

Before the  
United States Department of Justice  
Attorney General Janet Reno

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**BRIEF OF *AMICI CURIAE***  
**IN SUPPORT OF REQUEST FOR CERTIFICATION AND REVERSAL**  
**OF THE DECISION OF THE BOARD OF IMMIGRATION APPEALS**  
***IN RE R-A-* (INTERIM DECISION NO. 3403)**

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This brief is submitted by one hundred *amici curiae* in support of the request by petitioner Rodi Alvarado Peña that the Attorney General certify and reverse *In re R-A-* (Interim Decision No. 3403), a decision of the Board of Immigration Appeals (the “Board” or the “BIA”) denying Ms. Alvarado’s application for asylum despite an undisputed record of years of severe domestic violence and the failure of the government of Guatemala to respond to her repeated efforts to attain protection from this abuse. The Board’s decision should be reversed because its refusal to acknowledge that domestic violence can be “on account of” gender represents a radical departure from both the Board’s own asylum jurisprudence and the widely accepted understanding of domestic violence in international human rights and asylum law, domestic civil rights law, and the sociological and psychological literature.

#### **Statement of Interest of the *Amici Curiae***

This brief is submitted on behalf of a coalition of 51 organizations and 49 law teachers who have experience as legal advocates and scholars in the immigration and domestic violence fields. Based on our extensive experience and expertise in these areas, we believe that the Board’s approach to domestic violence is inconsistent with both well-established principles of international and domestic law and the realities of domestic violence as it is generally understood by professionals in various fields and directly experienced by its victims. Individual statements of interest on behalf of each of the organizations and individuals are attached as Appendix A to this brief.

## The Board's Decision<sup>1</sup>

The material facts of this case are undisputed. Among the Board's own express findings with respect to the domestic violence inflicted on Ms. Alvarado were that:

- Ms. Alvarado's husband was "domineering and violent" and "[f]rom the beginning of the marriage . . . engaged in physical and sexual abuse of" Ms. Alvarado. Dec. at 3.<sup>2</sup>
- "[T]he record strongly indicates that he would have abused any woman, regardless of nationality, to whom he was married." *Id.* at 18.
- "There is little doubt that [Ms. Alvarado's husband] believed that married women should be subservient to their own husbands." *Id.*
- Statements made by Ms. Alvarado's husband, such as "You're my woman and I can do whatever I want," and — in response to Ms. Alvarado's protests while being sexually assaulted — "You're my woman, you do what I say," "may well reflect his own view of women and, in particular, his view of the respondent as his property to do with as he pleased." *Id.* at 3, 11.
- The acts of violence occurred "whenever [Ms. Alvarado's husband] felt like it, wherever he happened to be: in the house, on the street, on the bus" and included such plainly gender-specific acts as "dislocat[ing Ms. Alvarado's] jaw bone when her menstrual period was 15 days late," "kick[ing] her violently in her spine" when "she refused to abort her 3- to 4-month-old fetus," "kick[ing her] in her genitalia, causing [Ms. Alvarado] to bleed severely for 8 days," as well such acts as pistol-whipping her, breaking windows and a mirror with her head, "grab[bing] her head and strik[ing] furniture with it," throwing a machete at her hands, and whipping her with an electrical cord. *Id.* at 3-4.
- Ms. Alvarado's husband raped her "almost daily" . . . caus[ing] her severe pain" and "would beat her before and during the unwanted sex" and "forcefully sodomize[ ] her." *Id.* at 3.

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1. A more detailed account of the factual record and the opinions below are set forth in Petitioner's brief at 3-10.

2. Citations to the BIA decision in this case ("Dec.") are to the slip opinion.

- Ms. Alvarado’s husband insisted that she “accompany him wherever he went, except when he was working” and he “escorted [her] to her workplace, and . . . would often wait to direct her home.” *Id.*
- When Ms. Alvarado ran away to her brother’s and parents’ home, “her husband always found her” and, on at least one occasion, beat her unconscious. He reportedly has threatened to “hunt her down and kill her if she comes back to Guatemala.” *Id.* at 4-5.
- “[T]he level and frequency of [Ms. Alvarado’s husband’s] rage increased concomitantly with the seeming senselessness and irrationality of his motives” and “there [was] nothing the respondent could have done to have satisfied her husband and prevented further abuse.” *Id.* at 3, 18-19.
- “He harmed her, when he was drunk and when he was sober, for not getting an abortion, for his belief that she was seeing other men, for not having her family get money for him, for not being able to find something in the house, for leaving a cantina before him, for leaving him, for reasons related to his mistreatment in the army, and ‘for no reason at all.’” *Id.* at 18.

Based on the record, the Board concluded that Ms. Alvarado had suffered “severe injuries “ that were “more than sufficient” to constitute persecution and that she was unable to avail herself of the protection of the government of Guatemala. *Id.* at 10. Nevertheless, it rejected her claim that she had been persecuted “on account of” membership in a “particular social group” on two grounds. First, the Board rejected the social group that had been adopted by the Immigration Judge: “Guatemalan women who have been involved intimately with Guatemalan male companions, who believe that women are to live under male domination.” *Id.* at 14-16. It declined, however, even to address the other gender-based social groups that had been proposed by Ms. Alvarado,<sup>3</sup> merely making the conclusory assertion that it was unnecessary to do so

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3. The other social groups proposed by Petitioner were: Guatemalan women; battered spouses; women who have been companions to men who believe in male domination and desire to keep women subservient to them; and women who have been involved intimately with male companions

because “each of them fails on this record under the ‘on account of,’ or nexus, requirement of the statute.” Dec. at 17 n.2. The Board then found that the persecution of Ms. Alvarado was not “on account of” her membership in the particular social group defined by the Immigration Judge because Ms. Alvarado’s husband did not target women in that group but “would have abused *any* woman . . . to whom he was married.” *Id.* at 18 (emphasis added). In addition, the Board found that Ms. Alvarado’s testimony that the abuse was arbitrary, unprovoked, and often inflicted “for no reason at all” undercut her claim that her husband “sought to overcome” the characteristics of her proposed gender-based social groups. *Id.* Rejecting the view that “societal attitudes” in Guatemala with respect to domestic violence and the status of women and wives might be relevant in construing the motivations of Ms. Alvarado’s husband, *id.* at 19, the Board concluded that the severe abuse inflicted on Ms. Alvarado had not been on account of her membership in a particular social group. The Board did not, however, propose any other plausible purpose for the violence, merely concluding that “some abuse occurred because of [her husband’s] warped perception of and reaction to her behavior, while some likely arose out of psychological disorder, pure meanness, or no apparent reason at all.” *Id.* at 26.

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who believe in male domination. Ninth Circuit Record (“Record”) at 134.

## Summary of Argument

The Board's approach to domestic violence in this case is fundamentally at odds with both its own prior jurisprudence and the widespread understanding that such violence is often — indeed typically — directed at women “on account of” their gender. Gender-specific persecution, including domestic violence, has increasingly been recognized both internationally and in the United States as a human rights violation and a basis for asylum. However, the Board here refused to give any meaningful consideration to what its own findings make indisputably clear: that Ms. Alvarado's husband persecuted her because she was a woman, because she was his wife, and because she refused to conform to the gender stereotypes that he violently imposed on her.

Under the Board's own jurisprudence, persecution “on account of . . . membership in a particular social group” requires that the “particular social group” be defined by an innate or immutable characteristic, a past status that is unalterable due to its historical permanence, or a voluntary association that is entered into for reasons fundamental to the individual's dignity or identity. There can be no question that gender satisfies this test, either standing alone or in combination with either a past or present marital or other intimate relationship or a refusal to conform to socially sanctioned norms. Nevertheless, the Board failed even to consider these bases for Ms. Alvarado's “social group” claim.

Similarly, the Board, as well as federal courts, have recognized that a determination of whether persecution is “on account of” a statutory ground requires reasonable inferences from the nature and circumstances of the persecutor's conduct and a sensitivity to the



social context and cultural meaning of those acts. In addition, a statutory ground — such as membership in a gender-based social group — need only be shown to be one of the persecutor’s motivating factors. Here, by contrast, the Board simply closed its eyes to the overwhelming direct evidence that the persecution of Ms. Alvarado was not only partly, but largely, gender motivated.

The Board’s flawed analysis demonstrates the importance of requiring that fact finders in asylum proceedings be guided by the consensus of professionals across a wide variety of fields that domestic violence is a purposeful act, typically motivated by a desire to dominate and control a female intimate partner and to enforce and punish deviations from socially accepted gender stereotypes. As courts have done in applying the analogous requirement of the civil rights provision of the Violence Against Women Act, gender motivation should be readily inferred from the character and circumstances of the abuse itself. Thus, persecution in the form of domestic violence should be found to be “on account of” membership in a gender-based social group whenever the evidence fails to support some other plausible explanation that fully accounts for the nature, severity, or repeated character of the violence. No such explanation has — or could — be offered for the abuse of Ms. Alvarado.

**I. The Board’s Approach to Gender-Based Violence Ignores Recent Developments in International and Domestic Human Rights and Asylum Law.**

Both the United States and the international community have taken substantial steps in recent years toward recognizing the gravity of gender-related persecution and have specifically recognized that domestic violence can be a basis for an asylum claim. The position

taken by the Board — that there is no nexus between Ms. Alvarado’s persecution by her spouse and her membership in a gender-based social group — is inconsistent with this growing international consensus, as well as the Immigration and Naturalization Service’s (“INS’s”) own recent efforts toward rectifying long-standing inequities in the treatment of male and female asylum claimants.

A critical element in the development of women’s human rights has been the recognition that the serious harms women suffer typically are the result of cultural or customary practices and that these harms are often imposed at the hands of members of the woman’s family or community.<sup>4</sup> Consequently, the rights of women traditionally have been ignored or characterized as private and personal matters, often resulting in the exclusion of women from national and international protection altogether.

