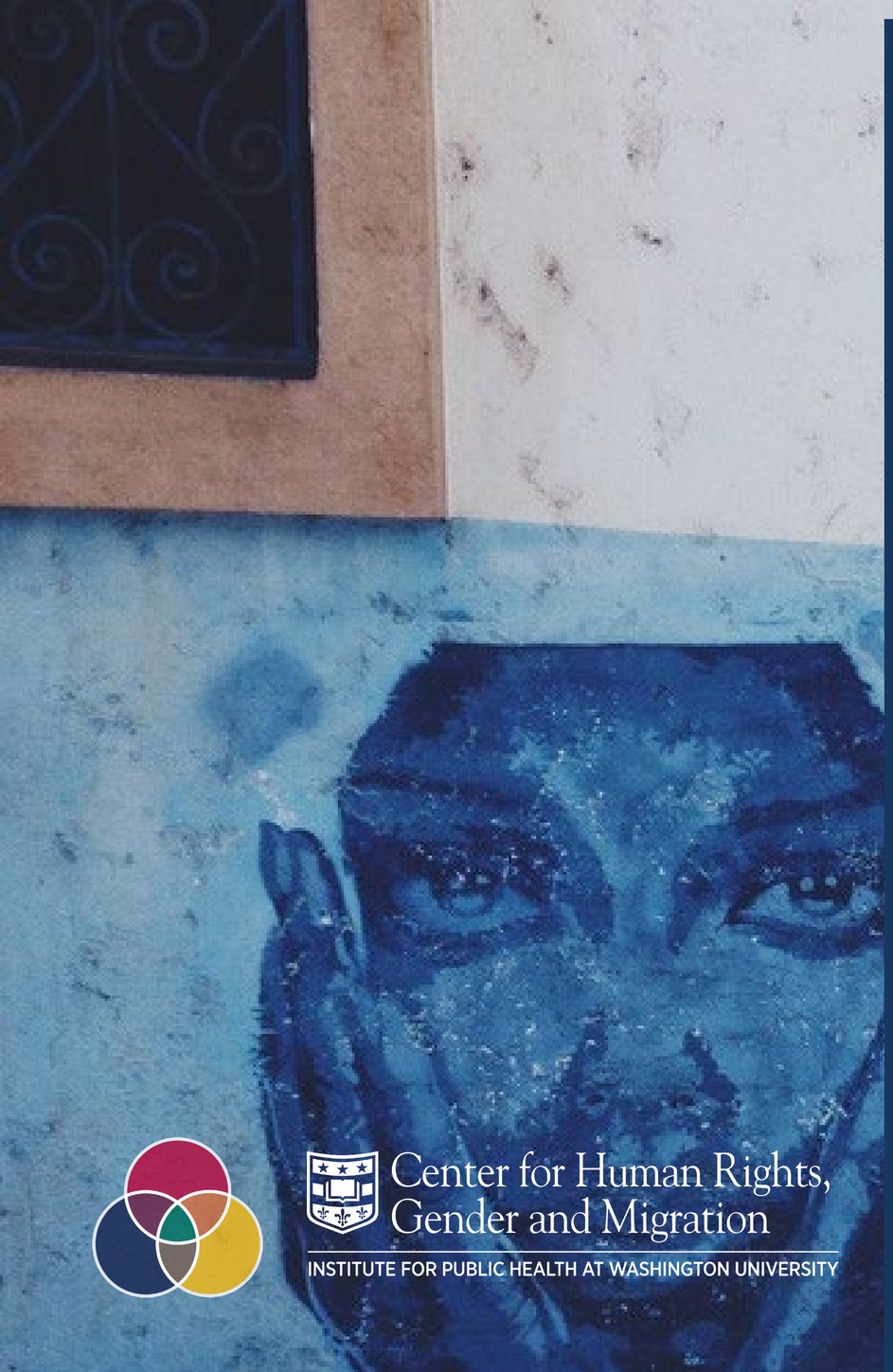


Disclosing and identifying specific needs in the Middle East and North Africa

Training Module, Part 2:
“Disclosure” and specific support and protection needs (including refugee status)

