# Notes

#### General Argument

This is a topicality argument against the Gender Asylum affirmative. It does not apply to the other affs — they “meet” the interpretation for sure.

The argument is that this year’s resolution should be limited to affirmatives about work and family. It argues that the plan is a humanitarian action that falls outside of the scope of the resolution.

The affirmative will argue that legal immigration does include asylum. They will also read a “counter interpretation” — a different interpretation of the words “legal immigration” that they think is better for debates.

# Negative

## 1NC

### 1NC — Topicality “Legal Immigration”

#### The [first/next] off-case is Topicality “Legal Immigration.”

#### A. Interpretation — Legal Immigration is limited to family and work visas.

Passel and Fix, 94- Jeffrey S. Passel is Director, Program for Research for Immigration Policy, The Urban Institute, Washington, D.C.; Michael Fix is Director, Immigrant Policy Program, The Urban Institute, Washington, D.C (“U. S. Immigration in a Global Context: Past, Present, and Future” GLOBAL LEGAL STUDIES JOURNAL 2:5, https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1024&context=ijgls

The structure and goals of U.S. immigration policy are frequently misunderstood in contemporary debates. U.S. immigration policy needs to be viewed not as one, but as three fundamentally different sets of rules. There are those that govern legal immigration (i.e., mainly sponsored admission for family and work); those that govern humanitarian admissions (refugees and asylees); and those that govern illegal entry. The distinction is important for several reasons. Each set of rules is governed by different legislation, involves different networks of bureaucracies, is guided by different goals, and results in immigrants with largely different characteristics.

Attention focused on the failure to control undocumented immigration has led journalists, the public, and many politicians to conclude that U.S. immigration policy, as a whole, has failed. Our research and that of others (some of which is presented below) indicate that this is not the case. However, as a result of the focus on undocumented immigration, the "bright line" between legal and illegal policy has been blurred and the legitimacy of legal and humanitarian admissions has been eroded.

Another result of failure to recognize these distinctions is the common misunderstanding that U.S. immigration policy is driven almost entirely by economic goals. In fact, legal immigration policy serves many goals. The economic ones can sometimes be contradictory-increasing U.S. competitiveness abroad may conflict with raising the standard of living and protecting U.S. jobs. Immigration policy is also intended to serve the important social goal of unifying families (principally of U.S. citizens) and the cultural goals of promoting diversity in the U.S. population and immigrant stream. Refugee policy is intended to serve the moral goal of promoting human rights. Most current assessments of U.S. immigration policy do not acknowledge the power and value of these non-economic goals.

Finally, the number, characteristics, and patterns of adaptation of immigrants entering the United States as refugees, as legal immigrants, and as illegal immigrants differ in important ways that are often ignored in research and policy debates.

#### B. Violation — The affirmative deals with asylees, which are a form of humanitarian admission.

#### C. Reasons to Prefer —

#### 1. Limits and Ground — Allowing the affirmative to be debated would introduce an entirely new set of arguments and create two new classes of affirmatives that would make it difficult for the negative to prepare for debate.

#### 2. Precision — Only the negative’s interpretation maintains a clear and distinct bright line of what is topical.

#### D. Topicality is a voting issue for reasons of competitive equity.

## 2NC/1NR

### Extend: “Neg Interpretation Good”

#### The legal framework is completely different for refugees — the aff creates confusing debates that are difficult to prepare for and unlimits the topic.

Passel and Fix, 94- Jeffrey S. Passel is Director, Program for Research for Immigration Policy, The Urban Institute, Washington, D.C.; Michael Fix is Director, Immigrant Policy Program, The Urban Institute, Washington, D.C (“Immigration and Immigrants: Setting the Record Straight” 5/1, http://webarchive.urban.org/publications/305184.html#II **italics in original**

MAKING SENSE OF IMMIGRATION POLICY

Making policy sense of the widely varying types of action represented in this chronological sketch requires clear separation of three distinct parts of U.S. immigration policy: (1) legal immigration, (2) humanitarian admissions, and (3) illegal immigration. Failure to keep these domains separate may be the most important source of confusion in the current national debate.

The distinction is crucial because the three domains are governed by different legislation, administered by different bureaucracies, and involve different administrative functions—functions that range from paramilitary operations to apprehend illegals, to language training to facilitate immigrant integration. The various parts of immigration policy are also motivated by different goals.

### They Say: “Counter-Interpretation”

#### The plan governs immigrant policy – not immigration policy – that’s extremely unlimiting and undermines cohesive negative ground.