In recent years, however, those harms more typically perpetrated against women and girls have come to be viewed in the international human rights arena as important human rights concerns warranting the full protection accorded to other, more “traditional” human rights violations. As a result, many recent international human rights documents specifically address the

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4. See generally Deborah Anker, *Law of Asylum in the United States* 388-94 (3d ed. 1999); Deborah Anker, Lauren Gilbert, and Nancy Kelly, *Women Whose Governments Are Unable or Unwilling to Provide Reasonable Protection from Domestic Violence May Qualify As Refugees Under United States Asylum Law*, 11 *Geo. Immigr. L.J.* 709 (1997) (“Anker, *Domestic Violence Refugees*”); Pamela Goldberg, *Anyplace but Home: Asylum in the United States for Women Fleeing Intimate Violence*, 26 *Cornell Int’l L. J.* 565 (1993); Nancy Kelly, *Gender-Related Persecution: Assessing the Asylum Claims of Women*, 26 *Cornell Int’l L. J.* 625 (1993); Jacqueline Greatbatch, *The Gender Difference: Feminist Critiques of Refugee Discourse*, 1 *Int’l J. Refugee L.* 518 (1989).

concerns of women,<sup>5</sup> and, in 1993, the United Nations General Assembly adopted a Declaration on the Elimination of Violence against Women that recognized that gender-based violence is an important human rights issue.<sup>6</sup>

There has also been a parallel increase in awareness by the international community of the special needs of women and girls for protection under refugee and asylum law. In 1985, the United Nations High Commissioner for Refugees' ("UNHCR") Executive Committee first recognized that women may qualify for asylum based on membership in gender-based social groups,<sup>7</sup> and it adopted a series of conclusions, throughout the late 1980s and early 1990s, aimed at affording more meaningful protection to women fleeing persecution in their home countries.<sup>8</sup>

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5. *See Vienna Declaration and Programme of Action*, World Conference on Human Rights, Vienna, 14-25 June 1993, U.N. Doc. A/CONF.157/23 (1993); *Beijing Declaration and Platform for Action*, Fourth World Conference on Women, 15 September 1995, U.N. Doc. A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995); Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, June 9, 1994, 33 I.L.M. 1534.
  6. G.A. Res. 48/104, U.N. GAOR, 48th Sess., Supp. No. 49, at 217, U.N. Doc. A/48/49 (1993).
  7. *Conclusion on Refugee Women and International Protection*, UNHCR Programme Executive Committee, 36th Sess., No. 39(k) (1985) available at <<http://www.unhcr.ch/refworld/unhcr/excom/xconc/excom39.htm>>.
  8. For example, in July 1991, the UNHCR issued its *Guidelines on the Protection of Refugee Women* which encouraged States to consider women who face severe violence for violating social mores governing the role of women as a "social group," in order to ensure protection as refugees. Office of the United Nations High Commissioner for Refugees, ¶ 54, U.N. Doc. ES/SCP/67 (1991) (the "*UNHCR Guidelines*"). *See also Conclusion on Refugee Protection and Sexual Violence*, UNHCR Programme Executive Committee, 44th Sess., No. 73 (1993) available at <<http://www.unhcr.ch/refworld/unhcr/excom/xconc/excom73.htm>>; *Conclusion on Refugee Women*, UNHCR Programme Executive Committee, 39th Sess., No. 54 (1988) available at <<http://www.unhcr.ch/refworld/unhcr/excom/xconc/excom54.htm>>; *General Conclusion on the International Protection of Refugees*, UNHCR Programme Executive Committee, 38th Sess., No. 46 (1987) available at <<http://www.unhcr.ch/refworld/unhcr/excom/xconc/excom46.htm>>.

More recently, the U.N. Special Rapporteur on Violence Against Women (the “Special Rapporteur”) has expressed her support for the view that gender should be recognized as a “particular social group” for purposes of adjudicating asylum claims.<sup>9</sup>

The tribunals of many countries — including the British House of Lords — have granted refugee protection to women based on membership in social groups defined by gender-based characteristics.<sup>10</sup> Several countries, including the United States, have developed immigration policy and guidelines recognizing gender-based asylum claims,<sup>11</sup> or have specifically

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9. *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, ESCOR Commission on Human Rights, 54th Sess., Provisional Agenda Item 9(a), at sec. III.B.1., U.N. Doc. E/CN.4/1998/54 (1998) (the “1998 Report of the Special Rapporteur on Violence Against Women”) (citing the *Report of the Expert Group Meeting on Gender-Based Persecution*, United Nations Division for the Advancement of Women, U.N. Doc. EGM/GBP/1997/Report (1997)).
  10. *See, e.g., Islam (A.P.) v. Secretary of State for the Home Department, Regina v. Immigration Appeal Tribunal and Another Ex Parte Shah*, 2 A11 E.R. 545 (H.L. 1999) (women subject to state-tolerated domestic violence constitute a “particular social group”); V95-02904 (Immigration and Refugee Board of Canada, Convention Refugee Determination Division, Nov. 26, 1997) *reprinted in Gender Asylum Law in Different Countries Decisions and Guidelines* 458 (Refugee Law Center, Inc. ed., 1999) (“*Gender Asylum Law in Different Countries*”) (granting refugee protection to a woman from the Ukraine on the basis of membership in a gender-based particular social group); Refugee Appeal No. 2039/93, at 53 (New Zealand Refugee Status Appeals Authority, Feb. 12, 1996) *reprinted in Gender Asylum Law in Different Countries* 581, 633 (granting refugee protection to a woman from Iran and citing favorably the UNHCR Executive Committee Conclusion that “women asylum-seekers who face harsh or inhuman treatment due to their having transgressed the social mores of the society in which they live may be considered as a ‘particular social group’ within the meaning of the . . . Convention”); N93/00656 (Australian Refugee Review Tribunal, Aug. 3, 1994) (granting refugee protection to a woman fleeing domestic violence in her home country on the basis of being a member of the particular social group of women.).
  11. *See, e.g., Immigration and Refugee Board of Canada, Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution* (March, 1993) (the “*Canadian Gender Guidelines*”) *reprinted in Gender Asylum Law in Different Countries* 87; Memorandum from Phyllis Coven, Office of International Affairs, U.S. Immigration and Naturalization Service, to All INS Asylum

adopted the position that gender is an appropriate characteristic defining a “particular social group” for asylum purposes.<sup>12</sup>

In addition, there has been a growing recognition in the international community that domestic violence is an important human rights issue and a basis for asylum. For example, the 1993 Declaration on the Elimination of Violence against Women expressly recognized the importance of eliminating domestic violence in order to advance the human rights of women.<sup>13</sup> Similarly, in her 1996 *Report on Violence Against Women in the Family*, the Special Rapporteur specifically recommended that refugee and asylum laws be interpreted “to include gender-based claims of persecution, including domestic violence.”<sup>14</sup> As she observed, “[d]espite the apparent

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Officers and HQASM Coordinators, *Consideration for Asylum Officers Adjudicating Asylum Claims for Women* (May 26, 1995); Australian Department of Immigration and Multicultural Affairs, *Refugee and Humanitarian Visa Applicants: Guidelines on Gender Issues for Decision Makers* (July 1996) reprinted in *Gender Asylum Law in Different Countries* 7.

12. See *Islam*, 2 A11 E.R. 545; Immigration and Refugee Board of Canada, *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution: Update* (Nov. 25, 1996) (the “Canadian Guidelines Update”), Guideline 4.A.III reprinted in *Gender Asylum Law in Different Countries* 106, 116; Refugee Act, No. 17, §1.-(1) (1996)(Ir.) (Ireland Refugee Act expressly defining “membership of particular social group” to “include[ ] membership of a group of persons whose defining characteristic is their belonging to the female or male sex”) reprinted in *Gender Asylum Law In Different Countries* 137, 138.
13. G.A. Res. 48/104, U.N. GAOR, 48th Sess., Supp. No. 49, at 217, U.N. Doc. A/48/49 (1993).
14. *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, ESCOR Commission on Human Rights, 52nd Sess., Provisional Agenda Item 9(a), ¶ 142(o), U.N. Doc. E/CN.4/1996/53 (1996) (the “1996 Report of the Special Rapporteur on Violence Against Women”); accord *Report of the Expert Group Meeting on Gender-Based Persecution*, United Nations Division for the Advancement of Women, ¶ 46, U.N. Doc. EGM/GBP/1997/Report (1997) (“women are often persecuted, mainly, partly or solely because they are women”); see generally *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, ESCOR Commission on Human Rights, 55th Sess., Provisional Agenda Item 12(a), U.N. Doc. E/CN.4/1999/68 (1999) (the “1999 Report of the Special Rapporteur on

neutrality of the term, domestic violence is nearly always a gender-specific crime, perpetrated by men against women” and “*is directed primarily at women with the intention of depriving them of a range of rights and maintaining their subordination as a group.*”<sup>15</sup>

Consistent with this view that domestic violence is targeted at women based on their gender, parties to the U.N. Convention/Protocol (from which United States asylum law is derived)<sup>16</sup> have granted claims to refugee status based on domestic violence. For example, domestic violence as a ground for refugee protection is well established in Canadian case law, including decisions of the Canadian Immigration and Refugee Board,<sup>17</sup> and the *Canadian Guidelines Update* allows for a grant of asylum based on gender-motivated domestic violence.<sup>18</sup>

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*Violence Against Women*”).

15. *1996 Report of the Special Rapporteur on Violence Against Women* ¶¶ 23, 53 (emphasis added).
16. “[O]ne of Congress’ primary purposes’ in passing the Refugee Act was to implement the principles agreed to in the 1967 United Nations Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6224, T.I.A.S. No. 6577 (1968), to which the United States acceded in 1968. The Protocol incorporates by reference Articles 2 through 34 of the United Nations Convention Relating to the Status of Refugees, 189 U.N.T.S. 150 (July 28, 1951).” *INS v. Aguirre-Aguirre* 119 S. Ct. 1439, 1446 (1999) (citation omitted).
17. *See, e.g.*, U97-01917 (Immigration and Refugee Board of Canada, Convention Refugee Determination Division, Nov. 10, 1997) *reprinted in Gender Asylum Law in Different Countries* 454 (granting refugee protection based on the particular social group of Nigerian women who are victims of domestic violence); U96-02325 (Immigration and Refugee Board of Canada, Convention Refugee Determination Division, Dec. 20, 1996) *reprinted in Gender Asylum Law in Different Countries* 407 (granting refugee protection based on the particular social group of women subjected to domestic violence in Ghana).
18. *Canadian Guidelines Update*, Guideline 4.A.I.3 *reprinted in Gender Asylum Law in Different Countries* 110, 113.