Center for Human Rights, Gender and Migration
INSTITUTE FOR PUBLIC HEALTH AT WASHINGTON UNIVERSITY

MENA Community Protection Network

supported by
UNHCR The UN Refugee Agency

Lesson Objectives

Establish baseline knowledge (pre-test)

Introduce specific support and protection needs

Introduce 1951 Convention and 1967 Protocol and refugee eligibility criteria

Introduce refugee status determination processes

Explore with hypothetical case profiles

Assess knowledge acquisition (post-test)

Knowledge Check!

Pre-test questions

1. What are some specific support and protection needs a person in mixed movements may have?

2. Who is a refugee? Who is an asylum seeker?

3. What kinds of past or future harms might qualify someone for refugee status?

Specific needs
(for support and protection)

Specific Needs: What they are

According to UNHCR, some refugee or IDP groups or individuals in emergency situations face heightened protection risks because of their circumstances or the context.

People at higher risk have “specific needs” and may face specific barriers due to discrimination, their identity, or other factors that prevent them from fully enjoying their rights or accessing services they need.

Individuals in the following categories are generally considered to be at heightened risk:

- girls and boys, including unaccompanied and separated children;
- persons with serious health conditions;
- persons with special legal or physical protection needs;
- single women;
- women-headed households;
- older persons;
- persons with disabilities;
- and persons of diverse sex, sexual orientation or gender identity (LGBTIQ+ individuals).

Specific Needs: Disclosure and Identification

- Importance of early and effective detection (via disclosure / identification efforts);
- Importance of addressing support and protection gaps before they grow more severe;
- Communities: critical role v. potential risks.

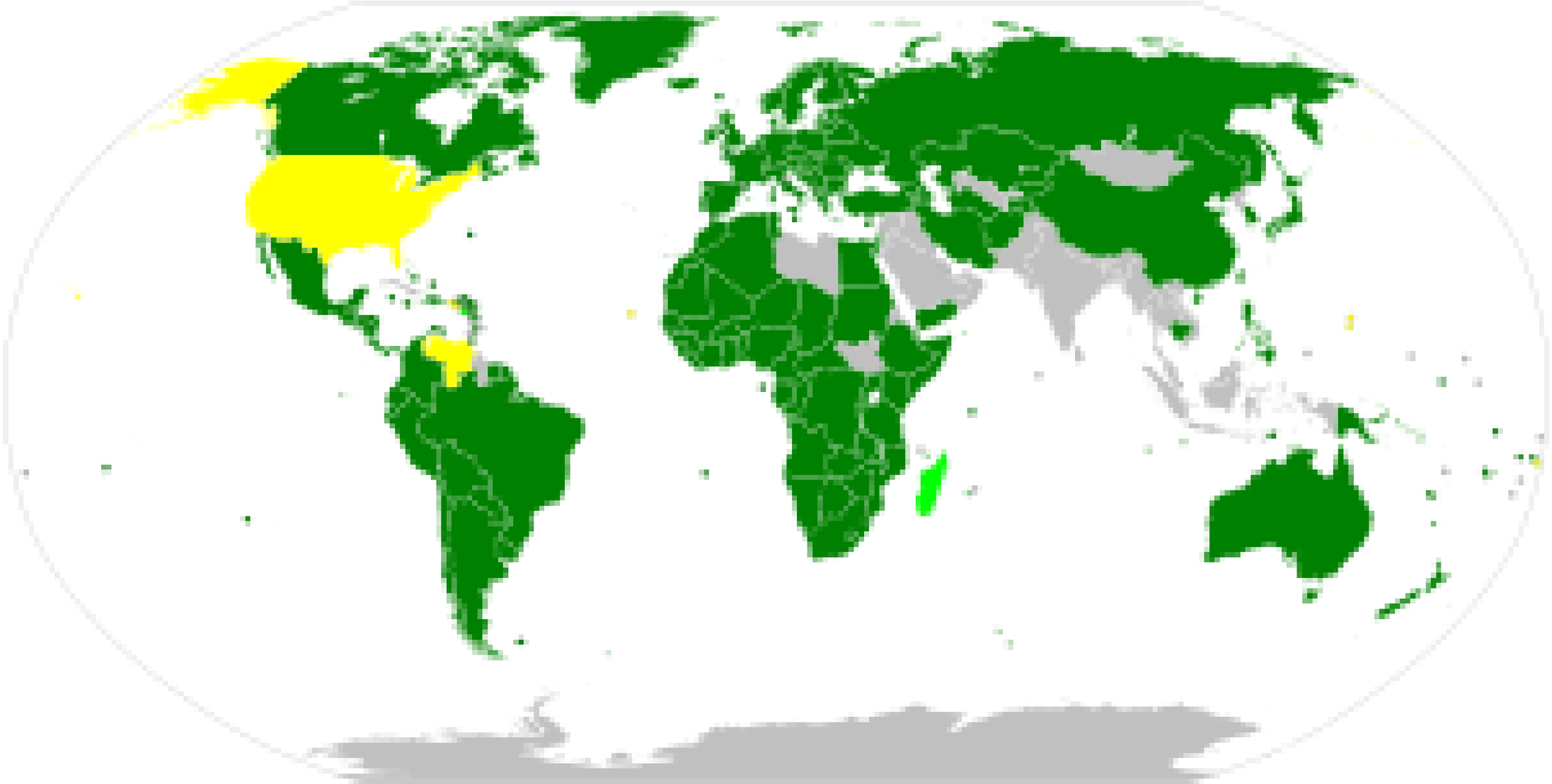
Specific Needs:
Forms of support and protection