Passel and Fix, 94- Jeffrey S. Passel is Director, Program for Research for Immigration Policy, The Urban Institute, Washington, D.C.; Michael Fix is Director, Immigrant Policy Program, The Urban Institute, Washington, D.C (“Immigration and Immigrants: Setting the Record Straight” 5/1, http://webarchive.urban.org/publications/305184.html#II **Italics and bold in the original**

**Immigration policy involves three fundamentally different sets of laws, regulations, and institutions—those that govern legal immigration, those that govern humanitarian admissions (refugees and asylees), and those that control illegal entry**. Important distinctions between these separate and distinct domains have frequently been lost in the current debate over immigration policy.

**U.S. immigration policy is governed by five broad goals:** (1) the *social* goal of family unification, (2) the *economic* goal of increasing U.S. productivity and standard of living, (3) the *cultural* goal of promoting diversity, (4) the *moral* goal of promoting human rights, and (5) the *national and economic security goal* of preventing illegal immigration. Critiques of immigration often overlook the non-economic goals.

**The policy context encompasses not just the nation's *immigration* policies, which determine who comes and in what numbers, but also the nation's *immigrant* policies** (the federal, state, and local policies that influence the integration of immigrants after they have arrived). U.S. immigration policy is set by the federal government and has been both inclusive and well-defined. U.S. immigrant policy, by contrast, is made up of scattered, unlinked provisions and programs that fall, largely by default, to state and local governments. While immigration has been steadily rising, federal support for programs targeted to immigrants, like the Refugee Resettlement Program, has been declining.

#### They don’t meet their own interpretation – there is a substantial delay before asylees can receive LPR. This means their topicality is dependent on an effect of the plan rather than a direct mandate.

Kandel 18 – William A. Kandel, Immigration Policy Specialist at Congressional Research Service with a Ph.D. in Sociology and Demography from the University of Chicago, 2018(“Permanent Legal Immigration to the United States: Policy Overview,” Congressional Research Service (Intent for Congress), 5-11-2018, Available Online from https://www.everycrsreport.com/files/20180511\_R42866\_fd2ab8b30d16f4294c009ec8cfb101b3b3b12741.pdf) \*\*\*Italics in Original\*\*\*

Legal aliens3 are of three main types: *immigrants, nonimmigrants* and *refugees*. As defined in the INA, *immigrants* are synonymous with lawful permanent residents (LPRs) and refer to foreign nationals who come to live lawfully and permanently in the United States. *Nonimmigrants*—such as tourists, foreign students, diplomats, temporary agricultural workers, exchange visitors, or intracompany business personnel—are admitted for a specific purpose and a temporary period of time.4 Nonimmigrants must leave the United States before their visas expire, although certain classes of nonimmigrants may adjust to LPR status if they otherwise qualify.5 *Refugees* and *asylees* are people fleeing their countries because of persecution or a well-founded fear of persecution. After one year in refugee status in the United States, refugees must apply to adjust to LPR status. In contrast, asylees may, but are not required to, apply for LPR status after one year.

#### Effects topicality is bad for debate for the same reasons as non-topicality. It gives the affirmative an unpredictable advantage and creates a broader research base for the negative to deal with.

#### Their interpretation is under-limiting. It would allow debates about guest workers, students and diplomats.

Passel, 15- Jeffrey Passel is a senior demographer at Pew Research Center. He is a nationally known expert on immigration to the United States and the demography of racial and ethnic groups. Passel formerly served as principal research associate at the Urban Institute’s Labor, Human Services and Population Center (“Share of Unauthorized Immigrant Workers in Production, Construction Jobs Falls Since 2007” 3/26, http://www.pewhispanic.org/2015/03/26/share-of-unauthorized-immigrant-workers-in-production-construction-jobs-falls-since-2007/

The “legal immigrant” population is defined as people granted legal permanent residence; those granted asylum; people admitted as refugees; and people admitted under a set of specific authorized temporary statuses for longer-term residence and work. This group includes “naturalized citizens,” legal immigrants who have become U.S. citizens through naturalization; “legal permanent resident aliens” who have been granted permission to stay indefinitely in the U.S. as permanent residents, asylees or refugees; and “legal temporary migrants” (including students, diplomats and “high-tech guest workers”) who are allowed to live and, in some cases, work in the U.S. for specific periods of time (usually longer than one year).