More recently, the British House of Lords found that Pakistani women could establish claims to refugee status under the U.N. Convention/Protocol as victims of domestic violence.<sup>19</sup>

Reflecting these developments in the international community, the INS took a major step toward redressing the discriminatory treatment of female asylum seekers within the United States with the issuance in 1995 of the *Consideration for Asylum Officers Adjudicating Asylum Claims for Women* (the “*INS Guidelines*”). The *INS Guidelines* set out both the procedural and substantive considerations to be applied when evaluating asylum claims brought by women applicants<sup>20</sup> and explicitly state that “the evaluation of gender-based claims must be viewed within the framework provided by existing international human rights instruments and the interpretation of those instruments by international organizations.” *INS Guidelines* at 2.

Although the *INS Guidelines* reflect important recent developments in asylum and human rights law, they do not represent a change in the law. Rather, they are an interpretation of existing law that takes into account the unique ways in which gender affects the asylum determination. Thus, they expressly recognize that women often experience types of persecution different from men and that among the types of persecution that are “particular to . . . gender” and can serve as a basis for asylum is “domestic violence.” *Id.* at 4.

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19. *Islam*, 2 A11 E.R. 545; see also Deborah E. Anker, Nancy Kelly and John Willshire-Carrera, *Defining “Particular Social Group” in Terms of Gender: The Shah Decision and U.S. Law*, 76 Interpreter Releases 1005 (1999).

20. The *INS Guidelines* formally apply only to cases filed with the INS Asylum Office and are not binding on Immigration Judges or the Board of Immigration Appeals. However, because they represent the INS’ interpretation of existing law, the issues highlighted within them are equally relevant and instructive to gender-related asylum claims in a deportation context.

**II. Ms. Alvarado Has a Well-Founded Fear of Persecution  
on Account of Her Membership in a Gender-Based Social Group.**

In order to qualify for refugee status, a claimant must show that he or she has suffered past persecution or has a well-founded fear of future persecution “on account of race, religion, nationality, political opinion, or membership in a particular social group.” 8 U.S.C. § 1101(a)(42)(A). The record of this case, as well as the Board’s own findings, plainly establish that Ms. Alvarado was subjected to, and reasonably fears being further subjected to, domestic violence “on account of” her membership in a social group characterized by her gender, either standing alone or in combination with her marital relationship or her refusal to conform to her husband’s socially sanctioned gender stereotypes.

**A. Gender Properly Can Be the Defining  
Characteristic of a Particular Social Group.**

In *In re Acosta*, its earliest and most often cited case construing the phrase “particular social group,” the Board ruled that a “particular social group” should be defined by common characteristics that its individual members either cannot or should not be expected to change.<sup>21</sup> Gender plainly meets this definition, as *Acosta* itself acknowledged in stating that “sex” is an example of an immutable characteristic that defines a social group.<sup>22</sup>

In analyzing the meaning of the phrase “particular social group,” the Board in *Acosta* examined the nature of the protection afforded by the other four bases enumerated in the

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21. *In re Acosta*, 19 I. & N. Dec. 211, 233-34 (BIA 1985).

22. *Id.* at 233.



refugee definition and, applying the principle of *ejusdem generis*, reasoned that the general words “particular social group” should be read in a manner consistent with the more specific words contained in the definition: race, religion, nationality, and political opinion. Observing that each of the four specific grounds concerned an immutable characteristic that individuals are “unable by their own actions, or as a matter of conscience should not be required” to change, the Board established a similar “immutable characteristic” test to guide interpretation of the particular social group category.<sup>23</sup> Thus, the common characteristic defining a “particular social group” must be one that “the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or conscience.”<sup>24</sup> This definition

includes within the notion of social group (1) groups defined by an innate, unalterable characteristic; (2) groups defined by their past temporary or voluntary status, since their history or experience is not within their current power to change; and (3) existing groups defined by volition, so long as the purpose of the association is so fundamental to their human dignity that they ought not to be required to abandon it. Excluded, therefore, are groups defined by a characteristic which is changeable or from which dissociation is possible, so long as neither option requires renunciation of basic human rights.<sup>25</sup>

The Board’s analysis in *Acosta* has been widely accepted by commentators and has been applied in numerous Board and federal court decisions and incorporated by other countries into their refugee law.<sup>26</sup> As these authorities have recognized, the *Acosta* definition represents an

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23. *Id.* at 233-34.

24. *Id.* at 233.

25. James C. Hathaway, *The Law of Refugee Status* 161 (1991).

26. *See, e.g. Islam*, 2 A11 E.R. 545 (finding Pakistani women subject to state-tolerated domestic violence to constitute a “particular social group”); *Canada (Attorney General) v. Ward*, 2 S.C.R.

appropriate “middle ground position which avoids reading ‘membership of a particular social group as either redundant or all-inclusive.’”<sup>27</sup> In addition, it addresses qualities that relate directly to the underlying purpose of refugee law, which is grounded in values similar to the non-discrimination principle embodied in human rights law and which seeks to protect those persons who are fundamentally marginalized within their societies and unable to seek protection from their own government because of characteristics that should be protected as basic rights or over which they have no control.<sup>28</sup> “The anti-discrimination orientation of the refugee definition implies that, like other grounds of persecution, a particular social group is also characterized by a marginalized or disadvantaged status in society which makes [the group] vulnerable to oppression, including (but not limited to) the actual persecution feared by the claimant.”<sup>29</sup>

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689 (Canada 1993) (agreeing with and elaborating on *Acosta’s* social group definition); Refugee Appeal No. 1312/93 (New Zealand Refugee Status Appeals Authority, Aug. 30, 1995) *reprinted in Gender Asylum Law in Different Countries* 547 (granting refugee protection to a man from Iran based on his membership in the banned Tudeh Party and his sexual orientation); Hathaway, *The Law of Refugee Status* at 161; Anker, *Law of Asylum in the United States* at 376 -78.

27. Hathaway, *The Law of Refugee Status* at 157-161. Some commentators have argued that the “particular social group” language should be interpreted more broadly to provide a catch-all category that would require only some similarity of background among its members and would include all the bases for persecution that an imaginative despot might conjure up. *See, e.g.,* Arthur C. Helton, *Persecution on Account of Membership in a Social Group as a Basis for Refugee Status*, 15 Colum. Hum. Rts. L. Rev. 39, 41-42, 45 (1983).
28. *See* Hathaway, *The Law of Refugee Status* at 135-41.
29. Audrey Macklin, *Cross-Border Shopping for Ideas: A Critical Review of United States, Canadian, and Australian Approaches to Gender-Related Asylum Claims*, 13 Geo. Immigr. L.J. 25, 63 (1998) (“Macklin, *Cross-Border Shopping for Ideas*”); *see also* Hathaway, *The Law of Refugee Status* at 135-41; Anker, *Law of Asylum in the United States* at 377.

Gender is unquestionably a characteristic that satisfies the *Acosta* standard because it is both immutable and fundamental to an individual's identity. Moreover, it is often the distinguishing characteristic that is the basis for a disadvantaged political or civil status and a lack of state protection. Thus, in addition to the Board itself in *Acosta*,<sup>30</sup> the Third Circuit in *Fatin*,<sup>31</sup> the INS in its *INS Guidelines*,<sup>32</sup> and, interpreting the Refugee Convention, the British House of Lords,<sup>33</sup> the Canadian Supreme Court,<sup>34</sup> and the Australian Refugee Review Tribunal,<sup>35</sup> have all expressly recognized that "gender" or "sex" can serve as a shared characteristic defining a particular social group for purposes of refugee protection.

Ninth Circuit law is consistent with *Acosta*'s emphasis on immutable or fundamental characteristics such as gender and with the concern for protecting groups that have a disadvantaged civil or political status.<sup>36</sup> In *Sanchez-Trujillo v. INS*, the Ninth Circuit indicated that a "particular social group" must be defined by "some common characteristic that is fundamental to [the individual member's] identity as a member of that discrete social group." 801

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30. See *Acosta*, 19 I. & N. Dec. at 233.

31. See *Fatin v. INS*, 12 F.3d 1233, 1240 (3d Cir. 1993).

32. See *INS Guidelines* at 13-15.

33. See *Islam*, 2 A11 E.R. 545.

34. See *Canada (Attorney General) v. Ward*, 2 S.C.R. at 739.

35. See N93/00656 (Australian Refugee Review Tribunal, Aug. 3, 1994)

36. The Ninth Circuit has not expressly ruled on whether gender standing alone can serve as a particular social group. See *Fisher v. INS*, 79 F.3d 955, 966 (9th Cir. 1996) (en banc) (Canby, J., concurring) (noting that it remains an open question in the Ninth Circuit "whether persecution of women because they are women is a ground for asylum under the Act").

F.2d 1571, 1576 (9th Cir. 1986). Although, in a passage much debated by scholars and commentators, the opinion indicated that “the existence of a voluntary associational relationship” could be one source of such a common, fundamental characteristic, it also acknowledged the possibility of other, non-voluntary characteristics, such as family membership. *Id.* Indeed, in more recent cases, the Ninth Circuit has expressly recognized that “an immutable characteristic . . . can provide the basis for finding persecution on account of . . . membership in a social group.” *See Velarde v. I.N.S.*, 140 F.3d 1305, 1313 (9th Cir. 1998).<sup>37</sup>

The Ninth Circuit’s underlying concern in *Sanchez-Trujillo* was to avoid broadly defined groups that are merely “statistical[ly] relevan[t]” and whose only shared characteristic is a higher risk of violence from general social circumstances, such as a civil war.<sup>38</sup> However, as the Australian Refugee Review Tribunal has noted, women, in addition to sharing the immutable characteristic of gender, have “shared common social characteristics” that make them cognizable as a social group. As the Tribunal explained:

The shared social characteristics common to all women, relate to gender and either emanate from, or are generally perceived to emanate from, gender. . . .

. . . That women share a common social status is evident from the fact that women generally earn less than men and that few women hold positions of power in both

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37. *See also Basco v. I.N.S.*, 129 F.3d 124 (table), 1997 WL 697392, \*2 (9th Cir. 1997) (nonprecedential decision citing *Sanchez-Trujillo* for proposition that a “particular social group” must be based on “a common, immutable characteristic, *i.e.*, a characteristic that either is beyond the power of the individual members to change or is so fundamental to their identities or consciences that it ought not be required to be changed”); *see generally* Dec. at 34 (Gundelsberger, J., dissenting) (observing that the Ninth Circuit has only inquired into the “voluntariness” of a social group where an asylum claim has been based on mere membership in the group rather than individualized persecution).

