

UC Davis Human Rights Initiative

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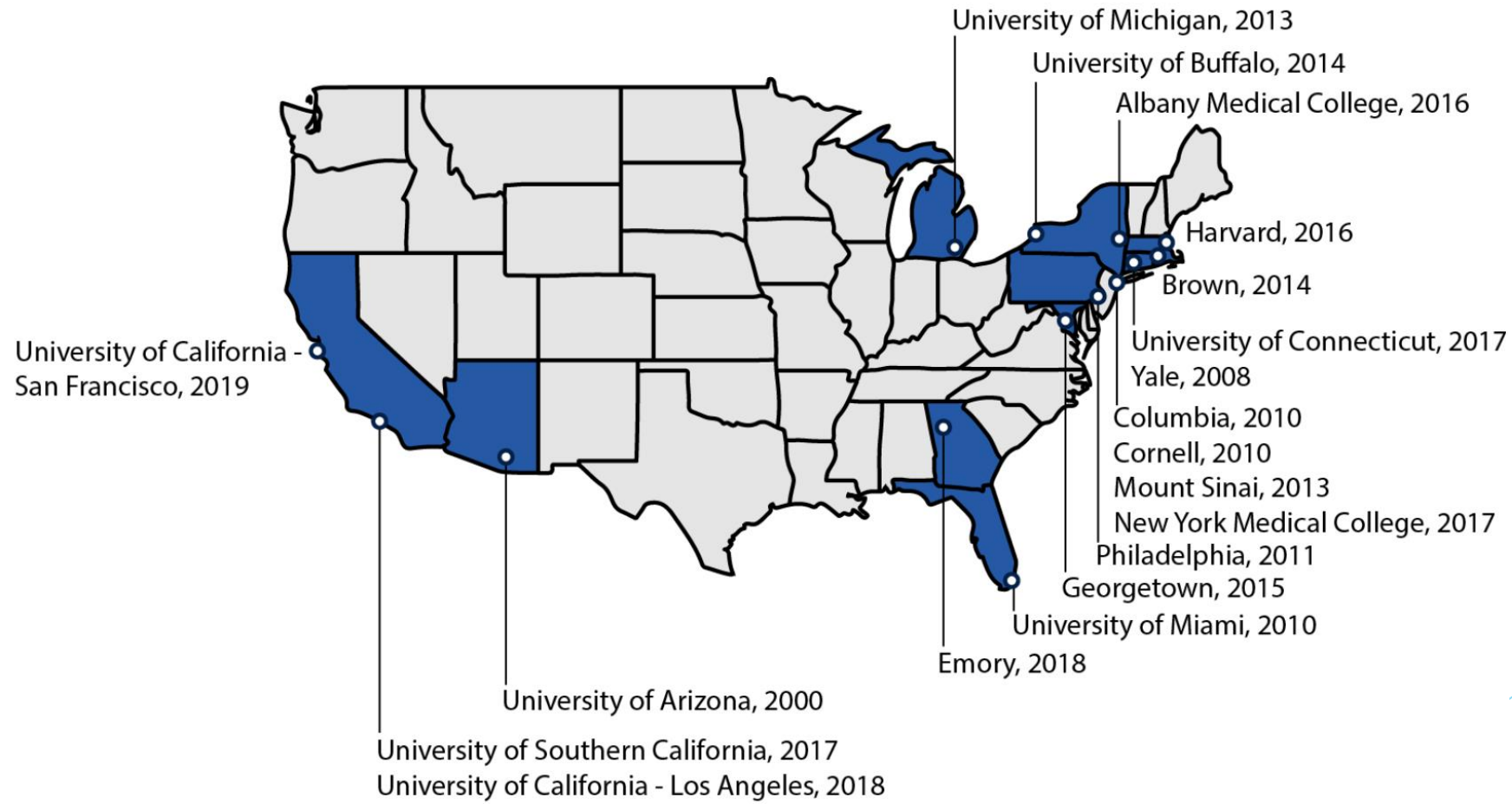
What is the UC Davis Human Rights Initiative?

