

TABLE 4.

GENDER-RELATED PERSECUTION

SEE ALSO TABLES 2 AND 3

<p>Why is it good practice?</p>	<p>The incorporation of the grounds of "gender" into the legislation of a whole range of countries in the region is good practice because it makes the national authorities sensitive to these grounds and institutionalises a correct interpretation of the 1951 Convention.</p> <p>* Venezuelan and Paraguayan legislation is included although it is noted that the word used is "sex" instead of "gender"</p>
<p>Country</p>	<p>Source</p>
<p>Argentina</p>	<p>Article 53 of the General Law on Refugee Recognition and Protection No. 26165 (2006)</p> <p>In the case of females or children victims of violence, especially if they are unaccompanied, the Commission shall provide them with specialised psychological care and, during the procedure, the UNHCR recommendations set out in the Guidelines for Protection refugee women shall be observed, as shall the guidelines on gender-related persecution. In the case of minors, the guidelines on their protection and care shall be taken into account, informing the agencies with primary responsibility for policies aimed at vulnerable groups for the purposes of the efficient, rapid and effective support of these persons.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2006/4658.pdf</p>
<p>Costa Rica</p>	<p>General Law on Migration and Foreign Nationals No. 8764 (2009)</p> <p>Article 106 (...) For the purposes of this Law, the term refugee shall apply to any foreigner recognised by the General Directorate as having this status. A refugee shall be understood as a person who:</p> <p>1) Due to well-founded fears of persecution on the grounds of race, religion, nationality, gender, belonging to a particular group or political opinions, is outside the country of his or her nationality and cannot or, due to such fears, does not wish to avail him or herself of the protection of that country.</p> <p>ARTICLE 115.- There shall be no deportation to the territory of their country of origin of refugees and asylum seekers who, on account of well-founded fears of persecution on the basis of race, religion, nationality, gender, belonging to a particular group or political opinions, are outside the country of their nationality and cannot or, due to such fears, do not wish to avail themselves of the protection of that country.</p>

	<p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2009/7261.pdf</p>
Chile	<p>Article 41 of the Law establishing provisions on refugee protection No. 20430 (2010)</p> <p>Specialised Care. In the case of persons who submit an application and claim to have been victims of sexual or gender-based violence, care shall be taken to ensure that the competent public authorities provide them with psychological and social assistance. Likewise, care shall be taken to ensure that, in conducting the interviews, individuals may feel confident about the confidentiality of their application.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/7733.pdf</p> <p>REGULATION OF LAW N° 20430</p> <p>Article 3.- Special conditions. In interpreting each of the elements of the concept of refugee established in the preceding article, a gender-sensitive perspective and age-sensitive approach will be applied, as will be the case with other special conditions of vulnerability.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/7411.pdf</p>
Ecuador	<p>Human Mobility Act (2017)</p> <p>Article 2. (...) Non-refoulement. In no case may these persons be returned or deported to another country, regardless of whether or not it is their country of origin, in which their rights to life, liberty or integrity and those of their family run the risk of being violated due to their ethnicity, nationality, ideology, gender, sexual orientation, membership of a particular social group, political opinions, or when there are well-founded reasons for believing that they would be in danger of being subjected to serious human rights violations in accordance with this Law and international human rights instruments.</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2017/10973.pdf</p>
El Salvador	<p>Article 4 of the Law of Refugee Status Determination No. 918 (2002)</p> <p>For the purposes of applying this Law, a refugee is considered to be: a. Any person who, due to well-founded fears of persecution on the grounds of race, ethnic origin, gender, religion or beliefs, nationality, membership of a particular social group or political opinions, is outside the country of their nationality, and cannot, because of such fears, or does not wish to avail him or herself of the protection of that</p>

	<p>country; b. That, having no nationality and being outside the country of their habitual residence, on account of well-founded fears of persecution on the grounds of race, ethnic origin, gender, religion or beliefs, membership of a particular social group or political opinions, cannot or, due to such fears, does not wish to return to it; and, (...)</p> <p>Article 46.- Refugees cannot be expelled or returned to another country, regardless of whether or not it is their country of origin, when their right to life, personal integrity, liberty and safety are at risk of violations on account of their race or ethnic background, gender, religion or beliefs, nationality,</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/1567.pdf</p>
Honduras	<p>Article 42 (3) of the Immigration and Foreign Nationals Act No. 208-2003 (2004)</p> <p>Refugee status shall be granted to those who: (...) e) Suffer persecution on account of sexual violence or other forms of gender-based persecution due to violations of human rights enshrined in international instruments".</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2004/2528.pdf</p>
Mexico	<p>Refugee Law and Complementary Protection (2011)</p> <p>Article 13. Refugee status shall be accorded to all foreigners residing in the national territory, under any of the following circumstances: I. Who, owing to well-founded fears of being persecuted for reasons of race, religion, nationality, gender. membership of a particular social group or political opinions, are outside the country of their nationality and are unable or, owing to such fears, are unwilling to avail themselves of the protection of that country; or who, having no nationality and being outside the country of their former habitual residence, as a result of such events, are unable or, owing to such fears, are unwilling to return to it. (...) III. Who, due to circumstances that have arisen in their country of origin or as a result of activities carried out during their stay in the national territory, have well-founded fears of being persecuted on account of their race, religion, nationality, gender, membership of a particular social group or political opinions, or their life, safety or liberty could be threatened by generalised violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances that have seriously disturbed public order.</p> <p>Article 8. The Secretariat, without prejudice to the obligations of other authorities and in coordination with them, shall take all steps within its reach to ensure that asylum seekers, refugees and those receiving complementary protection are not discriminated against on the basis of ethnic or national origin, gender, age, disability, social or economic status, health conditions, pregnancy, religion, opinions, sexual preferences,</p>