38. *See Anker, Law of Asylum in the United States* at 383.

government and non-government institution[s]. These characteristics, specifically shared by women, defined by their social status, are addressed through the various affirmative action and equal opportunities policies, and . . . anti-discrimination legislation. . . .

Another element binding all women, regardless of culture or class, is that of the fear of being subjected to male violence. . . .

That domestic violence . . . is regarded in many countries as a private problem rather than a public crime, can be directly attributed to women's social status; to the fact that historically, in many societies, women have been, and in many instances still are, regarded as being the private property of firstly their fathers then their husbands. That women face differential treatment within the legal system, arising from their social status, is evident from the focus given to women and violence against women, in for example, the U.S. Department of State Country Reports. . . . That women share a common social status is further evidenced by the establishment of the United Nations Commission on the Status of Women and other formal mechanisms for the advancement of women's status including the U.N. Decade for Women from 1975 to 1985. Women as a group have been specifically highlighted in the International Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Political Rights of Women, and the Convention on the Nationality of Married Women. . . .

. . . .

. . . [T]here is ample evidence indicating that 'women' are a particular social group as, in spite of being a broad group, they are a cogni[z]able group in that they share common fundamental and social characteristics. Whilst there does exist separation in lifestyles, values, political leanings etc., women share a defined social status and as such are differentially dealt with by society as a group. Furthermore . . . women can face harm based on who they are as women, and therefore their membership in this particular social group. It is women's social status that often leads to the failure of state protection, and this is particularly so with regard to domestic violence.

N93/00656 (Australian Refugee Review Tribunal, Aug. 3, 1994).

The fact that large numbers of people may share particular characteristics that are immutable or fundamental to their identity is simply not relevant to whether a "particular social group" defined by such characteristics exists for purposes of refugee determination. Each of the other four grounds within the refugee definition — race, religion, nationality, political opinion — may similarly encompass large numbers of people. However, since asylum is an individual remedy, even where an applicant can show membership in a "particular social group," she must

also establish her individual eligibility for asylum under all of the elements of the refugee definition. These other factors will necessarily make the size of the group ultimately eligible for protection significantly smaller than the overall size of a “particular social group.”<sup>39</sup>

Thus, in addition to establishing the existence of a particular social group, the applicant must show that she is a member of that group and that she has been persecuted in the past or that she has a well-founded fear that she will be persecuted in the future because of her group characteristic. *See, e.g., Fatin v. INS*, 12 F.3d 1233, 1240 (3d Cir. 1993). To prove that her fear of persecution is well founded, she must establish that (i) the persecutor is aware, or could become aware, of her social group membership, (ii) the persecutor has the capability of persecuting the applicant, and (iii) the persecutor has the inclination to persecute her. *See In re Mogharrabi*, 19 I. & N. Dec. 439, 446 (BIA 1987). A woman seeking protection must also show that her fear is reasonable under all the circumstances. Thus, a woman who has never been abused in the past and cannot articulate specific grounds for fearing that she will personally be abused in the future would not be able to establish an objective basis for her claim.<sup>40</sup> In addition, where the

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39. *See, e.g., Macklin, Cross-Border Shopping for Ideas* at 64 (“A finding that claimant was persecuted because of her ethnicity (Tamil) is not tantamount to a finding that all Tamil people are refugees. So too with a finding that a woman had been violated because of her membership in a particular social group (women)”).

40. This is born out by statistics regarding the number of women seeking and gaining protection in both the United States and Canada. “As of October, 1996, the INS had identified only approximately 75 women’s claims since the issuance of the [*INS Guidelines*].” Anker, *Domestic Violence Refugees* at 716 (citing information from INS Asylum Office, Oct. 1996). In November 1996, Canada, which has the most voluminous jurisprudence on women’s claims, reported that since the 1993 introduction of its Gender Guidelines, only 1134 gender-related claims had been adjudicated and, of those, 624 had been granted. Immigration and Refugee Board of Canada, *Background: the Guidelines on Women Refugee Claimants Fearing Gender-Related*

persecutor is a nonstate actor, as in most domestic violence cases, a woman would have to establish that her home government is unwilling or unable to provide reasonable protection from her persecutor.<sup>41</sup>

**B. A Particular Social Group Can Be Comprised of a Subgroup of Women.**

As the Board itself has acknowledged, a particular social group can also be defined by gender in combination with another characteristic.<sup>42</sup> Like many other victims of domestic violence, Ms. Alvarado is a member of a cognizable social group characterized by gender in combination with either her refusal to conform to socially sanctioned norms or her marital status or intimate relationship with a man.<sup>43</sup>

One gender subgroup that has found wide acceptance within international interpretations of the refugee definition consists of women who fail to conform to societal norms.<sup>44</sup> Such a subgroup was recognized by the Third Circuit in *Fatin v. INS*, 12 F.3d 1233 (3rd

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*Persecution: Update* (Nov. 1996) reprinted in *Gender Asylum Law in Different Countries* at 109; see also Pamela Goldberg, *U.S. Law and Women Asylum Seekers: Where Are They and Where Are They Going?*, 73 Interpreter Releases 889, 897-98 (1996) (providing similar statistics with respect to Canada).

41. Anker, *Domestic Violence Refugees* at 730-37.
42. See, e.g., *In re Kasinga*, Int. Dec. 3278, 13-14 (BIA 1996) (recognizing under *Acosta*'s immutable or fundamental standard a gender subgroup consisting of "young women of the Tchamba-Kunsuntu tribe who have not had [female genital mutilation] as practiced by that tribe, and who oppose the practice. . .").
43. Ms. Alvarado is also entitled to asylum under the social group definitions adopted by the Immigration Judge and proposed by her counsel.
44. See, e.g., *Conclusion on Refugee Women and International Protection*, UNHCR Programme, Executive Committee, 36th Sess., No. 39(k) (1985) ("[r]ecognizing that states, in the exercise of their sovereignty, are free to adopt the interpretation that women asylum-seekers who face harsh or

Cir. 1993), where the court found that a particular social group could be comprised not only of women generally, but also of women who refused to conform to the fundamentalist laws and gender-related practices of the Iranian government even in the face of severe penalties. The Third Circuit found that failure to conform one’s behavior in the face of severe penalties indicated that a woman’s opposition is so fundamental that she ought not to be compelled to change those beliefs. *See Fatin*, 12 F.3d at 1241; *see also Safaie v. INS*, 25 F.3d 636, 640 (8th Cir. 1994) (“We agree with the Third Circuit that a group of women, who refuse to conform and whose opposition is so profound that they would choose to suffer the severe consequences of noncompliance, may well satisfy the definition.”).

The record in this case — which showed that the assaults of Ms. Alvarado’s husband increased when she asserted any independence from her husband’s “views of women . . . as his property to do with as he pleased,” Dec. at 11<sup>45</sup> — supports a finding that Ms. Alvarado was persecuted because she would not or could not conform to the norms of behavior imposed on her as a Guatemalan woman and wife.

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inhuman treatment due to their having transgressed the social mores of the society in which they live may be considered a ‘particular social group’ within the meaning of Article 1 A(2) of the 1951 United Nations Refugee Convention”); *UNHCR Guidelines* ¶ 54 (encouraging states to adopt this position); *Canadian Gender Guidelines* at 3 (recognizing a social group consisting of “women who fear persecution as the consequence [of] failing to conform to, or for transgressing, certain gender-discriminating religious or customary laws and practices”) *reprinted in Gender Asylum Law in Different Countries* at 89; *INS Guidelines* at 14 (observing that *Fatin* is consistent with the approach of *Acosta* and the UNHCR Executive Committee).

45. *See, e.g.*, Dec. at 3-4 (describing how Ms. Alvarado’s husband beat her when, for example, she attempted to separate from him or refused to get an abortion); Dec. at 44-45 (Gundelsberger, J., dissenting) (observing that the record shows that the abuse of Ms. Alvarado escalated when she unsuccessfully sought protection from governmental authorities).



Another gender-based subgroup supported by this record is the particular social group of “wives and other female intimate partners.”<sup>46</sup> Use of this social group formulation is appropriate where the persecution takes the form of domestic violence, which specifically “targets women because of their role within th[e domestic] sphere” and “is intended to impact, directly and negatively, on women within the domestic sphere.”<sup>47</sup>

In this case, the Board expressly found that Ms. Alvarado’s husband abused her because she was his wife and also found that he would have abused any woman who was his wife.<sup>48</sup> Clearly, therefore, Ms. Alvarado was persecuted because of her status as a wife or intimate partner. Like gender generally, the status of being a wife or female intimate partner is fundamental to the identity of the individual, and often immutable. Indeed, even where a woman can overcome the often substantial legal and economic obstacles to divorce or separation, her status as a former wife or intimate partner may serve as an immutable or past characteristic that is the basis for a well-founded fear of continuing and often heightened persecution.<sup>49</sup> Finally, there

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46. See, e.g., *Canadian Guidelines Update*, Guideline 4.A.III reprinted in *Gender Asylum Law in Different Countries* at 110, 119 (in appropriate cases, the particular social group may consist of gender plus another immutable characteristic such as marital status).

47. See *1996 Report of the Special Rapporteur on Violence Against Women* ¶ 28 (defining family violence against women). This definition includes violence against other family members and domestic workers. In an appropriate case, a social group could be defined as including women in such relationships.

48. See Dec. at 18.

49. See *In re Fuentes*, 19 I. & N. Dec. 658, 662-63 (BIA 1988) (status as former member of national police is an immutable characteristic that can be the basis for a social group claim); see generally Ronet Bachman and Linda E. Saltzman, *Violence against Women: Estimates from the Redesigned Survey* 4 (1995) (Bureau of Justice Statistics show that “[a]mong victims of violence committed by

is no question that it is precisely in their role as spouse or intimate partner that women often have a “marginal or disadvantaged status in society which makes [them] vulnerable to oppression.”<sup>50</sup>

**III. The Domestic Violence Inflicted on Ms. Alvarado Constitutes Persecution “On Account Of” Her Gender.**

In rejecting the incontrovertible evidence that the domestic violence in this case was directed at Ms. Alvarado on account of her membership in a gender-based social group, the Board ignored well-established principles for determining persecutory motive in the asylum context and relied on an outdated view of domestic violence as aberrant, irrational behavior rather than purposeful conduct that is typically used to control women and enforce gender stereotypes. As courts have done in applying the gender-motivation requirement of the Violence Against Women Act’s (“VAWA’s”) civil rights provision, gender should be readily inferred as a motivating factor for domestic violence from such circumstantial evidence as the severity, controlling nature, or gender-specificity of the violence.

