Cases (and Statutes/Regulations) Addressing Internal Relocation

Court	Case/Statute	Points of Law/Fact
REGULATION	8 C.F.R. § 208.13(b)(1)(i)(B) (2007)	An asylum officer will refer or an IJ **deny where "[t]he applicant could avoid future persecution by relocating** to another part of the applicant's country of nationality or, if stateless, another part of the applicant's country of last habitual residence, **and under all the circumstances, it would be reasonable to expect the applicant to do so**." Note: The latest version of the regulations codifies much of the earlier case law with respect to burdens of proof.
REGULATION	8 C.F.R. § 208.13(b)(1)(ii) (2007)	"Burden of proof**. In cases in which an applicant has demonstrated past persecution** under paragraph (b)(1) of this section, **the Service shall bear the burden of establishing by a preponderance of the evidence [that safe and reasonable internal relocation is possible** under] the requirements of paragraphs (b)(1)(i)(A) or (B) of this section."
REGULATION	8 C.F.R. § 208.13(b)(3) (2007)	"**Reasonableness of internal relocation**….[A]djudicators should consider, but are not limited to considering, whether the applicant would face **other serious harm** in the place of suggested relocation; any ongoing **civil strife** within the country; **administrative, economic, or judicial infrastructure**; **geographical limitations**; and **social and cultural constraints**, such as age, gender, health, and social and familial ties. Those factors may, or may not, be relevant, **depending on all the circumstances of the case, and are not necessarily determinative** of whether it would be reasonable for the applicant to relocate."
REGULATION	8 C.F.R. § 208.13(b)(3)(i) (2007)	"In cases **in which the applicant has not established past persecution**, **the applicant shall bear the burden of establishing that it would not be reasonable** for him or her to relocate, **unless the persecution is by a government or is government-sponsored.**"

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Cases (and Statutes/Regulations) Addressing Internal Relocation

REGULATION	8 C.F.R. § 208.13(b)(3)(ii) (2007)	"In cases **in which the persecutor is a government or is government-sponsored, or the applicant has established persecution in the past, it shall be presumed that internal relocation would not be reasonable**, **unless the service establishes by a preponderance of the evidence that, under all the circumstances, it would be reasonable for the applicant to relocate**."
BIA	In re A- E- M-, 21 I&N Dec. 1157 (BIA Feb. 20, 1998)	Where evidence in the record suggested that the Shining Path operated only in certain pockets of Peru, and where specific, contrary facts were not offered, the asylum-seeker failed to show a well-founded fear of countrywide persecution.
BIA	In re C-A-L-, 21 I&N Dec. 754 (BIA Feb. 21, 1997)	An asylum-seeker did not meet his burden of showing a well-founded fear where he produced evidence only of problems in his hometown, and where he indicated that he had lived for a year in a guerilla-heavy area of his country without incident.
First Circuit	Da Silva v. Ashcroft, 394 F.3d 1 (1st Cir. 2005)	Where petitioner's putative persecutor was one individual who was influential only within his municipality, and where there was no evidence that the government could not or would not protect petitioner in a new location, internal relocation was reasonable.
Third Circuit	Gambashidze v. Ashcroft, 381 F.3d 187 (3d Cir. 2004)	**The internal relocation inquiry really contains two separate inquiries**: (1) will relocation allow an alien to successfully escape the persecution he fears? and (2) is relocation reasonable in light of a variety of other factors described in the regulation? In order to demand relocation and deny relief, the answer to both questions must be 'yes.' If past persecution has been established, the government bears the burden of proof with respect to both inquiries.