- ▶ Mission: “The UCD Human Rights Initiative (HRI) provides forensic documentation of the physical and psychological manifestations of torture and ill-treatment experienced by individuals applying for asylum in the United States.”
 - ▶ Supplements the declarations written by immigration lawyers for their clients.
- ▶ Greater opportunity for asylum to be granted for cases supported by a medical evaluation.
 - ▶ 2008 study which followed 1663 cases - 89% of cases supported by a medical/psychological exam were granted asylum compared to 37.5% cases that lacked that support

Why is there a need for this type of clinic?

- ▶ “the basic protection of a human person” is the most fundamental human right per international human rights laws.
- ▶ Yet, torture and ill-treatment as a whole are endured by many members of our human family.
- ▶ "Everyone has the right to seek and to enjoy in other countries asylum from persecution." (Universal Declaration of Human Rights, article 14);
- ▶ Medical and mental health practitioners can play an important role in helping individuals achieve asylum, as an extension of our obligation to provide for the well-being and safety of others in the context of their physical and mental health.

Student-Run Human Rights Clinics in the U.S.



Asylum Cases in the United States

- ▶ ~470,000 affirmative asylum applications are pending with the U.S. Citizenship and Immigration Service (UCSIS), as of 4/2022.
 - ▶ Delay for an initial interview approval can reach four years

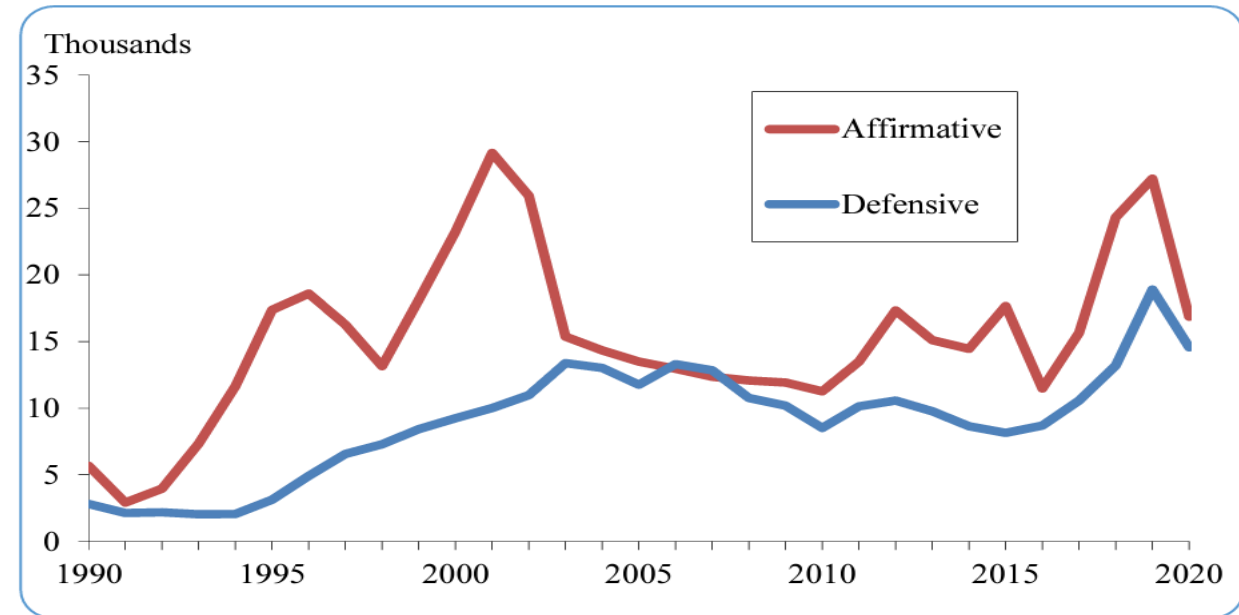
- ▶ ~1.8 million open removal cases (defensive) as of 6/2022.
 - ▶ On average, defensive cases can also be pending for ~4 years, with many remaining unresolved

Table 13.

