



Research for Briefs

How to prove your asylum case

Presented By

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Outline

- o Legal Research
- o Country Condition Research
- o Experts



Legal Research

Charity Ramsey, Esq.

READ.



WRITE.



RINSE.



REPEAT.



THE RESEARCH CYCLE.

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Know your sources of law.

- Constitution
- Immigration Laws (Congress)
- Regulations of USCIS, DOS, DOL etc.
- Case Decisions
 - U.S. Federal Courts
 - Board of Immigration Appeals
- Internal operating instructions, agency memoranda

Know where to find them.

- Supreme Court and Court of Appeals Decisions
 - <http://scholar.google.com>
 - has a limited citator function, plus internal links to cases cited
 - caselaw.findlaw.com
 - has a topic search and text search functionality
 - <http://www.gpo.gov/fdsys/search/advanced/advsearchpage.action>
 - search in any federal government publication—only has court opinions dating back to 2004.

INS v. Cardoza-Fonseca, 480 US 421 - Supreme Court 1987 - Google Scholar - Google Chrome

← → ↻ https://scholar.google.com/scholar_case?about=8382431444026854396&q=well+founded+fear&hl=en&as_sdt=6,48 ☆ ☰

Web Images More... CharityLRamsey@gmail.com

INS v. Cardoza-Fonseca, 480 US 421 - Supreme Court 1987

Google Scholar

Read **How cited** Search

How this document has been cited

“ —and "If a court, employing traditional tools of statutory construction, ascertains that Congress had an intention on the precise question at issue, that intention is the law and must be given effect", ”
- in [Swallows Holding, Ltd. v. Commissioner of Internal Revenue, 2006](#) and 115 similar citations

“ Under current standards, where a statute's words are clear, resort may be had to legislative **history** "to determine only whether there is `clearly expressed legislative intention'contrary to that language.... ” ”
- in [Rodriguez v. Bowen, 1988](#) and 65 similar citations

“ This standard of proof is more stringent than the "**well-founded fear** of persecution" standard for asylum eligibility. ”
- in [Singh v. Ilchert, 1995](#) and 63 similar citations

“ "An agency interpretation of a relevant provision which conflicts with the agency's earlier interpretation is entitled to considerably less deference than a consistently held agency view." ”
- in [Martin v. NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES, 2009](#) and 341 similar citations

“ —noting "the longstanding principle of construing any lingering ambiguities in deportation statutes in favor of the alien ” ”
- in [Evangelista v. Ashcroft, 2004](#) and 177 similar citations

“ T] o show a `**well-founded fear** of persecution,'an alien need not prove that it is more likely than not that he or she will be persecuted in his or her home country ” ”
- in [Pagayon v. Holder, 2011](#) and 98 similar citations

“ Few principles of statutory construction are more compelling than the proposition that Congress does not intend sub silentio to enact statutory language that it had earlier discarded in favor of other language ” ”

Cited by

☰ [Branch v. FCC](#)
824 F. 2d 37 - Court of Appeals, Dist. of Columbia Circuit 1987

☰ [Negusie v. Holder](#)
129 S. Ct. 1159 - Supreme Court 2009

☰ [Shao v. Mukasey](#)
546 F. 3d 138 - Court of Appeals, 2nd Circuit 2008

☰ [Succar v. Ashcroft](#)
394 F. 3d 8 - Court of Appeals, 1st Circuit 2005

☰ [Tarvand v. USINS](#)
937 F. 2d 973 - Court of Appeals, 4th Circuit 1991

[all 4,868 citing documents »](#)

Related documents

[Chevron USA Inc. v. Natural Resources Defense Council, Inc.](#)
467 US 837 - Supreme Court 1984

[INS v. Stevic](#)
467 US 407 - Supreme Court 1984

[INS v. Elias-Zacarias](#)
502 US 478 - Supreme Court 1992

[INS v. Aguirre-Aguirre](#)

○ BIA Decisions

○ <http://www.justice.gov/eoir/vll/libindex.html>

○ not searchable but a precedent chart by topic is available: <http://www.justice.gov/eoir/bia-precedent-chart>

○ <http://ailalink.aila.org/login.html>

○ requires AILA membership—check with your office



○ Statutes:

○ <http://www.uscis.gov/iframe/ilink/docView/SLB/HTML/SLB/act.html>

○ <https://www.law.cornell.edu/uscode/text/8>

○ <http://uscode.house.gov/browse.xhtml>

○ Regulations:

○ <http://www.ecfr.gov/>

○ <https://www.law.cornell.edu/cfr/text>

○ Policy:

○ <http://www.uscis.gov/laws> (also has links to statutes, cases, etc.)

