

# Forced Migration

## Class 6: protected grounds II (PSG)

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## Nexus to Protected Ground (continued)

### Particular Social Group

# Nexus to Protected Ground

Hypothetical (from last week)

Mladen is a Bosnian musician who entered the United States in 1992 on a student visa and was recently placed in removal proceedings. He is seeking asylum based on having been severely beaten by members of the Bosnian Serb Army while performing at a club in the town of Foča. The soldiers told him his music was terrible and that they were taking over the club because it was needed for the war effort. Two days after the beating, the owner of the club was killed by these same soldiers. Mladen was never involved in politics and didn't want to have anything to do with the war, so he took a bus to Belgrade, and from there he flew to the United States.

**How would you argue Mladen's case as a particular social group claim?**

# Nexus to Protected Ground

## PSG: Protected Characteristics

*Acosta*: PSG defined by shared characteristic that “members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences.”

# Nexus to Protected Ground

## PSG: Voluntary Association

*Sanchez-Trujillo*: “Of central concern is the existence of a voluntary associational relationship among the purported members, which imparts some common characteristic that is fundamental to their identity as a member of that discrete social group.”

# Nexus to Protected Ground

## PSG: Social Visibility

C-A-: “Our decisions involving social groups have considered the recognizability, i.e., social visibility, of the group in question.”

# Nexus to Protected Ground

## PSG: Particularity

*S-E-G-*: “The essence of the ‘particularity’ requirement . . . is whether the proposed group can accurately be described in a manner sufficiently distinct that the group would be recognized, in the society in question, as a discrete class of persons. . . . [T]he key question is whether the proposed description is sufficiently ‘particular,’ or is ‘too amorphous . . . to create a benchmark for determining group membership.’”

# Nexus to Protected Ground

## PSG: UNHCR Guidelines

¶ 11: “[A] group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights.”

¶ 13: “[I]f a claimant alleges a social group that is based on a characteristic determined to be neither unalterable or fundamental, further analysis should be undertaken to determine whether the group is nonetheless perceived as a cognizable group in that society.”



# Nexus to Protected Ground

PSG: DOJ Proposed Rule (not adopted)

Non-exclusive factors to consider:

- ▶ close affiliation
- ▶ common motive or interest
- ▶ voluntary associational relationship
- ▶ recognized as social faction in country in question
- ▶ members view themselves as members of group
- ▶ society distinguishes members for different treatment or status