Individuals Granted Asylum Affirmatively by State of Residence: Fiscal Years 2018 to 2020 (Ranked by 2020 state of residence)

State of residence	2018		2019		2020	
	Number	Percent	Number	Percent	Number	Percent
Total	24,317	100.0	27,226	100.0	16,864	100.0
California	8,092	33.3	9,205	33.8	5,656	33.5
New Jersey	1,340	5.5	2,544	9.3	1,609	9.5
Florida	3,069	12.6	2,469	9.1	1,563	9.3
Texas	1,583	6.5	1,798	6.6	916	5.4
Illinois	890	3.7	1,454	5.3	868	5.1
New York	2,021	8.3	2,125	7.8	841	5.0
Pennsylvania	567	2.3	773	2.8	451	2.7
Ohio	245	1.0	643	2.4	441	2.6
Indiana	287	1.2	650	2.4	418	2.5
Washington	394	1.6	484	1.8	334	2.0
Other	5,829	24.0	5,081	18.7	3,767	22.3

Figure 5. Annual Grants of Affirmative and Defensive Asylum: 1990 to 2020



Affirmative vs Defensive Asylum Cases

- ▶ **Affirmative:** an applicant not currently in removal proceedings who applies through USCIS, a division of the Department of Homeland Security (DHS).
 - ▶ If the application is denied by the asylum officer, the person then is referred to an immigration court for removal proceedings
 - ▶ Request now placed defensively through court
- ▶ **Defensive:** an individual who is in removal proceedings
 - ▶ Immigration court system is a part of the Executive Office for Immigration Review (EOIR).
 - ▶ Unlike criminal court system, a lawyer is not provided and client must find their own.

Definitions

- ▶ Asylee: “someone who is also seeking international protection from dangers in his or her home country, *but whose claim for refugee status hasn’t been determined legally.*”
- ▶ Refugee: “someone who has been forced to flee his or her home because of war, violence or persecution [*but has legal status in their receiving country.*”
- ▶ Immigrant: “someone who makes a conscious decision to leave his or her home and move to a foreign country with the intention of settling there.”
- ▶ Migrant: “someone who is moving from place to place (within his or her country or across borders), usually for economic reasons such as seasonal work.”
 - ▶ Both immigrants and migrants are not leaving their countries because of persecution and violence, but for better opportunities

Five Protected Grounds of Asylum

- ▶ Race
- ▶ Religion
- ▶ Nationality
- ▶ Membership in a Particular Social Group
 - ▶ Members of a family
 - ▶ Members of a tribe
 - ▶ Gender-based groups
 - ▶ People of a common sexual orientation
- ▶ Political Opinion

Alternative Forms of Relief of Removal

- ▶ Withholding of Removal
- ▶ Protection under the Convention Against Torture (CAT)
- ▶ Violence Against Women Act
- ▶ U-visa
- ▶ T- visa

Asylum Evaluations

- ▶ Purpose of medical and psychological evaluations
 - ▶ “establish the facts relating to the alleged torture”
 - ▶ “evaluate and document the level of consistency of these events with the physical and psychological evidence of torture”
 - ▶ “render expert interpretations of the findings in medical-legal evaluations and provide expert opinions regarding findings and sequelae in court hearings”
- ▶ Primary care providers can qualify as an expert in both physical evaluations and basic psychological evaluations (ie - anxiety, MDD, PTSD)
- ▶ Need to first complete training in forensic evaluations

Asylum Evaluations

- ▶ Potential challenges in completing torture history and exam
 - ▶ Difficulty of survivor to recount specific details due to factors during torture such as LOC, blindfolding, trauma-associated dissociation, TBI
 - ▶ Protective mechanisms of denial and avoidance
 - ▶ Fear of placing oneself or others at risk by revealing the torture details
 - ▶ Lack of trust in the examiner
- ▶ When inconsistencies arise, seek further clarification, ensure accurate interpretation, and further assessment of above concerns

