

'Ceased Circumstances' Cessation Clauses: Making Gender Visible



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Overview of presentation

- **Introduction: Cessation as Punishment?**
- **Part 1 Law: 'Ceased circumstances' cessation**
- **Part 2 Legal criteria**
- **Part 3 Dynamic interpretation of cessation**
- **Conclusion: Cessation as Protection**



Introduction

Cessation as Punishment

- Ends refugee status (individual or prima facie) in country of asylum
- Asylum country to determine (often with UNHCR assistance)
- Not a durable solution
- Dynamic interpretation using international human rights
- Legal requirement to include gender
- *Travaux* (working documents) 1951 Conv and women's needs



PART 1

**'Ceased circumstances'
cessation clauses**

Legal criteria 'ceased circumstances' cessation

- Articles 1C(5) and (6) of the 1951 UN Refugee Convention
- Article I(4)(e) OAU Convention
- Article 6(iv) AALCO Bangkok Principles
- Other





Law

Article 1C(5) and (6) UN Convention

- Articles 1C(5) and (6) provides that the 1951 UN Refugee Convention shall cease to apply to any person falling under the terms of Article 1(A) if:

He [or she] can no longer, because the **circumstances in connexion with which he [or she] has been recognized as a refugee** have ceased to exist, continue to refuse to avail himself [or herself] of the protection of the country of his [or her] nationality [or former habitual residence];

Provided that this paragraph shall **not apply to a refugee falling under section A(1) of this Article who is able to invoke compelling reasons** arising out of previous persecution for refusing to avail himself [or herself] of the protection of the country of nationality [or former habitual residence].



Law

Other: General IL Principles / IHRL

- General principles of international law:
principle of state sovereignty, international cooperation
- International human rights law:
dynamic interpretation of cessation



PART 2

Legal Criteria for Ceased Circumstances Cessation

**Under-development, confusion and the
invisibility of gender**



Legal Criteria: Cessation for 'Ceased Circumstances'

- (i) Change in the country of origin
fundamental, stable and durable
- (ii) removal of the threat of persecution causing flight
mirror to the refugee definition (restrictive approach of Australia/Germany)
- (iii) removal of persecution + adequate protection
'double guarantee', *'Hoxha & Anor'* (UK, 2005), also UNHCR
- (iv) 'compelling reasons' exception
grave violations, humanitarian principle (UNHCR)

Legal Criteria 'underdeveloped'

- Both the texts and state practice to interpret the ceased circumstances clauses are 'underdeveloped'

Joan Fitzpatrick, 1999

Georgia Cole, 2021

- The ceased circumstances clause is 'troublesome in its application': objective assessment of change, procedural fairness, exceptions

Siddiqi, 2011



Legal Criteria: confusion and inconsistency

- If, how and when cessation for 'ceased circumstances' should be triggered (eg CAR)
- Confusion about UNHCR's role to trigger cessation
- Whether an individual determination is required

Individual process required but rare, not a de novo hearing, UNHCR Guidelines, 2003, para 18.

- Diverging legal tests

Interpretation of legal criteria: Invisibility of Gender

- Invisibility of gender in academic commentary, state practice, UNHCR guidance documents (1997, 1999, 2003), key Executive Committee Conclusions on cessation (No. 65 (XLII) of 1991, No. 69 (XLIII) of 1992)
- No/limited reference in tripartite agreements (UNHCR, country origin, country asylum) have limited references to 'sex', 'gender', 'woman'/'women' – eg 'go and see' visits
- Refugee women do not meaningfully participate in decisions to invoke cessation of refugee status on a group basis.



PART 3

Dynamic Interpretation of 'Ceased Circumstances' Cessation Clause

Making Gender Visible

Dynamic interpretation: international human rights law

- There is requirement that the 'ceased circumstance' clause be interpreted in light of international human rights law (academic commentary eg Foster; UNHCR; and Executive Committee conclusions)
- International refugee law can better protect women's rights using a dynamic interpretation: drawing on international human rights law
 - Querton

Conclusion: Cessation as Protection

- The appropriate **substantive legal test must include all four elements** (change in the country of origin, absence of persecution, availability of protection, exceptions for compelling reasons)
- The procedure to trigger cessation for changed circumstances may be done on a group basis but there must be a **gender-sensitive individual process** for those who have ongoing protection needs
- Cessation for ceased circumstances can have dire consequences if applied incorrectly, and international protection designed to protect can perpetuate oppression
- A **dynamic interpretation of cessation using international human rights law includes gender considerations.**

