

# Asylum Seekers in a Time of Record Forced Global Displacement: The Role of the Physician

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*Medical Grand Rounds*  
*July 20, 2017*



# Outline

- Historical and legal background of asylum
- Criteria for gaining asylum
- Performing medical evaluations of asylum seekers
- Forms of torture and persecution and common related scars
- Teaching asylum medicine

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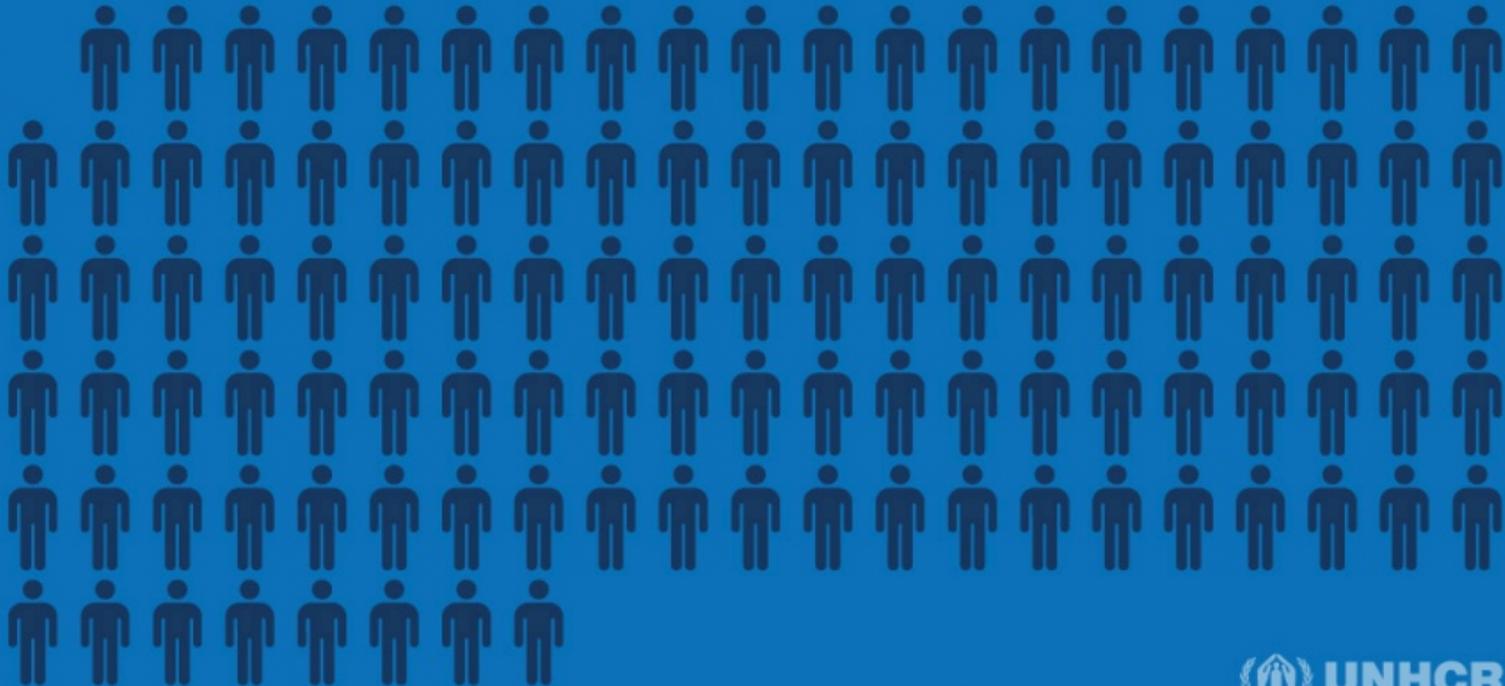
# Ancient History of Asylum



Sanctuary ring on the door of Notre-Dame in Paris  
During the Middle Ages, grasping this ring gave the right of asylum

Gil-Bazo M-T. Asylum as a General Principle of International Law. *International Journal of Refugee Law*. 2015