○ <http://www.justice.gov/eoir/oppm-log>

Practice Advisories: Don't reinvent the wheel.

- Kurzban's Immigration Law Sourcebook (expensive, but a very good resource)
- Asylum Officer's Basic Training Manual
<http://www.uscis.gov/humanitarian/refugees-asylum/asylum/asylum-division-training-programs>
- UNHCR, Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status <http://www.unhcr.org/3d58e13b4.html>
- UNHCR, Guidelines on Int'l Protection: Child Asylum Claims, UN doc. HCR/GIP/09/08 <http://www.unhcr.org/50ae46309.html>
- Google—there's a lot of free advisories out there, just make sure it's from a good source and check the date



Structuring the Argument: “Elementary, my dear Watson.”

- Who is a Refugee?
- What rises to the level of persecution for a child?
- Is there a well-founded fear of future persecution?
- What is the protected ground?
- Nexus!
- Is the government unwilling or unable to protect?
- Can the child relocate internally?



Miscellaneous Tips

- Writing for an IJ and an Asylum Officer is different
 - Asylum Office
 - Keep it short—the less you write, the more likely the officer is to actually read it.
 - You can use footnotes for easy reading.
 - Immigration Judge
 - Make sure you fully develop the argument for the record.
 - But don't go overboard; the poor judge still has to read it.
 - Use citation sentences.



o Write well:

- o Proper grammar and punctuation are crucial.
- o Clear and concise beats verbose or convoluted every time.
- o Don't mix the rule and the application.
- o Don't mix up your elements.
- o Reach out to your network for samples and resources.



Country Conditions

Alissa A. Cooley, Esq.



Where to Start

Department of State Website

- <http://www.state.gov/j/drl/rls/hrrpt/index.htm>
- 2014 Human Rights Reports
- DOS may only provide a basic, superficial account of the country's conditions
- Although not incredibly helpful, include it anyway! The AO will look it up so you may as well provide it.



Bureau of Democracy, Human Rights and Labor Country Reports on Human Rights Practices for 2014

[Translations](#) | [Other Years](#) | [Basic Text](#) | [Slideshow](#)



[Learn more](#) about the U.S. Government's engagement on human rights abroad

Secretary's Preface



Select a Country/Region:

- Afghanistan
- Albania
- Algeria
- Andorra
- Angola
- Antigua and Barbuda
- Argentina
- Armenia
- Australia
- Austria
- Azerbaijan
- Bahamas, The
- Bahrain

Filter by Region:

- All Regions
- Africa
- East Asia and the Pacific
- Europe and Eurasia
- Near East
- South and Central Asia
- Western Hemisphere

↑ When reading a country report, jump to a topic

Secretary's Preface

The fundamental str... aspirations.
Life, liberty, and the...
That is why it is esp... governments.
For far too many peo... totalitarian ideology,
In parts of the Midd... human life, period. V... and indiscriminately.

es us toward it is a set of universal values and
ocean shores.
on their freedoms and rights from their own
iting religious discourse and divisions to advance their
errorism.
zero regard for human rights; they have zero regard for
sell girls into slavery, and execute innocents widely

Almost every week brings new examples of just how far the evil of these groups reaches.
We all witnessed the brutality and nihilism of the horrific attacks by Pakistani Taliban and Boko Haram on schoolchildren, the assassinations of *Charlie Hebdo* journalists, and numerous outrages and killings carried out by ISIL. The rise of ISIL was in part a consequence of, and illustrated the dangers of, atrocities committed by the government of **Syria** and failures of inclusive governance in **Iraq**.