There are several forms of support and protection available to persons with specific needs, including:

- Shelter
- Cash assistance
- Psychological or medical care
- Refugee status

Protection in the form of refugee status under the 1951 Refugee Convention & 1967 Optional Protocol

1951 Convention Relating to the Status of Refugees and 1967 Optional Protocol



1951 Convention Relating to the Status of Refugees and 1967 Protocol

A refugee is any person who:

... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country;

or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (Art. 1(A)(2))

“Refugee” v. “asylum seeker” ?

Basic analytical steps to determine eligibility for refugee status / asylum under 1951 Convention / 1967 Protocol

Does the harm feared constitute persecution?

If yes, is it linked to race, religion, nationality, membership in a particular social group, or political opinion?

If so, which one?

Is the fear well-founded?

1. Persecution

- 1951 Convention does not define persecution.
- Art. 33 refers to principle of nonrefoulement, indicating that a “threat to life or freedom” would constitute persecution.
- UNHCR guidance:

*[Persecution] can be considered to encompass serious **human rights** violations, including a threat to life or freedom, as well as other kinds of serious harm. In addition, lesser forms of harm may cumulatively amount to persecution. Discrimination will also amount to persecution where the effect leads to a situation that is intolerable or substantially prejudicial to the person concerned. What amounts to persecution will depend on the **asylum-seeker**'s individual circumstances, including his or her age, gender, opinions, feelings and psychological make-up. Persecution can be related to action by the authorities of the State, but may also emanate from non-state agents, such as armed groups, criminal or organized gangs, family members or the general population, where the State is unable or unwilling to provide **protection**.*

Persecution: True or False?

- Persecution always requires physical contact or injury.
- Persecution can be perpetrated by private actors, not just state actors.
- Only sudden, significant attacks can constitute persecution.
- Discrimination can be a form of persecution.

2. Nexus to a Convention ground

- Race
- Religion
- Nationality
- Membership of a particular social group
- Political opinion

3. Well-founded fear

- Is there a reasonable possibility of future harm (based on past experiences, country conditions information, ongoing threats, etc.)?

- Is the government in the country of origin likely to offer meaningful protection?