**1 in every 113 people** on earth is an asylum-seeker, internally displaced or a refugee



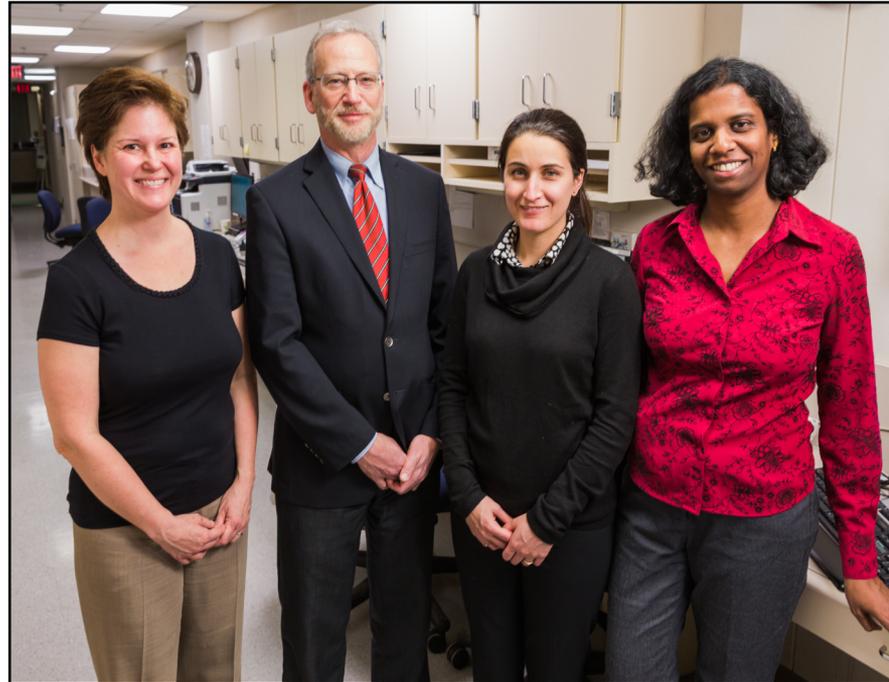
Source: UNHCR / 20 JUNE 2016





Doctors of the World

# Yale Center for Asylum Medicine



# Modern History of Refugees and Asylum



## THE UNIVERSAL DECLARATION OF Human Rights

Article 1 Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of justice, justice and peace in the world.

Article 2 Everyone has the right to life, liberty and security of person.

Article 3 Everyone has the right to life, liberty and security of person.

Article 4 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6 Everyone has the right to recognition as a person before the law.

Article 7 All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal treatment before the law.

Article 8 Everyone has the right to an effective remedy by the competent national authorities for the violations of his fundamental rights recognized in the Declaration.

Article 9 No one shall be subjected to arbitrary arrest, detention or exile.

Article 10 Everyone has the right to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

Article 11 Everyone has the right to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

Article 12 No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13 Everyone has the right to freedom of movement and residence within the borders of each state.

Article 14 Everyone has the right to seek and to enjoy in other countries asylum from persecution.

Article 15 Everyone has the right to nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16 Everyone has the right to marry and to found a family, which is the basis of the peace and stability of the world.

Article 17 Everyone has the right to own property alone as well as in association with others.

Article 18 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

Article 19 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without restriction and to receive and impart information and ideas without any interference by public authorities and regardless of frontiers.

Article 20 Everyone has the right to freedom of peaceful assembly and association.

Article 21 Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Article 22 Everyone has the right to social security.

Article 23 Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Article 24 Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25 Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and social services, and the right to education.

Article 26 Education shall be free, at least in the elementary and technical stages. Elementary education shall be compulsory. Technical and vocational education shall be made generally accessible and higher education shall be open to all on the basis of merit.

Article 27 Everyone has the right to the recognition and the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28 The rights and freedoms set forth in this Declaration are inalienable and shall be protected by the law. Such rights and freedoms shall be exercised by each individual without any of the above-mentioned rights and freedoms being exercised in such a manner as to deprive any other individual of the rights and freedoms hereof.

Article 29 Everyone has duties to the community in which alone the free and full development of his personality is possible.

Article 30 Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms hereof.

### *Article 5*

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or

### *Article 14*

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.