**A. The Board’s Analysis of the Gender Motivation Issue Is Inconsistent with Well-Established Asylum Law.**

In addition to establishing that the harm suffered or feared rises to the level of persecution, a woman seeking asylum in the United States on the basis of domestic violence must show a link between the persecution and one of the enumerated statutory grounds of race,

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an intimate, the victimization rate of women separated from their husbands [at the time of the interview] was about 3 times higher than that of divorced women and about 25 times higher than that of married women.”).

50. Macklin, *Cross-Border Shopping for Ideas* at 63.

religion, nationality, membership in a particular social group, or political opinion. This “nexus” requirement is often framed in terms of motives and requires evidence that the persecutor is motivated by a cognizable ground in inflicting the harm or that the harm is directed at the applicant because of her protected characteristics. *See INS v. Elias-Zacarias*, 502 U.S. 478, 482-83 (1992); *In re S-P-*, Int. Dec. 3287, 6, 13 (BIA 1996).

“[A]n applicant does not bear the unreasonable burden of establishing the exact motivation of a ‘persecutor’ where different reasons for actions are possible.” *In re S-P-*, Int. Dec. at 6 (quoting *In re Fuentes*, 19 I. & N. Dec. 658, 662 (BIA 1988)). In addition, “persecutory conduct may have more than one motive, and so long as one motive is one of the statutorily enumerated grounds, the requirements have been satisfied.” *Harpinder Singh v. Ilchert*, 63 F.3d 1501, 1509 (9th Cir. 1995).<sup>51</sup> Moreover, “[i]n adjudicating mixed motive cases, it is important to keep in mind the fundamental humanitarian concerns of asylum law. . . . Such an approach is designed to afford a generous standard for protection in cases of doubt.” *In re S-P-*, Int. Dec. at 10.

As the Board has explained:

Persecutors may have differing motives for engaging in acts of persecution, some tied to reasons protected under the Act and others not. Proving the actual, exact reason for persecution or feared persecution may be impossible in many cases. An asylum applicant is not obliged to show conclusively why persecution has occurred or may occur. Such a rigorous standard would largely render nugatory the

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51. *See also Borja v. INS*, 175 F.3d 732, 735 (9th Cir. 1999) (en banc) (“‘persecution on account of the victim’s political opinion,’ does not mean persecution *solely* on account of the victim’s political opinion” (quoting *Osorio v. INS*, 18 F.3d 1017, 1028 (2d Cir. 1994)) (emphasis in original); *In re S-P-*, Int. Dec. 3287 at 6.

Supreme Court's decision in *INS v. Cardoza-Fonseca*, 480 U.S. 421 (1987), and would be inconsistent with the "well-founded fear" standard embodied in the "refugee" definition.

*Id.* at 6.

Both the Supreme Court and the Board have held that there need not be direct evidence of a persecutor's motives; rather, motivation may be inferred from circumstantial evidence, including the socio-cultural or political purpose of the harm.<sup>52</sup> For example, in *Kasinga*, the Board relied on expert evidence that FGM had "been used to control woman's sexuality" and "to assure male dominance and exploitation" to conclude that the practice was engaged in "on account of" membership in a gender-based social group. In addition, although the persecutor must be partly motivated by a protected characteristic or perceived characteristic, he need not have a subjective intent to punish or harm on account of that ground.<sup>53</sup>

These same standards plainly must be applied to claims of gender-based persecution. Yet the Board simply refused to apply these well-established principles in analyzing the motivations for the domestic violence inflicted on Ms. Alvarado. It ignored the overwhelming direct evidence that gender was a motivating factor for the abuse of Ms. Alvarado, including express statements by Ms. Alvarado's husband, such as "You're my woman and I can do what I

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52. See *INS v. Elias-Zacarias*, 502 U.S. at 483 (proof of motive can be "direct or circumstantial"); *In re S-P-*, Int. Dec. 3287 at 11-14 (examining circumstantial evidence of the social and political context of persecution in order to determine motive).

53. See *Pitcherskaia v. INS*, 118 F.3d 641, 646-48 (9th Cir. 1997) (proof of subjective and malevolent intent, or intent to punish is not required since "definition of persecution is objective, in that it turns not on the subjective intent of the persecutor but rather on what a reasonable person would deem 'offensive'"); *In re Kasinga*, Int. Dec. 3278 at 12 (punitive intent is not necessary).

want with you,” Dec. at 3, and the gender-specific and sexual nature of the violence, *see supra* at 2-3. Moreover, it failed to consider the materials in the record concerning the social and cultural purposes served by domestic violence, both generally and in Guatemala,<sup>54</sup> arguing that an examination of “[s]ocietal attitudes . . . takes us away from looking at the motivation of the husband.” Dec. at 19. Only by ignoring its own precedents in this way could the Board fail to acknowledge that the domestic violence in this case was gender-motivated.

**B. The Board’s Analysis of the Gender Motivation Issue is Inconsistent with the Expert Understanding of Domestic Violence.**

The Board’s characterization of domestic violence as merely the irrational behavior of a psychologically disturbed individual is contrary to the now widely accepted view that such violence is a purposeful act, intended to control and dominate a female intimate partner and to enforce and punish deviations from socially accepted gender stereotypes.

Refusing to give any weight to “societal attitudes,” the Board insisted that the abusive behavior of Ms. Alvarado’s husband could be explained as merely a symptom of a psychological disorder or what it euphemistically described as “his own personal or psychological makeup coupled with his troubled perceptions of [his wife’s] actions at times.” Dec. at 12; *see also id.* at 25 (“some abuse occurred because of his warped perception of and reaction to her behavior, while some likely arose out of psychological disorder”).

This view of domestic violence as the irrational act of a troubled individual trivializes the widespread and serious nature of this form of violence and is contrary to the

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54. *See, e.g.*, Record at 394-40, 412-636, 723-31, 734-37.

understanding of experts across a broad range of professional fields, both domestically and internationally. As is now generally accepted, “treating men who batter as mentally ill ignores the fact that domestic violence is intentional behavior with a historical, culturally sanctioned purpose, which was and is for men to keep their wives ‘in their place.’ . . . It cannot be understood apart from the historical and cultural context of female subordination.”<sup>55</sup> The “very small percentage” of cases that may be caused by mental illness are easily distinguished by other symptoms of psychological disorder and by the random nature of the victims.<sup>56</sup>

Even those professionals who focus on psychological approaches to individual batterers acknowledge that domestic violence is purposeful behavior intended to control and dominate an intimate female partner. For example, a recent study of the American Psychological

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55. David Frazee, Ann M. Noel, and Andrea Brenneke, *Violence Against Women: Law and Litigation* § 1.41, at 1-45 (1998) (“Frazee, *Violence Against Women*”); see also V. Michael McKenzie, *Domestic Violence in America* 8 (1995) (“[s]pousal battery is a choice men exercise intentionally and purposefully to resolve conflict and achieve their goals of dominance, and coercive control of women”); Kimberle Williams Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, in *The Public Nature of Private Violence: The Discovery of Domestic Abuse* 93, 93 (Martha Albertson Fineman & Roxanne Mykitiuk eds., 1994) (“*The Public Nature of Violence*”) (“battering and rape, once seen as private (family matters) and aberrational (errant sexual aggression), are now largely recognized as part of a broad-scale system of domination that affects women as a class”); Murray A. Straus, *Physical Violence in American Families: Incidence Rates, Causes, and Trends*, in *Abused and Battered: Social and Legal Responses to Family Violence* 17, 17 (Dean D. Knudsen & JoAnn L. Miller eds. 1991) (family violence “is not the exclusive property of a few cruel or mentally ill parents or spouses”); R. Emerson Dobash and Russell Dobash, *Violence Against Wives* 15 (1979) (domestic violence must be understood in its “social and cultural context” as “the extension of the domination and control of husbands over their wives”).

56. Anne L. Ganley, *The Impact of Domestic Violence on the Defendant and the Victim in the Courtroom* in Janet Carter et al., *Domestic Violence: The Crucial Role of the Judge in Criminal Court Cases* 30 (1991).

Association (the “APA”)<sup>57</sup> observes that “[e]xperts generally agree that in an abusive family situation, the abuser uses physical, sexual, or psychological coercion or intimidation for the purpose of achieving power and control over family members or to punish them for not meeting the abuser’s needs.” APA Report at 11. More specifically, the APA concludes that one of the “principles that emerge[s] from the extensive body of psychological knowledge” concerning family violence is that “[w]hat people learn about and adopt regarding gender roles plays an important part in the development and continuation of violent behavior”:

Men, for example, receive the false message that they have a right and a mandate to control the women and children in their families. That belief contributes significantly to men’s continued use of violence to maintain power and control.

*Id.* at 112.<sup>58</sup> Thus, the “typical batterer” “use[s] violence to meet needs for power and control over others. Their actions are often fueled by stereotypical sex-role expectations for ‘their’ women.” *Id.* at 82. Moreover, as the APA finds, “[t]he strongest risk factor for being a victim of partner violence is being female.” *Id.* at 19 (emphasis in original).

Similarly, a recent study by the National Institute of Justice on batterer intervention programs found that “studies have documented the sense of *entitlement* batterers feel

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57. *Violence and the Family: Report of the American Psychological Association Presidential Task Force on Violence and the Family* (1996) (the “APA Report”).

