

# Mental Health Evaluations for Asylum Seekers: A Role for Child & Adolescent Psychiatrists

Kristen Ballinger, MD

Department of Psychiatry and Behavioral Medicine, Seattle Children's Hospital, Seattle, WA, USA

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## POLITICAL BACKGROUND

**Refugee:** displaced person unable or unwilling to return home because they fear serious harm. Applies for refugee resettlement while OUTSIDE the country. Waits 18-24 months to be vetted, while living in refugee camp abroad. Federal government sets maximum # accepted to country per year.

**Asylum seeker:** like refugee, but applies AFTER entering USA or at point of entry. Must file application for asylum within 1 year of arrival. May not receive social safety net programs or legally work. Usually wait months to years for hearing by judge to grant asylum status. No legal right to representation. May be detained and apply while in detention. Approximately 25-40,000 granted per year.

## What is needed to qualify for asylum?

- ❖ Must demonstrate history or risk of violent persecution (torture, other forms of abuse), with corresponding physical & mental health challenges, in their country of origin based on:
  - ❖ political opinion
  - ❖ race
  - ❖ religion
  - ❖ nationality
  - ❖ membership in a certain social group: sexual orientation or identity, gender-based harms (domestic violence, female genital mutilation), targeted gang violence

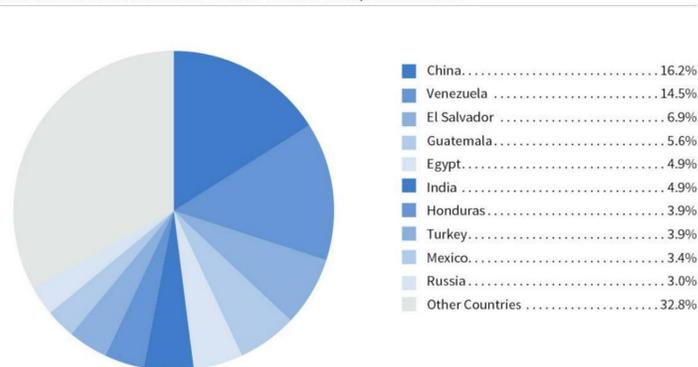
## How many people qualify?

- ❖ 38,687 people granted asylum in 2018
- ❖ 325,514 people with pending applications in 2018
- ❖ 31% of asylum seekers granted asylum

**Unaccompanied minors may apply solo, or parents may include children <21 in their application**

## What are asylees country of origin?

FIGURE 2: TOTAL ASYLUM GRANTS BY COUNTRY OF NATIONALITY, FISCAL YEAR 2019



Source: American Immigration Council analysis of government data. Office of Immigration Statistics, 2019 Yearbook of Immigration Statistics (Washington, DC: U.S. Department of Homeland Security, 2019), Tables 17 and 19. \* Includes the Palestinian Territory and countries with less than 10 individuals granted asylum in FY 2018.

## FORENSIC ASYLUM EVALUATIONS

### How do they help?

- ❖ Physicians can document objective clinical evidence of torture or ill treatment, uses as evidence to support asylum case in court
- ❖ Evaluations improved rates of granting asylum from **37.5% to 89%**, in study of 746 asylum seekers from 2000-2004

### Evaluator qualifications

- ❖ Physician or mental health professional
- ❖ Able to obtain facts of asylum seeker's history of torture, ill treatment or persecution; perform a focused exam; document evidence of trauma; show consistency between history and exam findings
- ❖ Pro bono

### Preparation

- ❖ Consult with asylum seeker's attorney for legal rationale of asylum, type of clinical evaluation indicated
- ❖ Read asylum seeker's statement and medical records
- ❖ Research specific torture or country conditions

### Interview

- ❖ Use medical interpreter with appropriate dialect, culture & gender
- ❖ Informed consent for forensic exam (not providing treatment), with limits of confidentiality due evaluation being submitted to court
- ❖ Psychiatric history, past and present psychiatric symptoms, assessment of global functioning, screening and diagnosis of mental illness
- ❖ PCL-5, PHQ9, Montreal Cognitive Assessment, & DSM-5 diagnostic criteria
- ❖ Symptoms that support or refute a history of torture or ill treatment
- ❖ Assess risks involved in returning to country of origin, or risks related to health conditions

### Affidavit

- ❖ 3 parts: background information, exam findings and supplementary evidence, conclusions
- ❖ Asylum seeker's attorney reviews report
- ❖ Maintain objectivity; not obligated to edit report per attorney's recommendations
- ❖ Include professional qualifications: CV or education, training, and skills

### Legal Proceeding

- ❖ Written affidavit is evidence in legal proceeding
- ❖ Judge decides to grant asylum or not
- ❖ Asylum seekers do not have legal right to representation, may lack attorney unless pay out of pocket or pro bono
- ❖ Rates of granting asylum vary greatly by jurisdiction, individual judge, country of origin, and asylum seeker's legal representation

## CASE STUDY: Evaluation Network by Northwest Health & Human Rights

- ❖ Over 125 medical and mental health professionals in Seattle area.
- ❖ Psychiatry residents & fellows among volunteers
- ❖ Provide pro-bono independent assessments of individuals seeking asylum
- ❖ Provide services in person, via telemedicine, and at Tacoma ICE detention center
- ❖ Collaborative project of Refugees Northwest (Lutheran Community Services NW), The Northwest Immigrants Rights Project, & Harborview Medical Center

## BARRIERS

- ❖ Limited training materials
- ❖ Need for more institutional support
- ❖ Need for understanding of cross-cultural responses to trauma and culturally responsive diagnosis
- ❖ Need for protected time for teaching students and residents how to perform asylum evaluations
- ❖ Ethical debates: advocacy as extending beyond evidence-based uses of clinical skills, vs. advocacy as essentially documenting presence of psychiatric symptoms, within scope of practice.

## OPPORTUNITIES:

- ❖ Personally and professionally rewarding work
- ❖ Well established practice in over 20 academic medical centers and NGOs
- ❖ Increasingly accessible via video or telephonic interview, allowing evals for those in US immigration detention facilities or under the "remain in Mexico" policy

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