### They Say: “Prefer Federal Definitions”

#### Asylees aren’t considered immigrants under the INA.

Kandel 17 – William A. Kandel, Immigration Policy Specialist at Congressional Research Service with a Ph.D. in Sociology and Demography from the University of Chicago, 2017(“A Primer on U.S. Immigration Policy,” Congressional Research Service (Intent for Congress), 11-14-2017, Available Online from https://fas.org/sgp/crs/homesec/R45020.pdf) \*\*\*Italics in Original\*\*\*

U.S. immigration policy is governed largely by the Immigration and Nationality Act (INA), which was first codified in 1952 and has been amended significantly several times since.1 Implementation of INA policies is carried out by multiple executive branch agencies. The Department of Homeland Security (DHS) has primary responsibility for immigration functions through several agencies: U.S. Citizenship and Immigration Services (USCIS), Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE). The Department of State (DOS) issues visas to foreign nationals overseas, and the Department of Justice (DOJ) operates immigration courts through its Executive Office of Immigration Review (EOIR).

Foreign-born populations with different legal statuses are referred to throughout this report. The term aliens refers to people who are not U.S. citizens, including those legally and not legally present. 2 The two basic types of legal aliens are (1) immigrants (not including refugees and asylees) and (2) nonimmigrants. *Immigrants* refers to foreign nationals lawfully admitted to the United States for permanent residence. 3 *Nonimmigrants* refers to foreign nationals temporarily and lawfully admitted to the United States for a specific purpose and period of time, including tourists, diplomats, students, temporary workers, and exchange visitors, among others.

*Refugees* and *asylees* refer to persons fleeing their countries because of persecution, or a wellfounded fear of persecution, on account of race, religion, nationality, membership in a particular social group, or political opinion (see “Refugees and Asylees”). Refugees and asylees are not classified as immigrants under the INA, but once admitted, they may adjust their status to lawful permanent resident (LPR).

# Affirmative

## 2AC

### 2AC — Topicality “Legal Immigration” Answers

#### 1. We Meet — Asylum is legal immigration.

HODGES-WU ’18 (Joan; MA, MSW, LGSW, Founder and Executive Director of the Asylum Seeker Assistance Project, Regular Advisor to the U.S. Office of Refugee Resettlement, Nationally Recognized Torture Treatment Subject Matter Expert, Masters in Refugee Care from the University of Essex and a Masters in Social Work from Catholic University, Former Peace Corps Volunteer, “Scholar Highlight: Joan Hodges-Wu,” https://www.skidmore.edu/palamountainbenefit/profiles/joan-hodges-wu.php)ww

I am the founder and executive director of the Asylum Seeker Assistance Project (ASAP). ASAP is the product of my work serving survivors of torture, 90% of whom are also asylum seekers. Asylum is a legal immigration status awarded by the U.S. government to persons who meet the definition of a refugee but are already in the United States. Founded in 2016, ASAP is the first and only nonprofit providing comprehensive services to support the estimated 50,000 asylum seekers living in the D.C. metro region.

#### 2. Counter Interpretation — “Legal Immigration” means Legal Permanent Residence.

DEARDORFF and BLUMERMAN ’1 (Kevin E. and Lisa M.; U.S. Census Bureau – Population Division, “Evaluating Components of International Migration: Estimates of the Foreign-Born Population by Migrant Status in 2000,” Working Paper #58, https://www.census.gov//content/dam/Census/library/working-papers/2001/demo/POP-twps0058.pdf)ww

The Immigration and Nationality Act defines legal immigration as the process by which a non-citizen of the United States is granted legal permanent residence [LPR]. A non-citizen with legal permanent residence status may remain in the country, be employed, travel freely, and seek naturalization to become a U.S. 1 citizen. Legal immigrants, as categorized by the Census Bureau, include new arrivals to the United States, people adjusting their migrant status to legal permanent resident [LPR] (including Special Agricultural Workers (SAWs) and pre-1982 entrants (LAWs)), asylees, and refugees (Perry et al., 2001).

#### 3. Prefer federal definitions of immigration terms — precision is impossible without them.

FIDDLER ’7 (Thomas B.; Vice Chair – Commercial Litigation Group and Partner – White & Williams LLP, “Plaintiffs’ Post-Trial Proposed Findings of Fact and Brief” in Lozano, Et Al. v. City of Hazelton, 5/14, https://www.aclu.org/files/pdfs/immigrants/hazleton\_posttrial\_brief.pdf)

Hazleton is plainly incorrect in claiming interpretations of one immigration-related term in the federal firearms laws by the federal courts and the federal government somehow apply to Hazleton’s use of different terms for a very different purpose. Eligibility under federal law to purchase firearms and ability to reside in the United States under federal immigration law and policy are totally distinct inquiries. 7 Indeed, these cases prove the point that there is no single definition of “legal” immigration status in federal law for all purposes and the complexity of federal immigration law makes it particularly difficult to interpret terms that are not precisely defined in the Immigration and Nationality Act. 8 As Plaintiffs’ evidence and citations show, the federal government decides whether someone should depart from the United States only through removal proceedings, and Hazleton’s Ordinances run roughshod over that process and the complex system of classification the federal government employs. Pl. Mem. at 12-13.

