



Membership in a Particular Social Group  
UNHCR Training  
Baku, Azerbaijan – September 2014

# INCLUSION CRITERIA

1. Outside country of nationality or habitual residence
2. Well-founded fear
3. Persecution
4. Grounds – race, religion, nationality, **membership in a particular social group** or political opinion
5. Protection is lacking

# DEFINITION OF “PARTICULAR SOCIAL GROUP”

- \* A group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is fundamental to identity, conscience or the exercise of one's human rights.

# IMMUTABLE CHARACTERISTIC

- \* **Innate** – Something you are born with
- \* **Unchangeable** – Something you cannot alter such as a historical fact of a past association OR something that is so fundamental to your human dignity that you should not be required to change

# SOCIAL PERCEPTION

- \* The group shares a characteristic that makes them a recognizable group or sets them apart from society

# EXAMPLES OF PARTICULAR SOCIAL GROUPS

- \* **Family** (immutable characteristic and recognized as a group by society)
- \* **Women** (immutable characteristic and recognized as a group by society)

# EXAMPLES OF PARTICULAR SOCIAL GROUPS

- \* **Homosexuals** (immutable characteristic; a characteristic fundamental to human dignity; seen as different by society)
- \* **Human Rights Workers** (characteristic fundamental to human dignity)

# A PARTICULAR SOCIAL GROUP CANNOT BE DEFINED EXCLUSIVELY BY THE PERSECUTION THAT MEMBERS OF THE GROUP EXPERIENCE OR FEAR

Example – Applicant is a Thai female – Forced sex-trade worker in debt bondage to a criminal gang - How to define her social group:

**Incorrect** – Victim of organized crime

**Correct** - Women in Thailand OR

Former sex-trade worker OR

Women in Thailand forced into prostitution to pay debt to criminal gang



# NO REQUIREMENT OF COHESIVENESS

- \* The asylum applicant does not need to show that members of the particular social group know one another or associate with one another.

# NOT ALL MEMBERS OF THE GROUP NEED BE AT RISK

- \* Some members of the group may not be at risk if they hide their shared characteristic or are not known to the persecutors
- \* This corresponds with other grounds (race, nationality, religion and political opinion)

# RELEVANCE OF SIZE

- \* The size of the particular social group is not relevant in determining whether a particular social group exists
- \* Example – Women have been recognized as a particular social group but this does not mean that all women in the society qualify for refugee status

# NON-STATE PERSECUTORS – MAKING THE LINK BETWEEN THE PERSECUTION AND PARTICULAR SOCIAL GROUP

1. The persecutor inflicts or threatens harm because the applicant is a member of the social group (eg. Homosexuals)
2. The persecutor is inflicts or threatens harm for other reasons but the state is unwilling to protect because the applicant is a member of the social group (eg. Women subject to domestic violence)

# **TO DETERMINE IF AN APPLICANT IS A MEMBER OF A PARTICULAR SOCIAL GROUP**

- 1. Do members of the group share an innate or unchangeable characteristic?**
- 2. Do members of the group share a common background that cannot be changed?**
- 3. Do members of the group share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it?**
- 4. Does the group have a distinctive identity in the relevant country because the group is perceived as being different by surrounding society?**

**Answering “yes” to any of the above = Member of a particular social group**

# EXAMPLES OF GENDER RELATED PERSECUTION

- ✓ Sexual assault
- ✓ Female genital mutilation
- ✓ Domestic violence
- ✓ Trafficking

# WELL-FOUNDED FEAR OF PERSECUTION AND PROTECTION– GENDER CLAIMS

- ✓ A law is persecutory
- ✓ A persecutory practice has been outlawed but the state does not stop the practice
- ✓ Punishment for transgressing a social or cultural norm is excessive
- ✓ State law or policies have a legitimate objective but the method of implementation amounts to persecution

# Blood Feuds

- \* Conflicts between opposing families, tribes/ clans and armed factions
- \* Often started in reaction to perceived violations to the honour of women, property rights, land and water issues
- \* Revenge is sought through killing, physical injury and/or public shaming



# FACTORS IN ASSESSING A BLOOD FEUD

- Whether dispute can be called a blood feud and if so:
- What are the origins and history of the feud?
- How many people have been killed?
- Time elapsed since the last killing
- Attitude of the police towards the blood feud in the past as well as their future attitude

# FACTORS IN ASSESSING A BLOOD FEUD

- What is the commitment of the opposing family to continue the feud?
- What is their ability to locate the applicant?
- What is the applicant's position within the family/ clan?
- What are the prospects for eliminating the feud (payment of money/ reconciliation)?

# WELL-FOUNDED FEAR OF PERSECUTION AND STATE PROTECTION

- \* What is the ability of the state to protect?
  - \* Can the state control blood feud practices?
  - \* Are blood feuds outlawed?
  - \* Are there mechanisms for resolving them?
  - \* Are the police able to detect, prosecute and punish those responsible?