Universal Declaration of Human Rights. United Nations; 1948

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# Legal Criteria for Refugee and Asylum Status

- Persecution [is perpetrated] by the government, or the government [must be] unable or unwilling to provide protection from [that] persecution



UNHCR



World Relief

# Legal Criteria for Refugee and Asylum Status

- Race
- Religion
- Nationality
- Political opinion
- Membership in a particular social group
  - Domestic violence
  - Gang related violence
  - LGBTQ violence
  - Gender related violence
    - Female genital mutilation/cutting
    - Forced marriage



UNHCR



Fisher Jones Greenwood

# Refugee vs. Asylum Seeker

	<b>Refugee</b>	<b>Asylum</b>
<b>Meets legal criteria?</b>		
<b>Timing of legal status?</b>	Granted <u>before</u> entering US	Apply within 12 months <u>after</u> entering US



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OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS  
Geneva



PROFESSIONAL TRAINING SERIES No. 8/Rev.1

# Istanbul Protocol

*Manual on the Effective Investigation and  
Documentation of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment*



UNITED NATIONS  
New York and Geneva, 2004

# YCAM: Medical Evaluations of Asylum Seekers

- Academic legal clinics (Yale and UConn)
- Immigration attorneys
- Human rights groups (Physicians for Human Rights, HealthRight International, American Friends Service Committee, IICONN)



# Interview and Review Injuries Due to Persecution



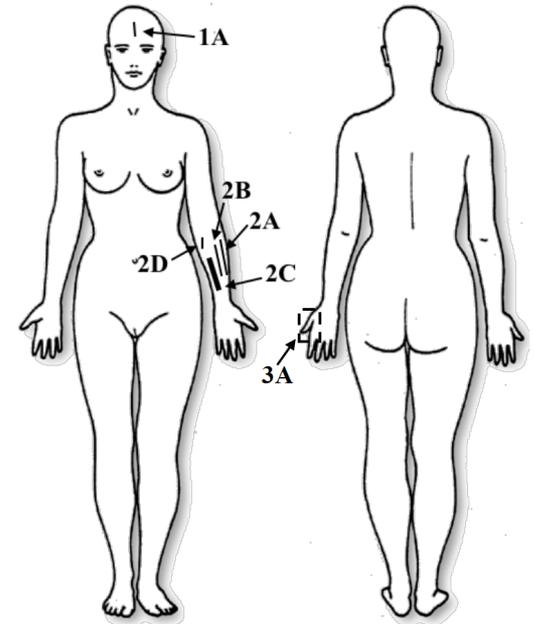
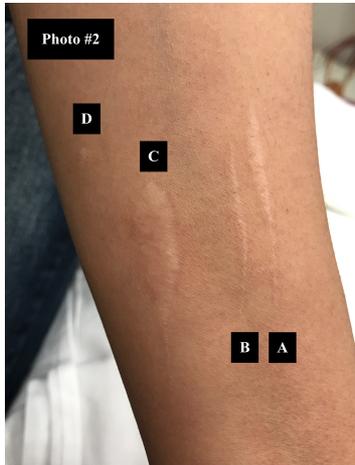
PHR; Examining asylum seekers : a clinician's guide to physical and psychological evaluations of torture and ill treatment. Cambridge, MA: Physicians for Human Rights; 2012.