#### 4. No Ground Loss — Including Asylum and Refugees in the topic doesn’t eliminate any arguments for the negative.

#### 5. Excluding our aff from the topic replicates the harms of silencing domestic violence victims.

NAYAK ’15 (Meghana; Associate Professor of Political Science – Pace University, Who is Worthy of Protection? Gender-Based Asylum and U.S. Immigration Politics, p. 2)ww

In international and US refugee law, people may apply for asylum if they can demonstrate a well-founded fear of persecution in their countries due to race, religion, nationality, political opinion, and membership in a particular social group. Notice that gender is not on this list. Indeed, gender is generally missing from the debates about the tension between immigration restriction and obligations to protect those fleeing persecution. Gender-related persecution comprises any type of violence that targets someone because of gendered expectations (such as forcing boys to join gangs or punishing women for their choices), in gendered ways (such as violence that includes sexual assault), or due to non-conforming gender identities and sexual orientation (such as police targeting lesbian, gay, bisexual, and transgender [LGBT] communities). Countries, immigration rights organizations, and feminist advocates around the world are increasingly acknowledging that gender violence is a form of persecution that should warrant grants of asylum protection. However, as asylum seekers try to prove their credibility and the legitimacy of their gender-based claims, they face the harrowing and difficult task of convincing immigration officials or judges that gender violence is not a personal or unfortunate problem but constitutes persecution.

This book confronts the question “Who is worthy of protection?” by examining gender-based asylum cases. Gender-based asylum offers an incredible opportunity for the United States to acknowledge and address gender-related persecution and to demonstrate protection of those fleeing persecution. However, due to the politics of immigration restriction and the “missing” category of gender, asylum/immigration officials and judges put an added burden on asylum seekers with gender-related claims to prove that they are deserving of legal protection. My critical investigation of these cases provides crucial lessons about the construction of “worthiness.”

#### 6. Be Reasonable — Topicality is an all or nothing issue. The affirmative need not win that they have the best interpretation, but merely an interpretation that would facilitate debate. Good is good enough.

## 1AR

### Extend: “We Meet”

#### We Meet — Asylum is a legal immigration status.

FANESI ’8 (Monica; JD Candidate – Roger Williams University, “Relief Pursuant to the Convention Against Torture: A Framework for Central American Gang Recruits and Former Gang Members to Fulfill the "Consent or Acquiescence" Requirement,” 13 Roger Williams U. L. Rev. 308, Winter, l/n)ww

A. Asylum: The Most Coveted Form of Relief

A petitioner granted asylum will receive benefits including legal immigration status, n33 work authorization, n34 the ability to bring a spouse or child into the country n35 and, after one year, the [\*314] opportunity to change their status from refugee to permanent resident. n36 An asylum seeker must prove he is a refugee, defined as:

Any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. n37

#### Asylum is a legal immigration status.

AVERY ’10 (Ryan; “FAIR SHAKE OR AN OFFER THEY CAN'T REFUSE? THE PROTECTION OF COOPERATING ALIEN WITNESSES UNDER UNITED STATES LAW,” 33 Suffolk Transnat'l L. Rev. 347, Summer, l/n)ww