58. *See also id.* at 121 (“Violence within the family is used as a method of social control, tending to keep both women and men within rigidly-defined social roles.”); *id.* at 18 (finding that among the most significant individual “risk factors” correlated with domestic violence is “[r]igid acceptance of traditional concepts of men’s entitlement to superiority and control over family members,” and among the most significant sociocultural influences are a “[w]idespread assumption and social expectations that men are superior to women and are entitled to exert control over their family members” and “[g]ender stereotypes”).

in controlling their partners' behavior and in justifying violence if these women deviate from the female sex role" and that "[i]n practice, regardless of their primary perspective, most [batterer intervention] programs . . . view sexual inequality and masculine role expectations of dominance as core issues to address."<sup>59</sup> Thus, even programs that focus on the psychology of the individual batterer have come to recognize the importance of socially and culturally reinforced beliefs such as the "cultural expectation that men should be dominant and successful," "thoughts that encourage wife-beating, such as 'She should obey me. I'm the man of the household.'" and the role of "sexism in the media and in society [in] provid[ing] models of social support for abusing and degrading women."<sup>60</sup>

Although many of these sociological and psychological studies focus on domestic violence in the United States, there are numerous international human rights documents and reports that have reached similar conclusions with respect to domestic violence in other countries and cultures. The United Nations General Assembly recently adopted a Declaration on the Elimination of Violence against Women that recognizes domestic violence as a "manifestation of historically unequal power relationships between men and women," and condemns it as one of the

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59. Kerrey Healey, Christine Smith, Chris O'Sullivan, *Batterer Intervention: Program Approaches and Criminal Justice Strategies* 18-19, 28 (1998) (emphasis in original).

60. *Id.* at 21, 26; see also Isabel Marcus, *Reframing "Domestic Violence": Terrorism in the Home*, in *The Public Nature of Violence* 11, 23 (describing statements made by batterers in court-mandated educational programs that "speak to well developed notions of sex-based power, control, and hierarchy"); James Ptacek, *Why Do Men Batter Their Wives*, in *Feminist Perspectives on Wife Abuse* 133, 147-49 (Kersti Yllö & Michelle Bograd eds., 1988) (describing how batterers who had participated in a counseling program often justified their violence by seeing themselves as "punishing the woman for her failure to be a good wife").



“crucial social mechanisms by which women are forced into a subordinate position compared with men.”<sup>61</sup> Similarly, the Committee on the Elimination of Discrimination Against Women has recognized the use of domestic violence as a tool of oppression against women:

At its most complex, domestic violence exists as a powerful tool of oppression. Violence against women in general, and domestic violence in particular, serve as essential components in societies which oppress women, since violence against women not only derives from but also sustains the dominant gender stereotypes and is used to control women in the one space traditionally dominated by women, the home.

*Report of the Committee on the Elimination of Discrimination Against Women*, ¶ 26, 47th Sess., Supp. No. 38, at 8, U.N. Doc. A/47/38 (1992).<sup>62</sup>

This understanding of domestic violence as a means for subordinating women was spelled out in great detail in a United Nations report, “Violence Against Women in the Family” (U.N. Sales No. E.89.IV.5 (1989) (the “U.N. Report”). In discussing the limitations of various theories or explanations concerning the causes of violence against women in the home, the report states “it is perhaps best to conclude that violence against wives is a function of the belief . . . that men are superior and that the women they live with are their possessions or chattels that they can treat as they wish and as they consider appropriate.” *Id.* at 33. The U.N. Report continues:

. . . the social framework relegates the woman, none the less, to the level of a chattel. Here structures place her in a position of dependence on the man and predict that she will

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61. G.A. Res. 48/104, U.N. GAOR, 48th Sess., Supp. No. 49, at 217, U.N. Doc. A/48/49 (1993).

62. *See also 1999 Report of the Special Rapporteur on Violence Against Women* ¶ 9 (“[t]he culturally-specific, ideologically dominant family form in any given society . . . serves as the standard against which individual women are judged and, in many cases, demonized for failing to ascribe to moral and legal dictates with respect to family and sexuality” and “legitimizes violence against women in the form of sexual harassment, rape, domestic violence, female genital mutilation, forced marriages, honor killings and other forms of femicide”).

fulfil certain roles. This combines with the isolation of the family as an institution and the respect that is offered to it in terms of privacy and autonomy by all agents within the society, to allow violence to occur if the wife is seen to overstep her traditional role.

The collected scholarship that seeks to explain violence against women in the home indicates that the explanation is complex and certainly multi-factorial. *Any explanation must, however, be seen against a background of gender inequality, wherein the victim of such violence is most often the woman and the perpetrator most often the man and wherein the structures of society — be they economic, political or legal — act to confirm this inequality.*

*Id.* (emphasis added). In addressing structural causes of violence in the family, the U.N. Report concludes that “[v]iolence against women is the product of the subordination of women” and that “unless there is a fundamental change in the social and economic structures that maintain the subordination of women within marriage and within wider society,” no long-term solution will be found. *Id.* at 105.

The record in this case, with respect to both the general status of women in Guatemala and the specific actions and statements of Ms. Alvarado’s husband,<sup>63</sup> can leave no doubt that the domestic violence here was purposeful and was directed at Ms. Alvarado “on account of” her gender.

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63. *See, e.g.*, Dec. at 29 (Gundelsberger, J., dissenting) (quoting Immigration Judge’s findings that the “institutional biases” against victims of domestic violence in Guatemala “appear to stem from a pervasive belief . . . that a man should be able to control a wife or female companion by any means he sees fits: including rape, torture, and beatings”); *supra* at 2-3 (describing husband’s expressions of such beliefs by word and deed).

**C. The Board’s Analysis Is Inconsistent with the Understanding of Gender-Motivated Violence In Other Areas of the Law.**

The Board’s decision is also inconsistent with the recognition in other areas of United States law that domestic violence must often be understood as being on account of or because of the victim’s gender.

In particular, both Congress and the courts have recognized that domestic violence can be “gender-motivated” under the Civil Rights Remedies for Gender-Motivated Violence Act, 42 U.S.C. § 13981 (the “Gender-Motivated Violence Act” or “GMVA”), which was enacted as part of the 1994 Violence Against Women Act.<sup>64</sup> The GMVA provides a civil rights cause of action for victims of “crimes of violence motivated by gender”<sup>65</sup> and defines such crimes as “violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim’s gender.” 42 U.S.C. § 13981(d)(1).<sup>66</sup>

The legislative history of the GMVA indicates that Congress intended that gender motivation could be established by the same types of evidence that are used under other civil

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64. Pub. L. No. 103-322, §§ 40001-40703, 108 Stat. 1796, 1902-55.

65. The statute defines a “crime of violence” as certain acts that constitute violent felonies. *See* 42 U.S.C. § 13981(d)(2).

66. Although there is little case law construing the separate elements of this definition, the legislative history indicates that Congress intended that the “animus” requirement was to be interpreted in the same manner as the similar requirement under 42 U.S.C. § 1985(3) and that it was added to the statute to make it clear that proof of disparate impact would not be sufficient to meet the gender-motivation requirement. *See generally* Frazee, *Violence Against Women* § 10.1-10.29 (discussing meaning and legislative history of VAWA gender-motivation requirement); Julie Goldscheid, *Gender-Motivated Violence: Developing A Meaningful Paradigm for Civil Rights Enforcement*, 22 Harv. Women’s L. J. 123, 150-51 (1999) (“Goldscheid, *Gender-Motivated Violence*”) (same).

rights laws and that fact finders should “determine ‘motivation’ from the ‘totality of the circumstances’” surrounding the alleged acts. S. Rep. No. 103-138, at 52 (1993). In addition, Congress indicated that “[g]enerally accepted guidelines for identifying hate crimes may . . . be useful in assessing whether the circumstances show gender motivation” and that relevant factors would include “language used by the perpetrator; the severity of the attack (including mutilation); the lack of provocation; previous history of similar incidents; absence of any other apparent motive (battery without robbery, for example); common sense (burning a cross on the lawn has bias implications).” *Id.* at 52 n.61.<sup>67</sup>

Thus, the gender-motivation requirement of the GMVA is similar to the “on account of” or “nexus” requirement under the asylum statute. In both, the ultimate issue is the motivation of the persecutor or perpetrator of violence; motivation can be inferred from circumstantial evidence based on the totality of evidence; and the persecutory purpose need not be the exclusive motive.<sup>68</sup> In addition, courts determining persecutory motive under the asylum statute have relied on many of the same types of evidence that Congress specified were relevant to determining gender motivation under the GMVA.<sup>69</sup>

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67. Similar types of evidence are also used to infer gender and other bias motivations under 42 U.S.C. § 1985(3), 18 U.S.C. § 245, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and state bias crime law. *See* Goldscheid, *Gender-Motivated Violence* at 134-142.

68. *See supra* at III.A.

69. These include the language used by the persecutor, *see, e.g., De Guinac v. INS*, 179 F.3d 1156, 1161 (9th Cir. 1999) (beatings combined with ethnic slurs are relevant to finding motivation based on race); *Korablina v. INS*, 158 F.3d 1038, 1044 (9th Cir. 1998) (anti-Semitic epithets and painting the Star of David on the walls during attacks are evidence of religious motivation); the severity of the persecution, *see, e.g., Rodriguez-Roman v. INS*, 98 F.3d 416, 429-30 (9th Cir.

“[I]t is undisputed that a primary focus of [the GMVA] is domestic violence.”

*Brzonkala v. Virginia Polytechnic Institute and State University*, 169 F.3d 820, 842 (4th Cir.) (en banc), *cert. granted*, 120 S. Ct. 11 (1999); *Bergeron v. Bergeron*, 48 F. Supp. 2d 628, 636 (M.D. La. 1999) (same).<sup>70</sup> Thus, even in the brief period since the enactment of the GMVA, there have been numerous cases holding that acts of domestic violence can be gender motivated. For example, in *Ziegler v. Ziegler*, 28 F. Supp. 2d 601, 606 (E.D. Wash. 1995), the court found that gender motivation could be inferred from a wife’s allegations of “at least one incident of rape . . . and numerous incidents of violence associated with sexual issues” by her husband, “[g]ender-specific epithets,” “[a]cts that perpetuated [a] stereotype of [a] submissive role for” the wife,

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1996) (finding political motivation based in part on severe punishment for illegal departure); previous history of similar incidents, *see, e.g., Korablina*, 158 F.3d at 1044 (concluding that persecution was motivated by religion based in part on nature and frequency of attacks, and evidence of pattern of anti-Semitic violence); and the lack of any other apparent motive, *see, e.g., Briones v. INS*, 175 F.3d 727, 729 (9th Cir. 1999) (en banc) (persecution was on account of political opinion where “the record . . . contains no other reason, plausible or otherwise, why [a guerilla group] would want to eliminate” asylum seeker); *Sangha v. INS*, 103 F.3d 1482, 1490 (9th Cir. 1997) (“[w]e have found . . . persecution [on account of political opinion] when there is no other logical reason for the persecution”); *Nasseri v. Moschorak*, 34 F.3d 723, 730 (9th Cir. 1994) (absence of “any other reason” for abuse), *overruled on other grounds by Fisher v. INS*, 79 F.3d 955 (9th Cir. 1996) (en banc).