# Examine Scars Related to Persecution

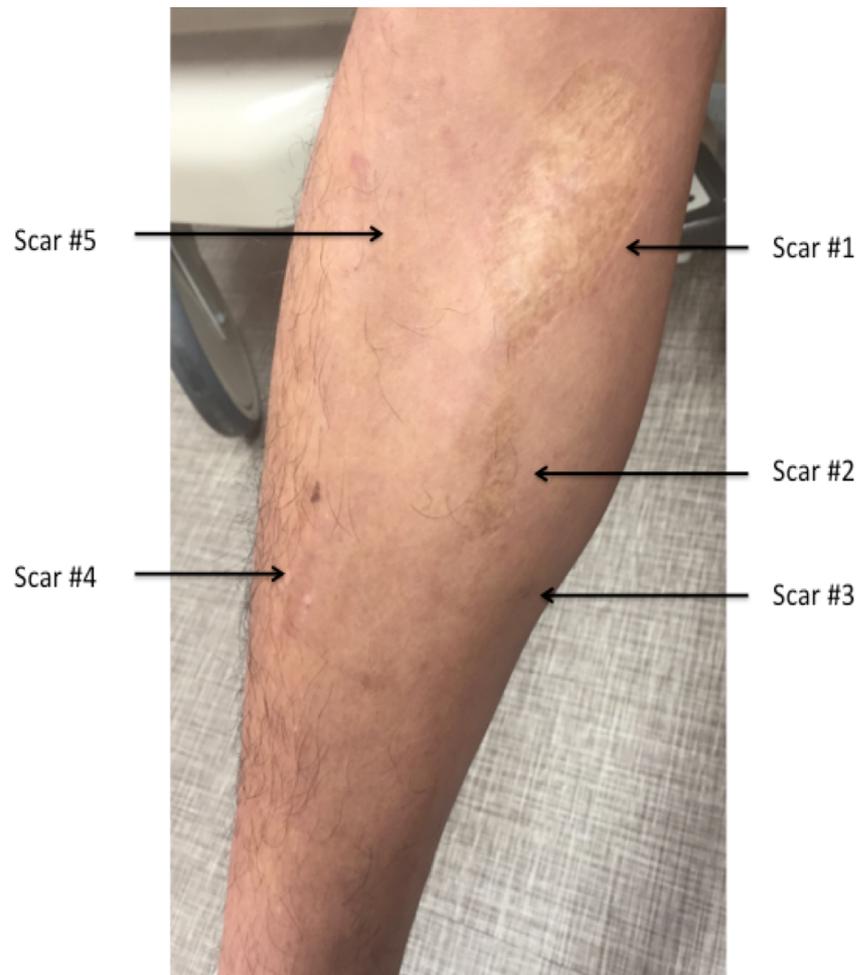


McKenzie KC, Thomas A. Assisting asylum seekers in a time of global forced displacement: Five clinical cases. *Journal of Forensic and Legal Medicine*. 2017

# Documenting Signs of Torture



# Documenting and Describing Signs of Torture



Scar # 1). A 6.5 cm long, 4 cm wide flat and oval shaped scar with irregular pigmentation and sharp borders. It is on the medial side of the right leg and is consistent with a scar from blunt trauma

Scar # 2) A 4 cm long, 1 cm wide flat linear scar on the medial side of the right leg consistent with blunt trauma.

Scar # 3) A 3/4 cm circular hyperpigmented scar on the medial side of right leg consistent with blunt trauma.

Scar # 4) A 3 cm faint pigmented linear scar on the anterior side of right leg consistent with blunt trauma.

# Istanbul Protocol: Degrees of Consistency

<b><i>Not consistent with</i></b>	The lesion <b>could not</b> have been caused by the trauma described
<b><i>Consistent with</i></b>	The lesion could have been caused by the trauma described, but it is non-specific and there are <b>many other possible causes</b>
<b><i>Highly consistent with</i></b>	The lesion could have been caused by the trauma described, and there are <b>few other possible causes</b>
<b><i>Typical of</i></b>	This is an appearance that is <b>usually found</b> with this type of trauma, but there are other possible causes
<b><i>Diagnostic of</i></b>	This appearance <b>could not have been caused in any way other than that described</b>

United Nations, Office of the High Commissioner for Human Rights. Istanbul Protocol manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment. United Nations, New York. 2004.

# Provide Objective, Expert Evidence in Immigration Court

December 2, 2008

**UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION COURT**

**In the matter of the Application for**

**Asylum of DC**

**Declaration of Katherine McKenzie, M.D.**

**QUALIFICATIONS:** I, Katherine C. McKenzie, hereby declare as follows: I am a General Internist and Assistant Professor of Medicine on the full time teaching faculty at Yale School of Medicine and a member of Yale Internal Medicine Associates for the last 14 years. Since 1999, our practice has interviewed and examined a number of applicants referred from both Yale Law School and the University of Connecticut Law School. I have used the material prepared by Physicians for Human Rights to aid in my evaluation of asylum applicants. I have also participated in training presented by Doctors of the World. My training as a Board Certified internist qualifies me to perform this kind of examination.