Other Considerations

- Internal relocation: Can the applicant live safely somewhere else in his/her country? If so, they may not be eligible for refugee status. Note that persecution by state actors can be assumed to be country-wide.

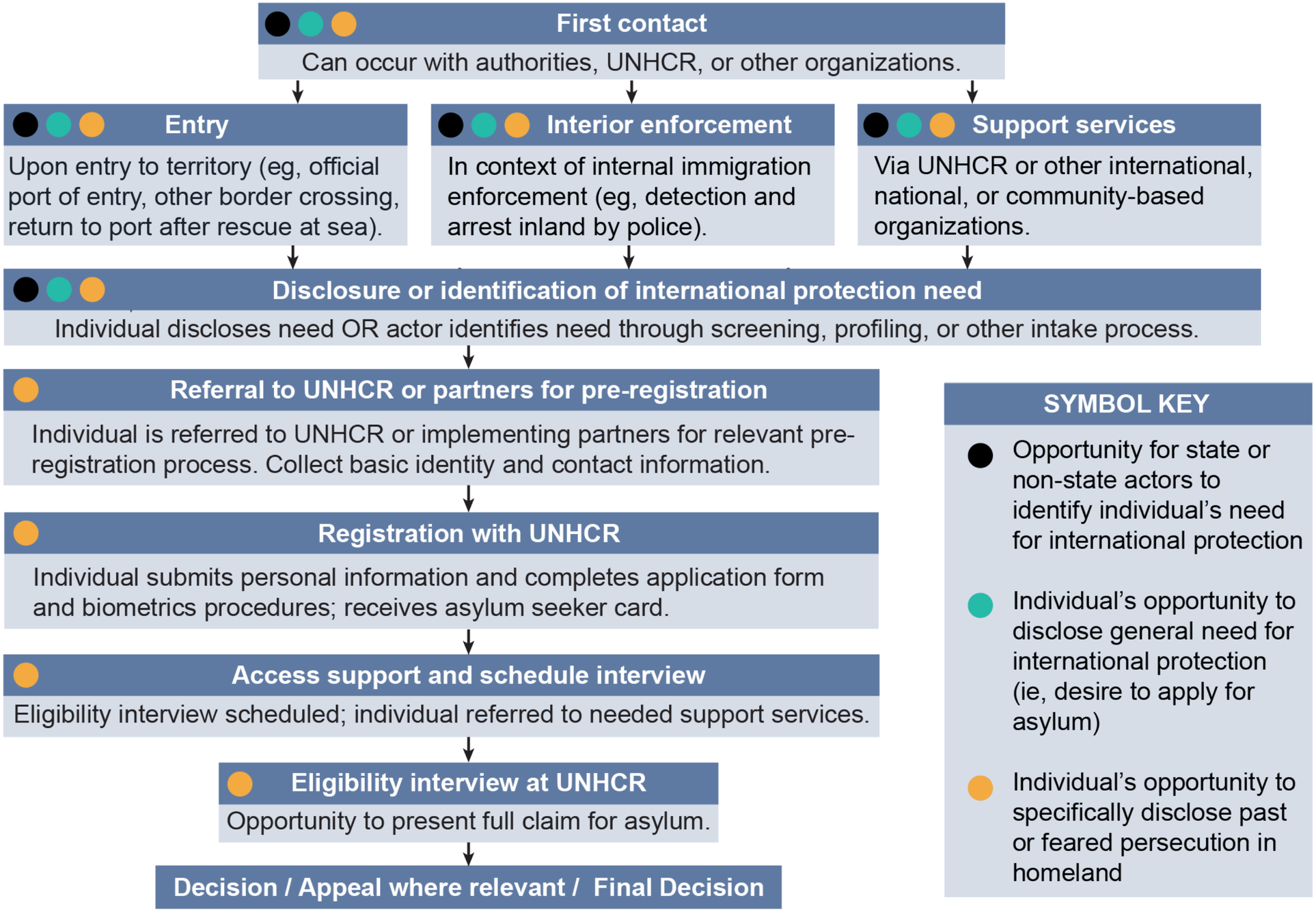
- “Refugee sur place” claims: If the claim is based on a changed circumstance since the applicant has left his/her country, there is no past persecution to evaluate. Analysis is only forward-looking.

