

# Profiles in Resilience

Why Survivors of Domestic Violence  
and Gang Violence Qualify for  
International Protection

Executive Summary    June 2021



# Executive Summary

## Introduction

Although protection for refugees is a longstanding U.S. legal commitment under federal and international law, immigration policy has become a deeply politicized topic in the United States in recent years. Domestic violence and violence by organized gangs represent a major cause of forced displacement for those arriving at the U.S. border. Yet these forms of persecution are viewed skeptically by some policymakers who favor restricting immigration in spite of U.S. legal obligations to ensure the right to seek asylum.

Extensive data demonstrates that the increase in migration from Central America to the United States in the past decade has been triggered by physical and sexual violence, death threats, and other abuses by organized gangs, domestic abusers, and government authorities, resulting in high levels of physical and psychological **trauma. The Trump administration dismissed these claims as “meritless” and asylum seekers as “fraudsters” who exploit the “loophole” of asylum, alleging that they are actually criminals.** Former attorney general Jeff Sessions flouted decades of domestic and international legal precedent by issuing a blanket statement, in a single case, that domestic and gang violence survivors will generally not qualify for asylum. This decision had the immediate impact of increasing denials of Central American asylum claims, in line with the political goals of the Trump administration to deter migration from Central America.

## Research and methodology

A large proportion of Physicians for Human Rights (PHR) clients, who are asylum seekers receiving pro bono forensic evaluations, are survivors of domestic and gang violence. A research team, comprised of faculty from the University of California, Los Angeles (UCLA), graduate students from the UCLA Fielding School of Public Health, medical students at the David Geffen School of Medicine at UCLA, and PHR staff, analyzed 132 medical-legal affidavits resulting from medical and psychological evaluations of asylum seekers to capture the characteristics of the harms they experienced. The study also explored descriptive statistics that could expose discriminatory patterns of harm that were not captured through the qualitative analysis. Our hypothesis was that the physical and psychological findings in medical-legal affidavits would bring new insights that could inform efforts to change asylum policies.

## Research findings: Significant trauma exposure from domestic and gang violence

In this study, 81 percent (107 people) of the applicants were seeking asylum due to domestic violence and 29 percent (38 people) due to persecution by organized gangs; 10 percent (13 people) had experienced both domestic and gang violence.

According to data from the affidavits, the applicants reported a wide range of trauma: of 26 types of trauma, almost two thirds (65 percent) of applicants had experienced six or more types. Nearly all (95 percent) of the applicants had experienced multiple trauma categories: 78 percent had experienced three or

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more categories of trauma while 15 percent had experienced all five trauma categories. Overall, sexual violence was very common in gang violence-related claims, with one third of applicants in this category reporting having been raped and **five percent reporting a history of “gang rape” or rape by two or more perpetrators.**

Overall, 38 percent of applicants in this sample reported having a family member who had experienced violence or had been killed as a sign that they were likely to be targeted next. Perpetrators commonly threatened family members as a powerful means of coercing, threatening, or exploiting their specific targets.

### Nowhere to flee: Lack of community or state protection from domestic and gang violence

Affidavits captured the complicated social and gender norms, sense of male entitlement, and systemic disempowerment of women that motivated intimate partners to inflict physical and sexual violence. These pervasive beliefs about the obligations of women within intimate relationships were prevalent amongst perpetrators and local community members.

Parents, guardians, and extended family members also perpetrated physical violence (50 percent) and sexual violence (19 percent). Many clients reported that their family members were motivated by adherence to social, religious, and community norms, such as the maintenance of male-dominant power structures **within the family or the avoidance of familial “shame” caused by non-conformity** to these customs.



*After the father was extorted, beaten, and threatened with death by a local gang, this family fled El Salvador rather than go to the police, who they said were in collusion with the gangs.*

*Photo: PHR photo library*

**People reported that the state was unable or unwilling to protect them due to corruption, fear, normalization of domestic and gang violence in the community, and stigmatizing attitudes towards victims.**

Of the 132 affidavits analyzed, 32 (24 percent) reported that the person sought assistance from a police, military, or government official or civil society organization. For 81 percent of those who sought assistance, there was either no response or the report resulted in direct persecution by the state actor. People reported that the state was unable or unwilling to protect them due to corruption, fear, normalization of domestic and gang violence in the community, and stigmatizing attitudes towards victims. More than a third of the people described in our sample (49 people or 37 percent) attempted to relocate within their home country prior to migrating to the United States, including 22 people who attempted to relocate more than once.

