

Credibility Issues in Children's Asylum Claims: Findings and Recommendations

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Establishing credibility is critical in all asylum claims. But children and young people— who have no right to appointed counsel—face particular challenges explaining their fear of persecution to U.S. government officials. These challenges have only deepened over the last decade, as the shifting legal standards governing credibility determinations have created a higher bar.

The Center for Gender & Refugee Studies (CGRS) tracks trends in children's asylum claims across the country at all levels of adjudication, recently releasing an advisory for practitioners on *Credibility in Child Fear-of-Return Claims*. We analyze three principal factors that shape the determination of credibility in children's claims: age and developmental stage, social and cultural factors, and the impact of trauma. We offer here two key recommendations for making the asylum system more fair and efficient in assessing children's claims: sensitive adjudicators in specialized settings and universal representation. Until these recommendations are implemented, the advisory suggests strategies and provides examples that demonstrate how advocates and asylum seekers have successfully navigated challenges in real cases.

As the number of young people forced to flee their homes increases, developing an in-depth understanding of the obstacles they face in presenting credible claims takes on additional importance for adjudicators and advocates alike. Acknowledgment of these challenges is not new; [UNHCR guidance](#) has recognized the [special vulnerabilities](#) of children for more than a decade. U.S. agency guidance requires [Asylum Officers](#) to make their determinations with an awareness of the distinct challenges children face in establishing their credibility. Executive Office for Immigration Review (EOIR) [guidelines](#) emphasize that “legal requirements, including credibility standards and burdens of proof, are not relaxed or obviated for juvenile respondents” but directs Immigration Judges to use child-sensitive procedures in their courtrooms.

Three Factors Impacting Children's Credibility

Age and developmental factors: Age and developmental stage impact children's understanding of abstractions like time or distance, and their susceptibility to believing improbable threats. Children also suffer emotional harm when caregivers are threatened or harmed. Additionally, they cannot always recall events with the same level of detail as an adult and may have trouble remembering events that took place when they were very young. While generally accepted developmental stages may be associated with certain

ages, children seeking asylum may lag in reaching a developmental stage as a result of factors like trauma or malnutrition.

Social and cultural factors: Children might be told a different or incomplete version of events in order to shield them from information that could scare or confuse them. They may have been taught not to show emotions based on their gender, and may be reluctant to express their own viewpoints or contradict adults, including their advocates.

Impact of trauma: Exposure to trauma can cause memory deficits that persist into adolescence and adulthood. This is particularly significant in asylum proceedings where adjudicators expect even child asylum seekers to present a consistent, chronological, and detailed story.

Case Studies Underscore Importance of Representation

Pulling examples from CGRS's database of over 60,000 asylum cases, the advisory highlights diverse fact patterns where child claimants successfully overcame credibility challenges and were granted relief. This includes a case where advocates successfully argued that 16- and 14-year-old witnesses could credibly testify to events occurring when they were six and four years old, respectively, by reinforcing with testimony of an adult who had contemporaneous knowledge of the events. And it highlights another case in which documenting a young person's mental health disorder helped explain discrepancies between his testimony and documentary evidence.

The advisory illustrates ways in which advocates can corroborate the claims of young people, for example by supplementing their testimony with declarations from adult witnesses, documenting trauma and mental health diagnoses to explain memory deficits, and relying on evidence to reduce the need for child claimants to testify, which can be re-traumatizing.

Two Recommendations for Reform

While some children seeking asylum are able to establish their credibility, the adjudication system needs reform. We make two key recommendations for meeting the needs of child asylum seekers: sensitive adjudicators in specialized settings and universal representation. Children would be best served by placing their claims in front of appropriately trained adjudicators, supported by attorneys.

Individuals interested in reading the full practice advisory, *Credibility in Child Fear-of-Return Claims*, and obtaining additional resources can fill out a case intake form at <https://cgrs.uchastings.edu/assistance>. Readers interested in obtaining a copy not for a specific case may email their request to cgrs-ta@uchastings.edu. Those interested in reform recommendations may write to CGRS@uchastings.edu.