- Credibility is key. It can be assessed based on multiple factors, including consistency (internal and with objective facts) and demeanor. Note: Trauma may affect how someone speaks about their past – it can affect perceptions of credibility.

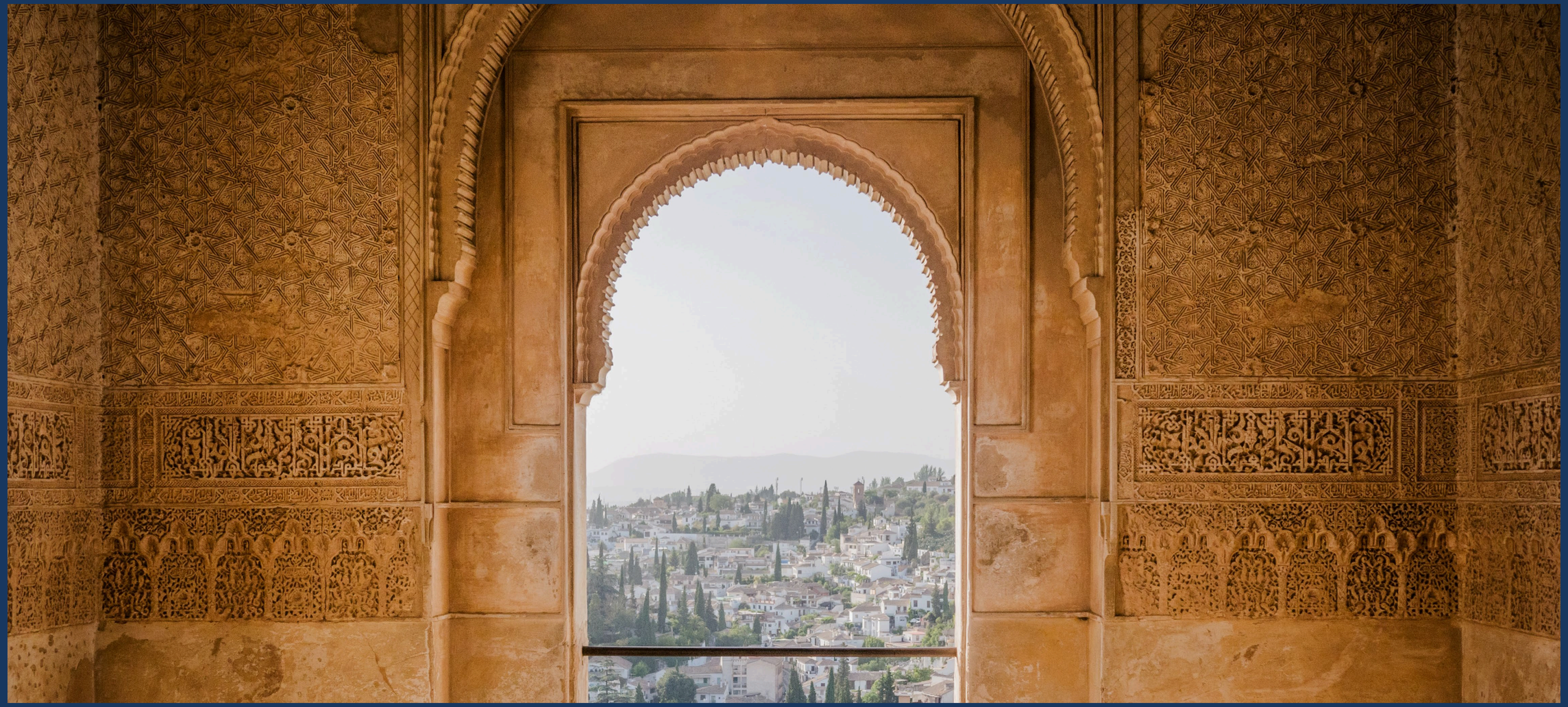
Exclusion grounds

- Even if someone meets the basic definition of “refugee” in the 1951 Convention & 1967 Optional Protocol, they may still be excluded from international protection.
- Art. 1(F) of the 1951 Convention excludes from protection persons for whom there are “serious reasons” to believe they:
    - Committed crimes against peace, war crimes, or crimes against humanity;
    - Committed a serious non-political crime outside the country of refuge, prior to coming to country as a refugee;
    - Are guilty of acts contrary to the purposes of the United Nations.
- These grounds of exclusion are interpreted and sometimes expanded by states themselves.

UNHCR’s Process for Refugee Status Determination (RSD)


First contact
Can occur with authorities, UNHCR, or other organizations.
Entry
Upon entry to territory (eg, official port of entry, other border crossing, return to port after rescue at sea).
Interior enforcement
In context of internal immigration enforcement (eg, detection and arrest inland by police).
Support services
Via UNHCR or other international, national, or community-based organizations.
Disclosure or identification of international protection need
Individual discloses need OR actor identifies need through screening, profiling, or other intake process.
Referral to UNHCR or partners for pre-registration
Individual is referred to UNHCR or implementing partners for relevant pre-registration process. Collect basic identity and contact information.
Registration with UNHCR
Individual submits personal information and completes application form and biometrics procedures; receives asylum seeker card.
Access support and schedule interview
Eligibility interview scheduled; individual referred to needed support services.
Eligibility interview at UNHCR
Opportunity to present full claim for asylum.
Decision / Appeal where relevant / Final Decision
SYMBOL KEY
Opportunity for state or non-state actors to identify individual's need for international protection
Individual's opportunity to disclose general need for international protection (ie, desire to apply for asylum)
Individual's opportunity to specifically disclose past or feared persecution in homeland

Responding to disclosure of specific needs: Scenario for discussion