Asylum Evaluations

- ▶ Pre-interview
 - ▶ Review the attorney's declaration
 - ▶ Ensure interpreter is available
- ▶ Consider potential barriers and strategies to minimize them
 - ▶ Physical barriers: pain, blindness, deafness, fatigue
 - ▶ Psychological barriers: anxiety, MDD, PTSD, other mental illnesses, cognitive deficits, fear
 - ▶ Sociocultural barriers: language, culture, accuracy of the interpreter, gender of the interviewer/interpreter
 - ▶ Environmental barriers: lack of privacy or lack of comfort in interview setting

Asylum Evaluations

- ▶ Interview
 - ▶ Obtain informed consent
 - ▶ Explain interview process and purpose in detail to the client to help build trust
 - ▶ Clarify that your role is as a forensic evaluator and not as a treating clinician
 - ▶ Discuss confidentiality and its limits
 - ▶ Explain in advance that client can take breaks, can stop the evaluation at anytime, and can ask questions
 - ▶ Be aware that interview may be triggering to the client of their past trauma and therefore give them the space to discuss/process this

Asylum Evaluations

- ▶ Interview template
 - ▶ Prior health hx: PMHx, PSHx, FHx, SHx (including religion, education, occupation), mental health hx, medications, allergies, prior injuries and associated scars
 - ▶ Hx of detention and abuse
 - ▶ Method of torture and ill treatment
 - ▶ Phases of injury and recovery

Asylum Evaluations

▶ Physical Exam

- ▶ “the body is a privileged site that demonstrates the impact of torture. It can provide important confirmatory evidence [to bolster an asylum seeker’s case]”
- ▶ A full physical and psychological exam recommended
 - ▶ Skin exam is particularly important for evidence of injuries and scars related to the trauma
 - ▶ Differentiating those from other injuries, birth marks, surgical scars, etc
 - ▶ Be able to recognize and describe lesions by their location, symmetry, shape, size, color, pigmentation, surface, demarcation
 - ▶ Differentiating for example abrasions, contusions, burns, lacerations, incisions, puncture wounds, electrical injuries, alopecia, etc

Asylum Evaluations

- ▶ Assessment - using appropriate terminology to discuss the findings and your conclusions
 - ▶ Not consistent
 - ▶ Findings could not have been caused by the discussed trauma
 - ▶ Consistent with
 - ▶ Findings are non-specific and could have been caused by the described trauma or another cause
 - ▶ Highly consistent
 - ▶ Findings could have been caused by the described trauma; there are few other possible causes
 - ▶ Typical of
 - ▶ Findings are usually found with this type of trauma but there could be other possible causes
 - ▶ Diagnostic of
 - ▶ These findings could not have been caused by anything other than the described trauma
- ▶ Submit affidavit for review by the immigration attorney

What Does Obtaining Asylum Mean?

- ▶ Security
 - ▶ being able to live without fear of being deported and tortured again
- ▶ Support
 - ▶ access to food stamps, other government support, job training
- ▶ Possibility of a family reunion
- ▶ Permission to work
- ▶ An opportunity to rebuild their life including receiving physical and mental health treatment

Back to UCD HRI

- ▶ Where we are at currently
 - ▶ Dr. Jain and I have completed four forensic evaluations with local immigration attorneys
 - on 7/1/22, one of our clients received asylum!
 - ▶ Once a month clinic with a team of medical students and residents
- ▶ The future
 - ▶ Lunchtime seminar spearheaded by our medical student team
 - ▶ Collaborating with UCSF to develop a platform (REDCap) to create a standardized template to more efficiently document affidavits for our clients
 - ▶ Continuing to build up our clinic with interested faculty, residents, and medical students who have completed a forensic evaluation training

Inspiration For This Work

- ▶ My family's story
- ▶ Working with immigrants including refugees and asylees at Shifa Community Clinic and Sacramento County Health Center
- ▶ Amazing mentorship from Dr. Sharad Jain (UCD) and Dr. Triveni Defries (UCSF)
- ▶ An enormous thank you to Dr. Shagufta Yasmeen and Shifa Clinic for allowing us to use their clinic as our site for the Human Rights Clinic
- ▶ A huge thanks to our medical student and resident team for helping us move this project forward

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