For many asylum seekers, arrival in the United States did not mean that they had found safety. Almost half of the subjects in the sample (46 percent) reported ongoing trauma after entering the United States. This trauma often took the form of ongoing threats by former persecutors through phone or social media. Other applicants reported experiencing new forms of abuse after arrival in the United States, including by harassment or assault in their new workplace or abuse by new intimate partners. Other types of abuse that were reported after arrival in the United States included trauma related to detention and forced prostitution.

## **Physical and mental health effects of trauma**

Of the 101 affidavits in this sample that included a mental health evaluation, 79 percent met criteria in the Diagnostic and Statistical Manual of Mental Disorders (DSM–5) for a mental health diagnosis. Post-traumatic stress disorder (PTSD) was the most common diagnosis, with 68 percent of people who underwent a mental health evaluation meeting criteria for this diagnosis. Suicidality was also very common, with 32 percent of people reporting any history of suicidal ideation or attempt and 13 percent reporting active suicidality at the time of the evaluation.

Of the 50 evaluations that included a physical evaluation, the most common types of physical injuries reported were cuts (28 people, 56 percent) followed by burns (12 people, 24 percent).

The majority of clinicians in this sample concluded there was objective physical or psychological evidence of past trauma consistent with, highly consistent with, or diagnostic of the history of trauma described by the applicant.

## **Resilience of survivors**

Many affidavits commented on resilience factors that helped the applicants recover from their prior trauma and adjust to a new life in the United States. These resilience factors included family and social support, religion and collective

identity, work and school, access to mental and other clinical health services, and individual traits. Mental health improvement was strongly associated with the number of reported resilience factors. Improvement in mental health was reported in 74 percent of subjects who reported two or more resilience factors, compared to 14 percent of subjects who reported no resilience factors.

## Legal protections for refugees fleeing domestic and gang violence

The Refugee Convention defines a refugee as someone who is unable or unwilling to avail themselves of the protection of their country from persecution, for the **reasons, or “protected grounds,” of race, religion, nationality, membership of a particular social group, or political opinion.** The UN High Commissioner for Refugees (UNHCR) advises that domestic violence and gang violence survivors **may be considered “members of a particular social group” due to their gender, or** due to gender with their relationship status or national origin, and that in gang violence cases, survivors can be considered members of social groups which are defined as groups by their past actions or experiences, such as resisting gang recruitment or refusing to pay extortion money to gangs. Opposition to gang activity and domestic violence can also be understood as a type of political opinion. According to UNHCR, persecution by non-state actors, such as gang members or violent family members, should be recognized whenever a government is unable or unwilling to control the perpetrators.

## Conclusions

The data in this study provides additional evidence that the harms suffered by asylum seekers from domestic and gang violence are real and severe, and that victims often cannot find protection in their own country. These narratives of abuse and trauma in this study were consistent with mental and physical health evidence, as documented according to international standards contained in the Istanbul Protocol.

Domestic and gang violence survivors can meet the criteria for international protection, especially when their persecution and inability to obtain protection is understood through a gender lens. The Biden administration should revise Department of Homeland Security and Department of Justice regulations to ensure that U.S. asylum law is consistent with international refugee law standards in the protection that it offers. Ultimately, Congress should amend the Immigration and Nationality Act to codify these standards at the level that international law requires.

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Refugees, asylum seekers, and all immigrants must be treated humanely. The people whose narratives are described in this study were bona fide applicants who were granted asylum in the United States after experiencing severe harm in their home countries, often over many years and by multiple perpetrators. Some 46 percent of them reported experiencing ongoing trauma in the United States, most commonly due to ongoing threats to themselves or their loved ones and new experiences of domestic violence in the United States. For some, mistreatment in detention, separation from family, inability to work, and anxiety about their asylum cases also caused deteriorating mental health symptoms after they arrived in the United States. Nevertheless, this study demonstrates the resilience of these applicants and the possibility for healing for those who are able to find safety in the United States. Statistical analysis showed that those who did not experience ongoing trauma in the United States or who had factors that promote resilience, such as family and community support, opportunities for religious engagement, employment, and education, and access to mental and other clinical health services, had significantly better health outcomes. These courageous survivors can heal if we ensure respect for their dignity, well-being, and human rights.

## Trauma exposures reported by 132 domestic and gang violence survivors seeking asylum in the United States.



\* Forced labor; verbal or emotional abuse; abandonment; abduction or imprisonment; threats of forced conscription into gangs; threats of violence or death.

\*\* Threats to family or others, family member experienced violence or was killed, witness to violence.

\*\*\* Denied access to basic needs, education, or unemployment; was subjected to extortion.