	<p>civil status or any other reason which has the effect of preventing or nullifying the recognition or exercising of their rights. For the adoption of these measures, the Secretariat will analyse the proposals put forward by international and civil society organisations specialising in this field.</p> <p>Article 20. During the procedure, the Secretariat shall take the necessary steps to ensure the provision of institutional assistance to applicants requiring special attention, as well as pregnant women, girls, boys and adolescents, the elderly, the disabled, the chronically ill, victims of torture or other cruel, inhuman or degrading treatment or punishment, victims of sexual abuse and gender-based violence, as well as victims of human trafficking, or any other person who may be in a situation of vulnerability in accordance with the legal provisions that are applicable in each area.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/8150.pdf</p>
<p>Nicaragua</p>	<p>Article 1 of Act No. 655 on Refugee Protection (2008)</p> <p>For the purposes of this Law, any person who is recognised by the competent authority as a refugee is considered a refugee under any of the following circumstances:</p> <p>A) Due to well-founded fears of persecution on the grounds of race, religion, nationality, gender, belonging to a particular social group or political opinions, is outside the country of his or her nationality and cannot or, due to such fears, does not wish to avail him or herself of the protection of that country.</p> <p>Article 10</p> <p>C) In the case of applicants for refugee status with special needs, such as victims of sexual or gender-based violence, the elderly, persons who have suffered extreme violence or torture, unaccompanied or separated children, the disabled, or persons with a physical or mental illness, they cannot be detained and shall be immediately transferred to an institution that can provide them with the necessary assistance (emphasis added).</p> <p>Art. 13 Humanitarian interpretation of the Law. This Law shall be interpreted and applied with due consideration of the special protection needs that persons may have on the grounds of age, sex, gender, disability, sexual violence, torture, physical or mental illness, or any other condition of vulnerability. Likewise, the procedures contemplated therein shall be adjusted to the flexibility of the cases for humanitarian reasons (emphasis added).</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2008/6435.pdf</p>
<p>Panama</p>	<p>Article 5 of Executive Decree No. 23 (1998)</p> <p>For the purposes of the application and implementation of Law No. 5 of 26 October 1977, the following shall be considered as "Refugees":</p>

	<p>1) Any persons who, owing to well-founded fears of persecution individualised by the authorities of their country of origin or habitual residence, for reasons of race, gender, religion, nationality, membership of a particular social group or political opinions, are outside the country of their nationality and are unable or unwilling to avail themselves of the protection of that country.</p> <p>2) Those who have no nationality and who are outside the country of their habitual residence, due to well-founded fears of individual persecution by the authorities of their country of origin or habitual residence, on the grounds of their race, gender, religion, membership of a particular social group or political opinions, cannot, or on account of such fears, do not wish to return to that country.</p> <p>3) Any foreigners who, having entered the country and are legally in the territory of the Republic, due to incidental causes that arise in their country of origin or habitual residence, cause them to have a well-founded fear of persecution on the grounds of their race, gender, religion, membership of a particular social group or political opinions.</p> <p>Refugee status is an exceptional and temporary migration situation.</p> <p>ARTICLE 73. In the case of the deportation of refugees the principle of non-refoulement will apply, preventing the refugees from being sent to a country, regardless of whether or not it is their country of origin or habitual residence, where their right to life, personal integrity, freedom and safety are endangered on account of their race, gender, religion, nationality, membership of a particular social group, or of their political views.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2001/0069.pdf</p>
<p>Paraguay</p>	<p>Article 1 of the General Refugee Law No.1938 (2002)</p> <p>Article 1.- For the purposes of this law, the term refugee shall apply to any persons who:</p> <p>a) find themselves outside the country of their nationality, owing to well-founded fears of persecution on the grounds of race, sex, religion, nationality, membership of a particular social group or political opinions (...)</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/1565.pdf</p>
<p>Uruguay</p>	<p>Article 2 of the Law No. 18076 on Refugee Status (2006)</p> <p>Persons recognised as refugees are those who:</p> <p>A) Due to well-founded fears of persecution on account of belonging to a certain ethnic or social group, gender, race, religion, nationality or political opinions are outside the country of their nationality and cannot - or because of such fears - do not wish to avail themselves of the protection of that country, or having no nationality and finding themselves, as a consequence of such events, outside the country of their former habitual residence, cannot or - due to such fears - do not wish to return to it.</p> <p>Available in Spanish at:</p>

	http://www.acnur.org/t3/fileadmin/Documentos/BDL/2007/4752.pdf
Venezuela	<p>Article 5 of the Organic Law on Refugees (2001)</p> <p>Article 5.- Refugee status. The Venezuelan State will consider as refugees any persons for whom the competent authority recognises this condition, by virtue of having entered the national territory on account of well-founded fears of persecution on the grounds of race, sex, religion, nationality, membership of a particular social group or political opinions (...).</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2001/0308.pdf</p>

Compiled by the Regional Legal Unit of the Bureau for the Americas, UNHCR