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Cases (and Statutes/Regulations) Addressing Internal Relocation

Fourth Circuit	Essohou v. Gonzales, 471 F.3d 518 (4th Cir. 2006)	**Relocation** within the Congo was found **unreasonable where petitioner had concededly lived in part of the Congo without being assaulted, but where she had done so in hiding and in constant fear for her life.**
Fifth Circuit	Lopez-Gomez v. Ashcroft, 263 F.3d 442 (5th Cir. 2001)	Where an applicant does *not* show past persecution, and where the applicant does *not* demonstrate that a national government is the persecutor, the applicant bears the burden of showing that relocation within the country would be unreasonable. Note: This case dealt with less-detailed, pre-2001 regulations that were not explicit about the relevant burdens.
Seventh Circuit	Das v. Gonzales, 2007 U.S. App. LEXIS 6230 (7th Cir. Mar. 13, 2007)	The BIA erred in holding that the government had borne its burden by introducing reports showing that violence against Christians in India was "localized." The reports showed no such thing; in fact, the **reports showed attacks in at least 10 states** all over the country.
Seventh Circuit	Sosnovskaia v. Gonzales, 421 F.3d 589 (7th Cir. 2005)	Petitioner had demonstrated past persecution. The IJ determined, *inter alia*, that internal relocation was an option. The **IJ erred, however, in ignoring petitioner's evidence that she had been denied the right to relocate by the Ukrainian government**, and by addressing nonexistent (!) testimony stating that the petitioner had not sought relocation. The IJ also engaged in sloppy judging by treating the State Department's Country Report as dispositive. The IJ was also far out-of-line in issuing a final ruling on these issues before giving petitioner a chance to present her evidence.

NATIONAL IMMIGRANT JUSTICE CENTER

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Cases (and Statutes/Regulations) Addressing Internal Relocation

Seventh Circuit	Bace v. Ashcroft, 352 F.3d 1133 (7th Cir. 2003)	**Because petitioner had established past persecution, the burden rested with the government to show that it would be reasonable** to expect petitioner to relocate. Thus, it was improper for the IJ to fault petitioner for not addressing the question of relocation.
Eighth Circuit	Poniman v. Gonzales, 481 F.3d 1008 (8th Cir. April 2, 2007)	The BIA **rightly denied a motion to reopen based on changed country conditions, where petitioner was only able to show changed conditions in the petitioner's home region.** On a motion to reopen based on changed country conditions, an alien must make out a prima facie case for fear of future persecution, so the alien bears the burden of showing that internal relocation is unreasonable.
Eighth Circuit	Yakovenko v. Gonzales, 477 F.3d 631 (8th Cir. February 23, 2007)	**Absent more evidence, persecution by one or two individuals does not show that internal relocation would be unsafe or unreasonable.**
Eighth Circuit	Awale v. Ashcroft, 384 F.3d 527 (8th Cir. 2004)	Somali cases require a complex relocation inquiry, because there is no central government and local conditions vary greatly and depend on clan interactions. **In a situation of warfare or strife, where towns change hands suddenly, even a prolonged stay in a town does not demonstrate that relocation to that town will now be safe or reasonable.**
Eighth Circuit	Hagi-Salad v. Ashcroft, 359 F.3d 1044 (8th Cir. 2004)	In wrongly concluding that a petitioner could be reasonably expected to relocate simply because relocation would spare him the persecution that was the basis of his claim, the BIA ignored the plain meaning of 8 C.F.R. § 208.13(b)(3). **The "reasonableness" inquiry demanded by the regulation is far broader than the "persecution-on-account-of" inquiry, and includes a range of "other serious harm[s]."**

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Cases (and Statutes/Regulations) Addressing Internal Relocation