Bureau of Democracy, Human Rights and Labor
Country Reports on Human Rights Practices for 2014
Nicaragua

[Translations](#) | [Other Years](#) | [Basic Text](#) | [Slideshow](#)
 HUMANRIGHTS.GOV
[Learn more](#) about the U.S. Government's engagement on human rights abroad

Nicaragua

PDF Permalink: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236704>

EXECUTIVE SUMMARY Share

Nicaragua is a multi-party constitutional republic, but in recent years political power has become concentrated in a single party, with an increasingly authoritarian executive branch exercising significant control over the legislative, judicial, and electoral branches. In 2011 the Supreme Electoral Council (CSE) announced the re-election of President Daniel Ortega Saavedra of the Sandinista National Liberation Front (FSLN) in elections international and domestic observers characterized as seriously flawed. International and domestic organizations raised concerns regarding the constitutional legitimacy of Ortega's re-election. The 2011 elections also provided the ruling party with a supermajority in the National Assembly, allowing for changes in the constitution, including extending the reach of executive branch power and the elimination of restrictions on re-election. Observers also noted serious flaws during the 2012 municipal elections and March regional elections. Authorities generally maintained effective control over the security forces.

The principal human rights abuses were restrictions on citizens' right to vote, including significantly biased policies to promote single-party dominance; widespread corruption, including in the police, CSE, Supreme Court of Justice (CSJ), and other government organs; and societal violence, particularly against women and lesbian, gay, bisexual, and transgender (LGBT) persons.

Additional significant human rights abuses included police abuse of suspects during arrest and detention; harsh and life-threatening prison conditions; arbitrary and lengthy pretrial detention; erosion of freedom of speech and press, including government intimidation and harassment of journalists and independent media; increased restriction of access to public information, including national statistics from public offices; government harassment and intimidation of nongovernmental organizations (NGOs) and civil society organizations; trafficking in persons; discrimination against ethnic minorities and indigenous persons and communities; societal discrimination against persons with disabilities; discrimination against persons with HIV/AIDS; and violations of trade union rights.

The government rarely took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in government. Impunity

Reports and Studies



- International:
 - United Nations High Commissioner for Refugees (UNHCR)
 - Amnesty International
 - Human Rights Watch
 - U.S. Committee for Refugees and Immigrants (USCRI)
 - Project for Global Democracy and Human Rights, World Policy Institute
 - Ref World
 - Inter-American Commission on Human Rights Publications
- Regional or local

Admissibility (evidence)?

- i.e. acceptability
- Information from well-known sources, like established human rights groups or commissions, will likely be acceptable.
- If you aren't sure, include it anyway. If the source's reliability is suspect, do not.



Articles



- You need to submit materials that pertain to the specific issues at the heart of your asylum claim.
- Many NGO reports cover broad topics.
- Articles, scholarly and news, typically cover narrower issues.
- Consider including local and regional news articles client's home country.
- Including materials from local sources can lend credibility to your client's claims of past or future persecution

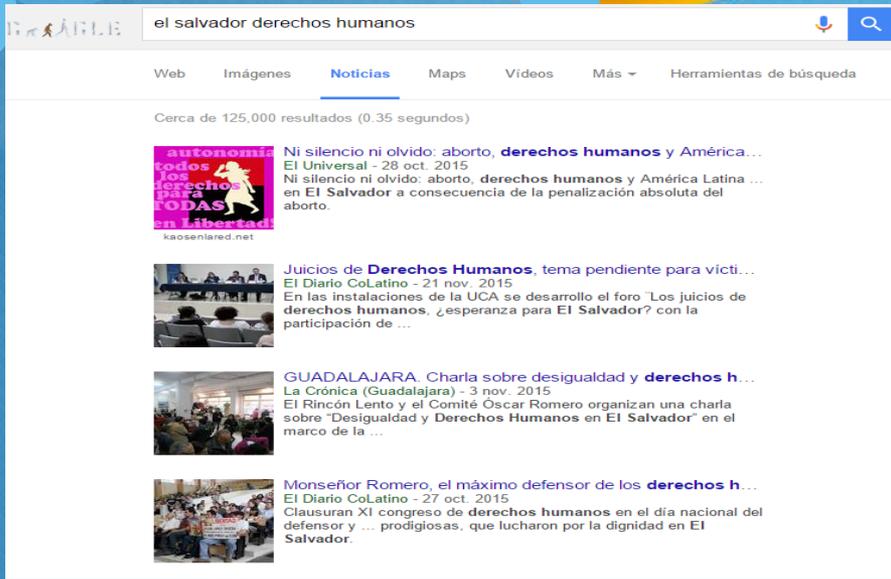
○ Use a Spanish language search engine.