Malia, Part 1: Life in home country

Malia is a 20-year-old woman from the minority Denbe group, living in the country of Caba. She never went to school. All her life, people from the Toza ethnic majority have called her a “sano”, a derogatory term for Denbes. It means “vermin.”

Last year, a group of young men jeered at Malia and her two year old daughter as they walked home from the market, calling them “sano garbage". When Malia ignored them, the men chased them and started pushing her and her daughter around. The baby fell and started crying, so the men ran away. Malia’s husband went to the police to report the men. The police officer on duty told him he didn’t have time to help “a stupid sano.”

Six months ago, four drunk young military recruits followed Malia through the market, speaking the Toza language and calling her “sano”; they threatened to rape her if she wasn’t “careful.” The following week, one of the same Toza cadets, still in uniform, approached Malia on the street and grabbed her by the throat, saying “You still looking for trouble, little sano?” Malia was terrified and ran home. She stopped going outside. The following month, Malia’s husband was arrested.

Malia, Part 2: Initial Disclosure

After the arrest of her husband, Malia's family told her to leave Caba with her children. She traveled across many borders to arrive here last week. They are a group of 3: Malia and her two young children, ages 2 and 4.

Today, Malia has come to your office with her children because members of the local Denbe community told her your office could help her.

When she finally steps into your office, Malia simply says to you, "I need your help. I have been through so much and now I have nothing."

What is your first reaction? Is there anything you would do right away?

Malia, Part 3: Responding to specific needs

1. What kinds of immediate support do you think Malia might need? Why do you think this?

2. What, if anything, can you do to help her explain her specific support and protection needs?

3. Do you think Malia might be eligible for refugee status? Why or why not? Where could you refer her to learn more about her possible eligibility?

Post-test questions

1. What are some specific support and protection needs a person in mixed movement may have?

2. Who is a refugee? Who is an asylum seeker?

3. What kinds of past or future harms might qualify someone for refugee status?

Discussion and close

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