Ninth Circuit	Mashiri v. Ashcroft, 2004 U.S. App. LEXIS 22714 (9th Cir. 2004)	**An applicant showing *past* persecution may meet his burden by showing that the government was unable or unwilling to control the persecution in the applicant's home city or area.** Such a showing shifts the evidentiary burden to the government, should the government wish to establish that relocation elsewhere within the country is safe and reasonable.
Ninth Circuit	Kaiser v. Ashcroft, 390 F.3d 653 (9th Cir. 2004)	(Fear of future persecution case:) Because the petitioners received threats in areas at opposite ends of Pakistan, the threats were characterized as occurring **from one end of Pakistan to the other.** Thus, the petitioners had met their burden of proving that internal relocation would be unsafe. **That petitioners had lived safely in other parts of Pakistan in the past was not determinative**, because these safe periods occurred **under very different circumstances** (i.e., one of the petitioners enjoyed the protection of the military, which was later withdrawn.) Finally, because petitioners had shown that internal relocation was unsafe, the Court did not need to address the question of reasonableness.
Ninth Circuit	Hasan v. Ashcroft, 380 F.3d 1114 (9th Cir. 2004)	**The "internal relocation" inquiry is *not* the same for CAT relief as for asylum relief.** With respect to CAT relief, the relevant inquiry is *only* whether the applicant can escape torture through internal relocation. With respect to asylum relief, the inquiry *also* includes the question of whether or not it would be *reasonable* to demand internal relocation.
Ninth Circuit	Knezevic v. Ashcroft, 367 F.3d 1206 (9th Cir. 2004)	"To expect the Knezevics to start their lives over again in a new town, with no property, no home, no family, and no means of earning a living is not only unreasonable, but exceptionally harsh." 367 F.3d at 1214.

NATIONAL IMMIGRANT JUSTICE CENTER

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Cases (and Statutes/Regulations) Addressing Internal Relocation

Ninth Circuit	Melkonian v. Ashcroft, 320 F.3d 1061 (9th Cir. 2003)	**The mere fact that an alien could escape a particular group of persecutors by relocating internally does *not* necessarily mean that internal relocation is "reasonable."** In this case, the BIA was asked to consider evidence of the following contentions on remand: (1) at the time of the case, Melkonian's home country of Georgia was subject to high levels of violence and economic deprivation (**strife and infrastructural problems count**); (2) Melkonian's wife and son had both been granted asylum in the United States (**family ties count**); and (3) the hardship involved in internal relocation was enhanced by **cultural, political, and linguistic barriers within** Georgia.
Ninth Circuit	Cardenas v. INS, 294 F.3d 1062 (9th Cir. 2002)	Where, after six months in a new location, the petitioner received a telephone call threatening that relocation would not keep him safe, and where the relevant State Department report established only that "some" persons in petitioner's situation could relocate safely, the BIA's denial on the grounds of safe internal relocation was reversed.
Eleventh Circuit	Arboleda v. Att'y Gen., 434 F.3d 1220 (11th Cir. 2006)	The **BIA erred in relying on an outdated government report** to show that internal relocation was reasonable, where later government reports showed that the persecutors' influence had become nation-wide. Moreover, the **BIA erred in failing to give sufficient weight to the fact that petitioner *had* relocated,** and had *still* been threatened.
Eleventh Circuit	Sepulveda v. Att'y Gen., 401 F.3d 1226 (11th Cir. 2005)	An IJ erred in holding that internal relocation in Colombia was viable, because the State Department report clearly indicated that guerillas exercised influence throughout the country, and that many towns there were overwhelmed with internally displaced persons. However, the IJ's denial was upheld on other grounds.

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Cases (and Statutes/Regulations) Addressing Internal Relocation

Eleventh Circuit	Mazariegos v. Att'y Gen., 241 F.3d 1320 (11th Cir. 2001)	Substantively (that is, leaving aside the question of burdens), the BIA did not err in holding that an alien seeking asylum on the basis of non-government persecution must truly face a threat of persecution country-wide. The U.S. government is entitled to demand that an asylum-seeker be truly unable to seek protection anywhere in his own country before he seeks the protection of the United States. **If it is shown that the applicant could avoid persecution by moving to another part of his home country, he is *not* entitled to asylum in the United States.** Note: This holding should be read in light of the recent regulatory language surrounding the concept of "reasonableness." 8 C.F.R. § 208.13(b)(3) (2007). Hypothetically, it might be true that an alien could avoid persecution by relocating within his country, yet there could still be other grounds for deciding that it would still be unreasonable to expect him to do so.