70. The legislative history of the GMVA, as well as VAWA generally, shows that the statute was a response to extensive hearings and legislative findings on the subject of domestic violence. *See, e.g., Frazee, Violence Against Women* §§ 5.1-42. In addition, by providing that the GMVA applies to acts that “would constitute a felony . . . but for the relationship between the person who takes such action and the individual against whom such action is taken,” 42 U.S.C. § 13981(d)(2)(B), Congress explicitly provided that an action could be brought even where restrictive state laws governing marital rape or creating other interspousal immunities might bar a felony prosecution. *See Brzonkala*, 169 F.3d at 843; *Culberson v. Doan*, 65 F. Supp. 2d 701, 705 (S.D. Ohio 1999); *Doe v. Hartz*, 970 F. Supp. 1375, 1396 (N.D. Iowa 1997), *rev’d on other grounds*, 134 F.3d 1339 (8th Cir. 1998).

“severe and excessive attacks, . . . especially during . . . pregnancy,” and the fact “[t]he alleged violence was often . . . at times when the [wife] asserted her independence.”

Lesser showings of abuse have also been found sufficient to establish gender motivations. Thus, in *Kuhn v. Kuhn*, 1998 WL 673629, \*5-\*6 (N.D. Ill. Sept. 16, 1998), a wife’s allegations that her husband had forced her to have sex on a single occasion were deemed adequate to establish that his alleged acts of unlawful restraint, aggravated battery, and criminal sexual assault were gender motivated because the “cases in which a criminal sexual assault is not motivated by gender are few and far between.” Similarly, in *Santiago v. Alonso*, 66 F. Supp. 2d 269, 270-71 & n.2 (D. P.R. 1999), a court held that an allegation of rape in the context of an abusive domestic relationship stated sufficient facts for a jury to infer gender motivation. In *Culberson v. Doan*, 65 F. Supp. 2d 701, 706 (S.D. Ohio 1999), a case involving the domestic abuse and murder of a woman by a man that she had been dating, a court found that allegations that the defendant had, on one occasion, forced his way into the woman’s home, attempted to assault her, and threatened that she should stay away from other men were sufficient to establish gender motivation for his violent acts. Finally, in *Wright v. Wright*, No. CIV-98-0572-A, slip op. at 21 (W.D. Okla., July 31, 1998), a court found that a single gender epithet during a physical assault was sufficient evidence of gender motivation.

Applying these same principles for determining whether violent or persecutory acts are motivated by the victim’s gender to the undisputed record in this case of sexual assaults, severe, repeated, and unprovoked violence, the escalation of violence to punish any assertion of independence by Ms. Alvarado, and the express statements of clear gender bias, *see supra* at 2-3,

permits no other conclusion than that the acts of violence directed at Ms. Alvarado constitute persecution “on account of” her membership in the social group of either women generally or a subcategory of that group.

### **Conclusion**

For the foregoing reasons, the *amici* respectfully request that the Attorney General grant Ms. Alvarado’s request to certify and reverse the Board’s decision in this case. Moreover, *amici* believe that the Board’s failure to apply its own precedents to an asylum claim based on domestic violence and its refusal to credit the irrefutable evidence that Ms. Alvarado was targeted for persecution because of her status as a woman and a wife demonstrates the need to set forth clear guidelines for asylum determinations based on domestic violence. These guidelines should make it clear that (i) persecution on account of membership in a “particular social group” defined by gender is a legally appropriate basis for asylum and (ii) domestic

violence is gender-motivated whenever the evidence fails to support some other plausible explanation that fully accounts for the nature, severity, or repeated character of the violence.

Dated: January 21, 2000

Respectfully submitted,

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**Certificate of Service**

I hereby certify that on this 21<sup>st</sup> day of January, 2000, a copy of the foregoing **Brief of *Amici Curiae* in Support of Request for Certification and Reversal of the Decision of the Board of Immigration Appeals In re R-A- (Interim Decision No. 3403)** was served by overnight courier upon the following parties:

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I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Colby A. Smith

**APPENDIX**

**(Statements of Interest of *Amici Curiae*)**

## LIST OF AMICI CURIAE

### ORGANIZATIONS

#### **Women Refugees Project**

Women Refugees Project of the Harvard Law School Immigration and Refugee Clinic and Greater Boston Legal Services, Inc. (formerly of Cambridge and Somerville Legal Services, Inc.) has worked with hundreds of women from around the world since its founding in 1992. It combines representation of individual women asylum applicants with the development of theories, policy and national advocacy. The Project participated in developing the *Considerations for Asylum Officers Adjudicating the Asylum Claims of Women* issued by the Immigration and Naturalization Service (“INS”) in May 1995, and has been engaged by the Justice Department in the training of immigration judges, asylum officers and supervisors on women’s asylum claims. In addition, the Project provides advice, support and backup services to advocates around the United States representing women seeking asylum. The Project has an interest in the proper application and development of the law in this area, so that claims by women for asylum protection receive fair and proper consideration under existing standards of law.

#### **Refugee Law Center**

Founded in 1994, Refugee Law Center (“RLC”) provides advice, support, documentation resources and related backup services to academic and policy researchers and to advocates representing immigrant women before the INS Asylum Office, the Executive Office for Immigration Review (“EOIR”) and federal courts. In addition, the RLC provides periodic research papers on relevant issues of law and policy and maintains a database of unpublished decisions in gender-related asylum cases. The staff of the RLC has been involved in training advocates and adjudicators in issues involving gender-related asylum. In 1998, the RLC published *The Law of Asylum in the United States*, the leading treatise on U.S. asylum law. In 1999, the RLC published *Gender Asylum Law in Different Countries: Decisions and Guidelines*. The RLC has a particular focus on the claims of women asylum seekers and an interest in ensuring the development of the law of asylum in women’s cases in a manner consistent with relevant principles of asylum and human rights law.

## **NOW Legal Defense and Education Fund**

NOW Legal Defense and Education Fund (“NOW LDEF”) is a leading national, nonprofit civil rights organization that performs a broad range of legal and educational services in support of women’s efforts to eliminate sex-based discrimination and to secure equal rights. NOW LDEF was founded as an independent organization in 1970 by leaders of the National Organization for Women. NOW LDEF has been engaged on many fronts in efforts to eliminate gender-motivated violence. Most notably, NOW LDEF chaired the national task force that was instrumental in passing the historic Violence Against Women Act (“VAWA”) and maintains a national legal clearinghouse that tracks legal developments under VAWA. Further, NOW LDEF’s Immigrant Women Program (“IWP”) co-chairs the National Network on Behalf of Battered Immigrant Women and is responsible for the Network’s Washington-based advocacy efforts to enhance legal protections and access to services for battered immigrant women and their children. The IWP is actively involved in policy efforts to promote greater legal protections for battered immigrant women. NOW LDEF has participated as counsel and as *amicus curiae* in numerous cases in support of the rights of women who have been the victims of sexual assault, domestic violence and other gender-motivated violence.

## **Albuquerque Border City Project**

Albuquerque Border City Project (“ABC Project”) has operated since 1989 as a community-based, nonprofit organization that offers services to, and advocates for, the immigrant community, regardless of status or national origin. ABC Project is known in central and northern New Mexico as the key provider of culturally and linguistically competent legal services to immigrant victims of domestic violence, and works extensively with all domestic and sexual violence coalitions, task forces and shelters in the area. Since 1996, it has received VAWA and Victims of Crime Act funding to provide legal services to immigrant victims of domestic violence, most of whom are Mexican national women and children. ABC Project has also developed specialized legal, information and assistance services to assist eligible women to self-petition for legal status.

## **American Civil Liberties Union**

The American Civil Liberties Union (“ACLU”) is a nationwide, nonprofit, nonpartisan organization with nearly 300,000 members dedicated to the principles of liberty and equality embodied in the Constitution and this nation’s civil rights laws. The ACLU Women’s Rights Project, founded in 1971 by Justice Ruth Bader Ginsburg, has been a leader for nearly three decades in bringing about social change for women in such areas as employment, education and health care. The Project believes that the goal of full equality for women cannot be realized until the law affords women protection from domestic and other forms of gender-based violence.

## **Asian Pacific American Legal Center**

The Asian Pacific American Legal Center (“APALC”) was established in 1983 with broad community-based support and has become one of the leading organizations dedicated to providing the growing Asian-Pacific-American community with multilingual, culturally sensitive legal services, education and civil rights support. It is now the largest organization in the country focused on meeting the legal needs of one of the nation’s fastest growing populations. APALC has consistently made a priority of providing legal services to immigrant and refugee women, including those who are victims of spousal abuse. Its staff has written articles and spoken at numerous conferences on legal issues involving battered immigrant women.

## **Asian Services in Action, Inc.**

Asian Services in Action, Inc. (“ASIA”) is a publicly funded, nonprofit organization created in 1995 by Asian-American professionals in northeast Ohio to meet the concerns of displaced persons from Southeast Asia. Its mission is to empower Asian-Americans and Asian Pacific Islander communities through professional, cultural, social and intellectual development and advancement. Its purpose is to develop community programs that increase the basic functioning of the family units and to offer these communities the opportunity to advance both professionally and educationally. ASIA’s involvement with domestic violence issues dates from its inception. ASIA has actively supported and recruited women from various ethnic groups to attend workshops on domestic violence. It was successful in building a system that enhanced relationship skills in the Vietnamese, Hmong and Chinese communities. ASIA also intervenes in domestic violence cases perpetrated against immigrant women on an individual basis. In addition, it has developed a multilingual women’s planner for women involved in domestic violence situations.

## **Ayuda**

For over 25 years Ayuda has been the only nonprofit, community-based legal and social services center in the Washington, D.C. metropolitan area with the proven capability to help low-income Latino and foreign-born families by providing legal assistance in the areas of immigration and domestic violence. Ayuda’s VAWA Project offers life-saving representation for battered immigrant women and their children who qualify for immigration benefits, including work authorization. Since 1986, Ayuda’s Domestic Violence Program, Clinica Legal Latina, has provided legal assistance to battered immigrant women and their children in family law cases. Ayuda’s Social Services Component Coordinator provides individual counseling services and helps clients access day care, housing, employment, education and health care for themselves and their children and provides assistance in accessing other needed services.