### Trauma Location



Source: Data from 132 domestic and gang violence survivors who sought asylum in the United States and who were evaluated by Physicians for Human Rights Asylum Network experts between 1999 and 2019.

# Mental health diagnoses and resilience factors for 101 domestic and gang violence survivors applying for asylum in the United States.

## Met Criteria at Time of Evaluation



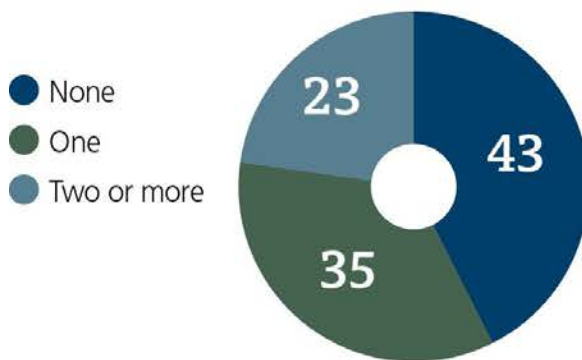
## Improved Mental Health after Arrival in the United States



## Resilience Factors



## Number of Resilience Factors Experienced



Source: Data from 132 domestic and gang violence survivors who sought asylum in the United States and who were evaluated by Physicians for Human Rights Asylum Network experts between 1999 and 2019.

# Recommendations

## To the Biden Administration:

- Incorporate a trauma-informed approach into the adjudication process, recognizing the high burden of physical and mental health symptoms due to persecution;
- Recognize the critical importance of fostering resilience, and release asylum seekers from detention to community settings, further ensuring that asylum seekers can work legally, access education, and simplify family reunification processes;
- Restore access to asylum at the border by rescinding the Title 42 order and allowing people who were denied asylum or deported in absentia due to the Migrant Protection Protocols to renew their cases, to allow people to find safety and healing in the United States;
- Instruct the Department of Homeland Security (DHS) and the Department of Justice to issue regulations:
  - Which define Particular Social Group as a group whose members 1) share a characteristic that is immutable or fundamental to identity, conscience, or the exercise of human rights; or 2) share a past experience or voluntary association that, due to its historical nature, cannot be changed; or 3) are perceived as a group by society; and
  - Which contain a non-exhaustive list of characteristics which can define a particular social group (such as gender, sexual orientation, gender identity, age, shared past experience, nuclear or extended family, or clan or tribe), as well as clarifying that political opinion encompasses opposition to extra-legal control of territory or economic or social activity by non-state actors such as gangs, as well as political opinions related to feminism, LGBTQIA+ rights, and property rights;
- Instruct the attorney general to vacate cases which impose additional **requirements for recognizing particular social group (such as “social distinction,” “social visibility,” and “particularity”)**, and instruct DHS to issue harmonized policy guidance for asylum officers;
- Instruct the DHS secretary and the attorney general to issue regulations **which clarify that persecution shall be considered “on account of” a protected ground** when it is a central reason for the harm, regardless of whether the persecutor had additional motivations for the harm. Persecution should be considered on account of a protected ground as long as the persecution would not have occurred but for the ground or will have the effect of harming the person because of the ground, and regardless of the number of other people targeted by the persecutor;
- Ensure that regulations also clarify that country of origin statistics, such as high rates of femicide, gang violence, or domestic abuse, would be sufficient proof of the inability or unwillingness of a government to reliably protect **people from persecution, meeting the “unable or unwilling to control”** requirement, even if domestic law criminalizes these acts, regardless of whether the government has direct knowledge of or involvement in the persecution and whether the applicant reported persecution to their government or sought to relocate internally.



## To the U.S. Congress:

- Review the regulations listed above with the intent of determining whether they should be codified into law to safeguard asylum protections at the legislative level, including considering adding gender as a sixth ground for asylum, as some other countries have done;
- Revisit the protections provided under U.S. asylum law to consider whether the United States should also introduce a form of complementary or subsidiary protection, as exists in the European Union, for cases which may not meet the full criteria for asylum but have demonstrated that the person is likely to face serious harm if returned to their country; and
- Allocate increased funding for:
  - Hiring additional asylum officers, and for the asylum adjudication process to implement a trauma-informed approach which will make the process more efficient and fair;
  - Hiring additional immigration judges and asylum officers and restoring and expanding legal orientation and representation programs; and
  - Ensuring essential services for asylum seekers while their cases are pending.



Physicians for  
Human Rights

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Through evidence,  
change is possible.



Shared in the  
Nobel Peace Prize