○ https://www.google.com/?hl=es&gws_rd=ssl

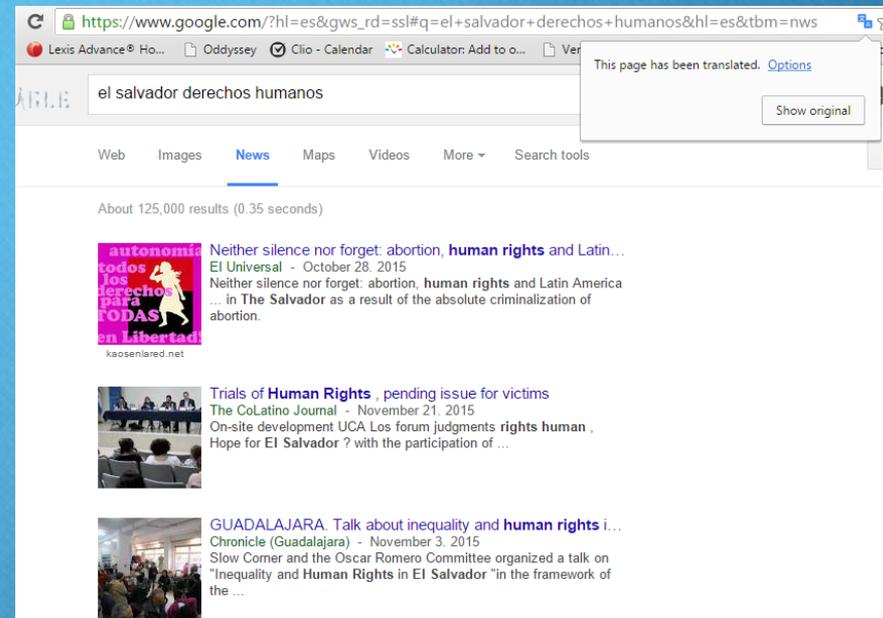


Buscar con Google

Me siento con suerte



○ Use the translate function (right-click on the page) to translate it into English.



Don't worry, you got this!



The background features a large orange circle on the left, a blue thought bubble at the top, and a blue pen nib on the left side. The main content is on a dark blue rounded rectangular bar.

Experts

Katelyn M. Leese, Esq.



Experts can:

- Corroborate and supplement client's testimony – boost credibility
- Prove existence of a particular social group (including particularity and social distinction)
- Supplement country condition in proving that a fear is *well-founded*
- Prove past-persecution (physical and mental harm)

Types of Experts

- Country of Origin (CO) Experts
- Forensic Experts
 - Mental health clinicians
 - Physicians
 - Child development



NOW SUCH EXPENSIVE

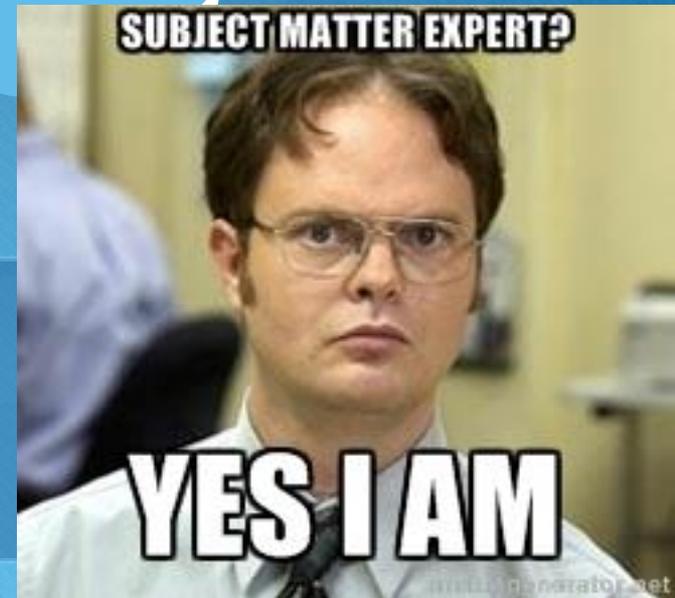


MUCH BROKE WOW

memer

Note: Experts are expensive!

