nigeria who resisted the demands of the Ogboni secret cult to join them, and to surrender his father's body upon the latter's death as required by the cult. His refusal to do so arose from his religious beliefs. As a result of his refusal the Ogboni murdered and mutilated his brother (who they mistook for him), and killed his three year old son. He claims asylum on the basis of these facts; what is the likely result? Does he have any other likely form of relief?

3. **Ms. C** is a woman from Iran. She is subject to a uniform law which requires all women to wear a chador, an article of clothing which covers her head, and also veils part of her face. The penalty for refusal to comply is 74 strokes of the whip. She flees Iran after her refusal to comply with the rule requiring the wearing of a chador has resulted in her being subjected to such a whipping. Does she qualify for relief?

4. **Ms. D** is a young woman from Albania. Trafficking in humans is a pervasive problem in her country. The traffickers often kidnap their female victims, and then transport them to other countries where they sell them into prostitution. The asylum seeker knew the identity of several of the traffickers in her town, and she went to the authorities to inform on them. She did not know that the authorities were actually working together with the traffickers and sharing the profits. A week later the young woman was kidnapped by these traffickers and held by them for a month during which time she was repeatedly raped and beaten. On several occasions her kidnappers said to her that she deserved what she got for reporting them to the authorities. She was able to escape and flee to the U.S. Does she qualify for any form of relief?

5. **Mr. E** is a Jehovah's Witness from Ethiopia. His religion does not permit him to serve in the military under any circumstances. There is a uniform law requiring military service of all men over the age of 18. The penalty for refusing is 10 years imprisonment. Mr. E. fled after receiving a notice requiring him to report for military service. Does he qualify for relief?

6. **Ms. F** is a woman from Pakistan. She is married to a man who has beaten and abused her since the day of their marriage. On a number of occasions the abuse has been so severe that she has been hospitalized – once for a broken nose, another time for a broken jaw. Ms. F has reported her husband to the police, but they ridiculed her, telling her that she should go home and behave so that her husband wouldn't have to "teach her a lesson." Ms. F. knows of no case in which the police have responded, or the courts have punished violent husbands –even in cases where the wife has been murdered. What is the result if she flees and asks for protection in the U.S.?

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Hypothetical Set 14:
Hypotheticals on Refusal to Serve in the Military

1. The applicant is an 18 year old South Korean Jehovah's Witness whose religion forbids him from all military participation. In addition to the religious prohibition on military service, he also does not want to serve because he is very afraid of combat, and does not want to be killed, or to have to kill anyone. The applicant is willing to undertake alternative service if it is totally unrelated to combat, e.g., working in a hospital, or otherwise serving the community. The South Korean law at the time when he made his claim for asylum required all men between 19 and 40 to serve in the military. There are no exemptions for conscientious objectors, and there is no alternative service. The sentence for refusing to serve is 3 years imprisonment. The applicant leaves South Korea and claims asylum on the basis of his refusal to perform military service. What is the result under U.S. law? Is the U.S. result similar or different from recommendation in the UNHCR Handbook (indicate which paragraphs are relevant and why).

2. The applicant is a Russian Catholic. Although he is not opposed to all wars, he believes that Catholic religious teachings only permit him to participate in "just wars." He explains that according to his religion, a "just war" is one in which the recourse to war is legitimate, and the means being used to fight the war are morally justifiable. He fears that if he is conscripted into the Russian military, he will be sent to fight in Chechnya, which he does not believe is a just war. At the time when he made his claim for asylum, the punishment was a term of imprisonment of up to two years. Result under U.S. law? Under UNHCR guidance?

3. The applicant is a Kurd from Turkey. He believes that the Turkish government has used the military to repress Kurds who are struggling for greater rights within Turkey. The applicant argues that the Turkish military have killed innocent Kurdish civilians simply because they were suspected of supporting the Kurdish struggle; he also claims that the Turkish military routinely use torture in their attempts to repress the Kurds. He claims that his prison sentence would not be that which is normally meted out to draft resisters, but that he would suffer greater punishment because he himself is Kurdish. Assume that there is evidence that the Turkish military has killed innocent civilians, and has used torture – but that the United Nations has not spoken on the issue. What might be the result?

4. The applicant is an American Muslim. He enlisted in the U.S. Air Force prior to the invasion of Iraq. Upon learning that he is to be sent Iraq, he deserts, and goes to Canada

seeking asylum. He claims that he is not in agreement with the war against his Muslim brothers, and that he finally decided to desert when he read the following comments of General Richard B. Myers, the chairman of the Joint chiefs of Staff, who stated that the Pentagon's war plan for Iraq "entailed shocking the Iraqi leadership into submission quickly" and that the plan involved "unleashing 3,000 precision-guided bombs and missiles in the first 48 hours of the campaign" which would "result in Iraqi civilian casualties, despite the military's best efforts to prevent them." How would you analyze his claim?