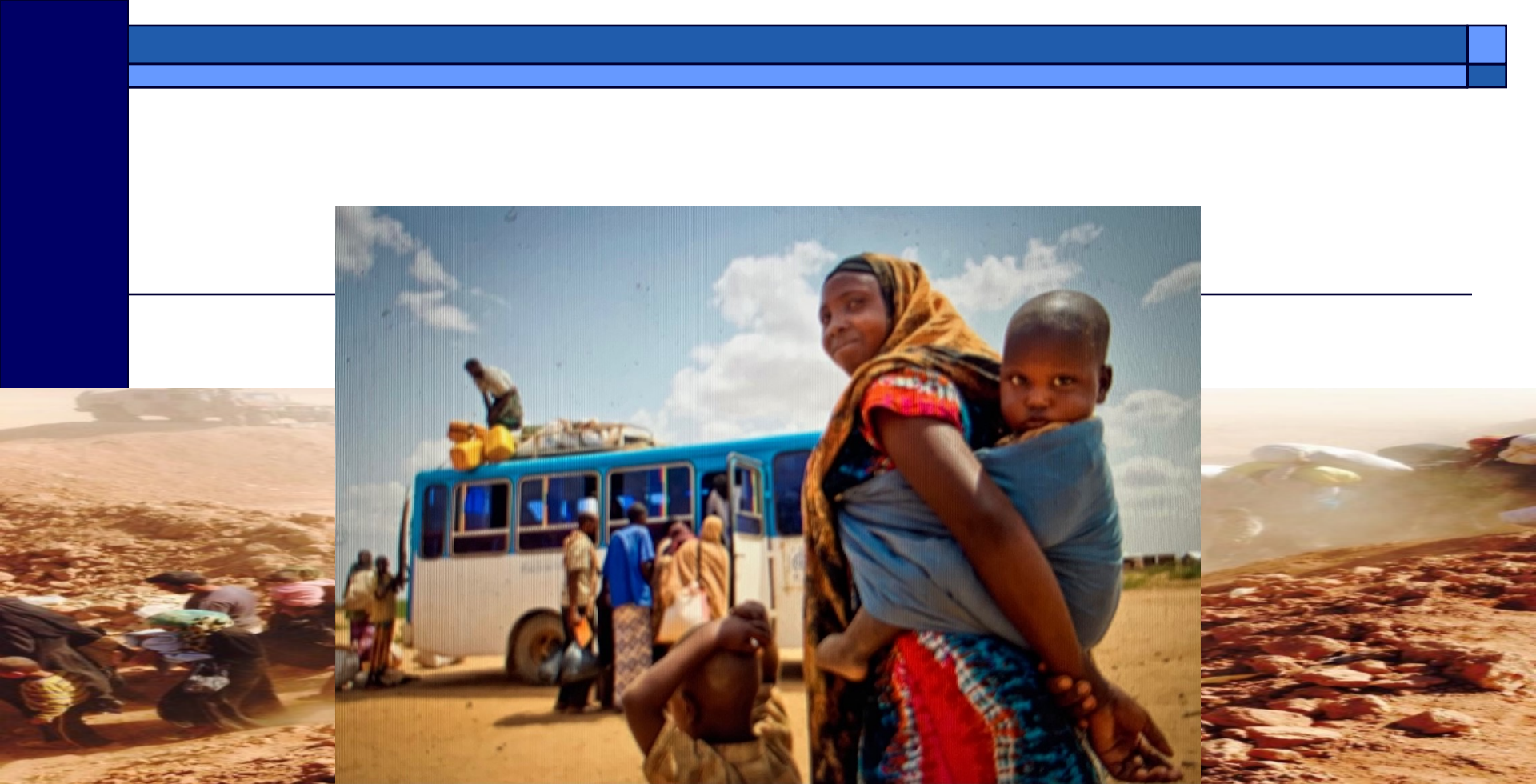
Further Reading

Yacoub Natasha 'Women's Rights and the Criteria for Cessation of Refugee Status for 'Ceased Circumstances'

<https://unsworks.unsw.edu.au/entities/publication/606c4ca8-f3f1-4836-86bb-d774b5c5c8bc/full>

Yacoub, Natasha, 'Feminist Approaches to Recenter Humanity in International Migration Law', in J. Jarpa Dawuni, and others (eds), *The Oxford Handbook of Women and International Law*, Oxford Handbooks (January 2026)

<https://doi-org.wwwproxy1.library.unsw.edu.au/10.1093/oxfordhb/9780197653647.013.0041>



Thank you