CO Experts



- Academic researchers (professors and PhD candidates) – don't forget researchers from CO
- Lawyers
- Journalists
- Community organizations
- Government officials, commissions, or agencies

Searching for CO Experts

- Universities and think tanks – search publications on SSRN, EBSCOhost, etc.
- Authors of country condition reports, human rights reports, etc. – check end notes too
- Lists of Experts compiled by NGOs
 - **Center for Gender and Refugee Studies (CGRS)**
 - **International Refugee Rights Initiative (IRRI) - Rights in Exile Programme**



How to Secure an Expert

- Explain who you are and what you do
- Describe the desired product
- Ask if they can provide their services pro bono - remind that you are working pro bono through a non-profit
- Schedule call or meeting to discuss case: legal theory, facts, etc. – make sure they sign a **confidentiality agreement**
- Some experts will send you a retainer agreement

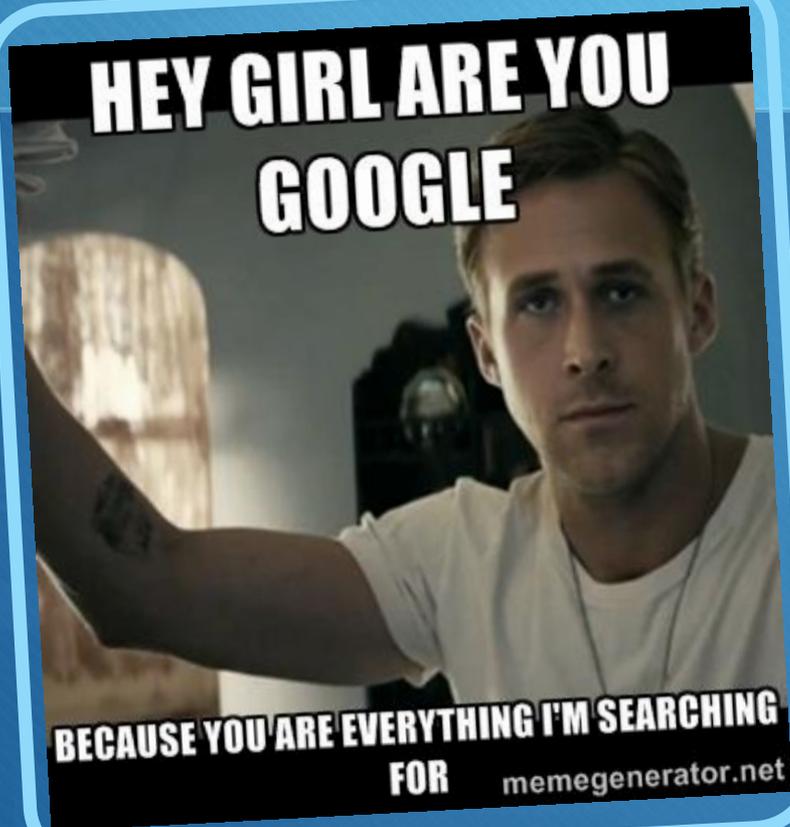
CO Expert Hack

Affidavits can vary in specificity – more generalized affidavits can be used in multiple cases (though may be less helpful)

Mental Health Experts

- Prove existence and source of trauma, i.e. harm
- Provide a trauma evaluation, forensic evaluation, or letter
- Forensic or clinical psychiatrists, psychologists, and social workers
- *Language*

Tip: Make sure you have a signed HIPPA Consent to Release Personal Health Information when you connect with the provider



Searching for Mental Health Experts

Expert Witness Directories

jurispro.com

Expertpages.com

Local university / community
mental health clinic for evaluation
or referrals to clinicians or
forensic practitioners

Local NGOs for children

State-funded mental health
resources

Physicians for Human Rights



Mental Health Expert Hack

To reduce costs, ask providers for a letter confirming diagnosis and source of trauma instead of a full evaluation



Physicians

- Verify existence and source of condition, injury, or scar
- Corroborate testimony of persecution and torture



Finding a Physician

- Google search local practitioners
- Community health clinics
- University medical schools
- **Physicians for Human Rights**

Helpful Resources: Experts

- CGRS - Expert affidavits, lists of experts: <http://cgrs.uchastings.edu/assistance/request>
- IRRI – List of experts by country: <http://www.refugeelegalaidinformation.org/country-origin-information-experts#countrylist>
- Physicians for Human Rights: <http://physiciansforhumanrights.org/asylum/for-attorneys.html?referrer=http://physiciansforhumanrights.org/>



Questions

(come on, don't be shy)