n70. FARRA, supra note 69, § 1252; Fanesi, supra note 21, at 319. The remedial protection offered under CAT is known as withholding of removal. Kramer, supra note 15, at 308. Withholding of removal allows an alien to be present within the United States so long as conditions in the country of persecution remain unchanged. Id. at 5. The burden of proof for withholding is that the applicant "more likely than not" will suffer harm. 8 C.F.R. § 208.16(c)(2). A grant of asylum, which carries the benefits of legal immigration status, work authorization, the ability to bring a spouse or child into the country, and the opportunity to become a lawful permanent resident, will be granted to persons with a "well-founded fear of persecution" based on five statutorily protected grounds: race, religion, nationality, membership in a particular social group, or political opinion. Immigration and Nationality Act, 8 U.S.C. § 101(42)(A)(2008) (emphasis added). Thus, withholding under CAT allows fewer benefits than asylum while carrying a higher burden of proof. Kramer, supra note 15, at 5; see, e.g. Gebremichael v. INS, 10 F.3d 28, 36 (1st Cir. 1993) (holding nuclear family as plainest example of "social group based on common, identifiable and immutable characteristics"); Gonzales v. Thomas, 409 F.3d 1177, 1187 (9th Cir. 2004) (stating that "a family may constitute a social group for purposes of refugee statutes"). The nuclear family members of cooperating alien witnesses may be eligible candidates for asylum under this statute, as members of a recognized 'social group.' Id; see also Koudriachova v. Gonzales, 490 F.3d 255, 261-62 (2nd Cir. 2007) (clarifying claim for as y lum based upon membership in a social group)(emphasis added); Wang v. Gonzales, 445 F.3d 993, 997-1000 (7th Cir. 2006) (framing matter as involving personal retribution toward alien informant and disconnected from enumerated grounds for asylum). The question of whether principal witnesses themselves may be eligible for asylum based upon some type of social grouping has been answered in the negative by at least one circuit court. Id. The reasoning being that any persecution faced by a criminal witness derives not from his or her status as a criminal witness generally, but rather from action taken specifically by that witness against former associates. Koudriachova, 490 F.3d at 261-62.

### They Say: “Aff is Effects T”

#### We Meet — Asylees are immediately granted a legal immigration status. That’s Hodges-Wu.

#### Legal immigration includes people who will ultimately be granted LPR. Having to wait a year doesn’t make us untopical.

MULDER ‘01 (T. J., Hollmann, F. W., Lollock, L. R., Cassidy, R. C., Costanzo, J. M., & Baker, J. D., US Census Bureau employees; “U.S. Census Bureau measurement of net international migration to the United States: 1990–2000,” https://www.census.gov/population/www/documentation/twps0051/twps0051.html#legimm)ww

Legal immigration

The sub-component of net international migration, legal immigration (LPR), refers to non-citizens who are granted legal permanent residence [LPR] in the United States by the federal government, or who reside in the United States and will ultimately be granted this status. Legal permanent residence includes the right to remain in the country indefinitely, to be gainfully employed, and to seek the benefits of U.S. citizenship through naturalization.

### They Say: “Neg Interpretation More Precise”

#### Immigration law is confusing and incoherent.

HETHMON ’4 (Michael M.; Staff Attorney – Federation for American Immigration Reform, “The Chimera and the Cop: Local Enforcement of Federal Immigration Law,” 8 UDC-DCSL L. Rev. 83, Fall, l/n)

Opponents argue that federal immigration law is a complicated body of law that requires extensive training and expertise to properly enforce, because there are many different ways for people to be lawfully present in the United States and the federal government issues many different types of documents that entitle such lawful presence. 277 Supporters of local law enforcement would respond that the identification and initial detention of immigration law violators is based on relatively simple legal concepts. "Arrest is the easy part." 278 The arresting officer must make a two-part determination: first that the person is an alien; and second that the alien is subject to removal from the United States. Neither determination is inherently more complex or difficult for a trained law enforcement officer than the comparable determination of the identity and status of a suspected domestic violator or absconder. Local police departments in practice provide more extensive training and oversight of civil rights issues than does U.S. CIS or the Bureau of Customs and Border Protection (BCBP), because local police are subject to greater criminal and civil liability for civil rights violations. The former INS, now Department of Homeland Security, is required by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA) to respond to inquiries by federal, state, and local government agencies seeking to verify or determine the citizenship or immigration status of any individual within the jurisdiction of the agency for any lawful purpose. 279 [\*131] One enforcement-oriented verification resource whose availability and use by local and state police has "skyrocketed" since September 11, 2001 is the Department of Homeland Security Law Enforcement Support Center (LESC). LESC is described as a national enforcement operations and intelligence center that gathers information from eight DHS databases, 280 the National Crime Information Center (NCIC), the Interstate Identification Index (III) and other state criminal history indices. 281 U.S. Immigration and Customs Enforcement claims that local police callers to LESC can receive an initial analysis of an individual's immigration status within ten minutes. 282 In contrast, the aspects of immigration law dealing with eligibility for a visa or other form of admission to the United States, adjustment of immigration status, and relief from removal are not only complex, but also arguably lack internal consistency and coherence. Local law enforcement agencies do not participate in these more complex areas of immigration law.