**INTERVIEW:** I interviewed Ms. C in my office on Thursday, November 20, 2008. Ms. C speaks fluent English.

**HISTORY:** Ms. C is a 31-year-old Tutsi woman from the city of Lubumbashi in the Democratic Republic of Congo (Congo). She is seeking asylum in the United States of America. While she was in Congo, she was abducted, beaten and raped by the Congolese Security Forces operating under President Laurent Kabila. She also witnessed the murder of her father by the security forces.

Scruggs et al. A qualitative study of legal perspectives on medical affidavits in the asylum process. *JFLM*.44:72-8.

# Benefits of a Medical Forensic Evaluation



PHR

A PHR study showed that 89% of asylum seekers who received forensic evaluations through PHR were granted asylum compared to the national average of 37.5% among US asylum seekers who did not receive PHR evaluations

Lustig SL, Kureshi S, Delucchi KL, Iacopino V, Morse SC. Asylum grant rates following medical evaluations of maltreatment among political asylum applicants in the United States. *J Immigr Minor Health*. 2008

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# Forms Of Torture: Blunt Trauma



Forrest D. Examination for the late physical after effects of torture.  
*Journal of Clinical Forensic Medicine*. 1999

# Forms of Torture: Burns



# Forms of Torture: Sharp Trauma



Danielsen L, Rasmussen OV. Dermatological findings after alleged torture. *Torture : Quarterly Journal on Rehabilitation of Torture Victims and Prevention of Torture*. 2006;16(2):108-27

# Forms of Torture: Forced Positioning



PHR



cnn.com



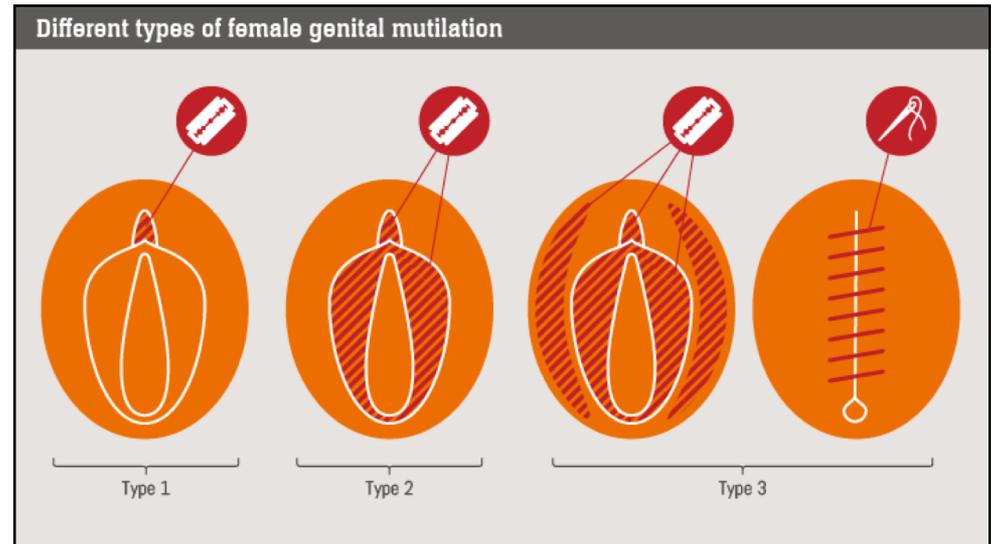
Peel, Editor. The Medical Documentation of Torture. New York: Cambridge University Press; 2002

# Forms of Torture: Suffocation



PHR

# Forms Of Persecution: Gender Based Violence: Female Genital Mutilation/Cutting



***Female genital mutilation/cutting:*** All procedures that involve partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons

Fact Sheet No. 241: Female Genital Mutilation.  
World Health Organization. 2000.

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# Teaching Asylum Medicine at Yale





*“To tame the savageness of man and make  
gentle the life of this world”*

**-Aeschylus**