### **Battered Women's Rights Clinic**

The Battered Women's Rights Clinic is one of the clinical components of Main Street Legal Services, the third-year clinical program of the City University of New York School of Law. Since 1990, the Battered Women's Rights Clinic has represented battered women, primarily in Queens County, New York, in family offense, custody, visitation and child support proceedings, matrimonial actions, battered spouse waivers, and self-petitioning applications under the immigration laws. Since Queens County has a significant immigrant population, a large number of its clients are immigrant battered women. The Battered Women's Rights Clinic works closely with the Immigrant and Refugee Rights Clinic at the Law School to provide comprehensive services to this particular population. Thus, it has national recognition as an expert in the area of legal representation to immigrant battered women. The Battered Women's Rights Clinic is also involved in local and national coalitions, networks and organizations that advocate on behalf of this population and its members serve on panels, committees and as speakers in conferences addressing this issue. Additionally, it provides support and assistance to organizations servicing immigrant women facing abuse by their intimate partners.

### **Brooklyn Law School, Safe Harbor Project**

The Safe Harbor Project, instituted in the fall of 1997, provides students with the opportunity to work with non-citizens who face issues regarding their status and entitlements in the United States. The Project has successfully represented several aliens facing deportation by securing relief through applications for asylum and cancellation of removal. In addition, the Project, through its direct representation of clients and through advocacy initiatives, seeks to advance the law regarding immigration and asylum. One area of particular concern involves the plight of women subject to domestic violence. The Project works in conjunction with other clinics at Brooklyn Law School, such as the Violence Against Women Project and the Domestic Violence Prosecutors Clinic, to identify and assist victims of domestic violence.

### **Casa Cornelia Law Center**

Casa Cornelia Law Center began serving the immigrant community in 1993 and is currently the largest public interest law firm in San Diego County providing immigration services. Casa Cornelia Law Center is a public service law firm providing quality legal services to victims of human and civil rights violations. The Center has a primary commitment to the indigent within the immigrant community of southern California. Among other services, the Center represents undocumented women and children at risk and represents those with a credible fear of returning to their homelands and those seeking asylum because of persecution or fear of persecution. It has also advised many battered women as to their eligibility for VAWA petitions.

## **Casa de Esperanza**

Casa de Esperanza, a Latina-led organization, was founded in 1982 by women seeking culturally specific services for battered Latinas. Latina leaders began operation of a shelter for women and their children fleeing violence. Since 1982, Casa de Esperanza's services and budget have evolved considerably into what is today a strong, well-respected force in both the battered women's movement and Latino community in Minnesota. Its mission is to eliminate violence against women and children in the Latino community and the community at large. Casa de Esperanza serves as a vehicle to support Latinas in the community while decreasing their isolation. Services are provided in four primary areas: Community Change, Family Advocacy, Capacity Building and Crisis Shelter.

## **Casa de Proyecto Libertad**

Casa de Proyecto Libertad, located in South Texas on the U.S. - Mexico border, was founded in 1981 as a response to Central American migration. Since 1992, it has broadened its work to include the Mexican-origin population. Casa de Proyecto Libertad promotes and defends the interests of the immigrant community through legal services, education and advocacy and has served over 20,000 clients. Since 1997, it has collaborated with the three battered women shelters in the region, providing legal services to the battered immigrant women who seek services in these shelters. It has also conducted two training programs for local advocates on the issue of domestic violence and is working toward the development of a local pro bono project of local attorneys to whom it can refer these types of cases.

## **Catholic Charities Immigration Services**

Catholic Charities Immigration Services ("CCIS") is a program of Catholic Charities of Portland, Oregon. CCIS provides low-cost, high-quality immigration legal services to indigent and low-income clients throughout Oregon and southern Washington. Through consultations, it assists several thousand people each year, and its active caseload is currently approximately 600. It is the state's leading agency in the area of self-petitions for battered spouses, and currently handles about 40 such cases. It also represents battered women who potentially could qualify for political asylum.

## **Catholic Charities of San Diego**

Catholic Charities of San Diego, in existence for 80 years, provides services to people in San Diego and Imperial counties in southern California. Catholic Charities has a number of different services for women who have suffered domestic violence. It has a homeless shelter for women, a night shelter for women, a day center for women, family support services for those coping with domestic violence, a residence for pregnant women and immigration services, including legal



advocacy, for undocumented women and children who have been subjected to domestic violence. One of its legal programs is Immigrant Women at Risk, which serves primarily undocumented women in deportation proceedings who have suffered domestic violence.

### **Center for Battered Women's Legal Services**

Center for Battered Women's Legal Services ("CBWLS") is a project of Sanctuary for Families. Founded in 1988, CBWLS is the oldest and largest provider of specialized legal services to domestic violence victims in New York State. CBWLS offers legal assistance to New York City domestic violence victims in family court proceedings and in criminal, matrimonial and immigration matters. Currently, CBWLS provides direct legal representation to more than 250 victims of domestic violence and advice and assistance to approximately 1,200 battered women.

### **Center for Constitutional Rights**

Center for Constitutional Rights ("CCR") is a nonprofit legal and educational organization founded in 1966 and dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. CCR has successfully litigated many important international human rights cases since 1980, a number of which have furthered women's abilities to bring claims for human rights violations in United States courts. In *Abebe-Jiri v. Negewo*, 72 F.3d 844 (11th Cir. 1995), the court granted a \$1.5 million judgment on behalf of three women detained and tortured in Ethiopia; in *Doe v. Karadzic*, 70 F.3d 232 (2d Cir. 1995), women survivors of genocide, crimes against humanity, war crimes and other human rights violations have been allowed to present their claims of sexual violence and other atrocities against the leader of the Bosnian Serb forces who committed the abuses; in *Xuncax v. Gramajo*, 886 F. Supp. 162 (D. Mass. 1995), the court awarded a \$47 million judgment against a Guatemalan general for claims which included sexual violence; and in *Doe v. Unocal*, 963 F. Supp. 880 (C.D. Cal. 1997), plaintiffs have brought claims of gender violence by the Burmese military in connection with a natural gas pipeline project through Burma. CCR has also presented international human rights claims of gender violence and advocated for the prosecution of those committing genocide, crimes against humanity and other human rights violations in fora such as the International Tribunals for the former Yugoslavia and Rwanda, the United Nations Commission on Human Rights, and the Inter-American human rights system.

### **Central American Resource Center**

The Central American Resource Center ("CARECEN") in Los Angeles, California is a nonprofit organization providing legal and education services to the Central American immigrant population in southern California. CARECEN was established in 1983 by Salvadorans fleeing civil war. Through its community outreach programs and legal assistance, it serves over 10,000 people annually. CARECEN's legal department provides immigration legal services at no fee. The

majority of the clients it represents in Immigration Court and before the Board of Immigration Appeals are asylum seekers. CARECEN is actively involved in policy efforts to promote greater legal protections for battered immigrant women. Toward that end, CARECEN attorneys have drafted proposed legislation to expand such legal protections and conducted extensive outreach to inform the immigrant community of the existence of VAWA relief and the legal and social services available to battered immigrant women at no cost. CARECEN is a member of the National Network on Behalf of Battered Immigrant Women.

### **Centro Legal, Inc.**

Centro Legal, Inc. was founded in 1981, and its mission is to provide affordable, quality, bilingual and bicultural legal representation to the low-income Latino community of the state of Minnesota. Centro Legal assists approximately 2,400 clients a year in the Twin Cities Metropolitan Area and Greater Minnesota. Centro Legal's VAWA Project provides legal representation to battered immigrant women and children. The Project combines family law and immigration law mechanisms to obtain effective legal relief and protection for battered immigrant women and children. The Project assists battered women in obtaining Orders for Protection to guarantee their safety after leaving their abusive spouses or intimate partners. It also provides legal assistance for women who need to process their legal permanent residency through a self-petition or a cancellation of removal procedure under the Violence Against Women Act. The VAWA Project essentially assists women to rebuild their lives and to free themselves from domestic violence.

### **Connecticut Legal Services, Inc.**

Connecticut Legal Services, Inc. ("CLS") is a private nonprofit law firm with 12 locations in Connecticut. Since 1977, it has provided free legal services to low-income individuals and families in the major areas of civil law. CLS has a long-standing interest and expertise in issues involving domestic violence. It is one of the recipients of federal funding for the Connecticut Domestic Violence Legal Assistance Partnership Initiative, a project in which it works in close collaboration with Connecticut's domestic violence shelter programs to provide battered women in Connecticut with an increased ability to make use of legal options that can increase their safety and independence. The Deputy Director of CLS has served on the board of the Connecticut Coalition Against Domestic Violence and is one of the co-authors of *A Guide to Connecticut's Family Violence Laws*, written for battered women seeking help from the legal system.

### **Family Law Clinic of the University of Baltimore School of Law**

The Family Law Clinic, a division of the University of Baltimore School of Law, is dedicated to education and advocacy in the area of domestic relations. Many of the Family Law Clinic's efforts focus on issues related to domestic violence. As part of their clinical experience, Family Law Clinic students represent domestic violence victims in protective order proceedings in

Baltimore. Students also represent domestic violence victims in divorce, custody and child support proceedings. Last year, the Family Law Clinic successfully represented a domestic violence victim who had fled Venezuela to escape her batterer in a case brought in Federal District Court under The Hague Convention on the Civil Aspects of International Child Abduction. Additionally, students are involved in legislative reform efforts on behalf of domestic violence victims. The Family Law Clinic is an active participant in the Maryland Attorney General and Lieutenant Governor's Family Violence Council.

### **Family Violence Prevention Fund**

Family Violence Prevention Fund ("FVPPF"), founded in 1980, is a national advocacy, education, training and policy organization dedicated to ending domestic violence. Since its inception, the FVPPF has been a leader in the development of innovative responses to domestic violence, creating pioneering prevention strategies and programs in the fields of public education, health care, justice and child welfare. The FVPPF's mission is to create a society in which domestic violence is not accepted, tolerated or excused, by educating the public, initiating prevention strategies that emphasize community-based solutions, advocating for institutional changes to respond to domestic violence, crafting public policy on domestic violence, and providing direct advocate services to victims, particularly those from marginalized groups. In 1991, the FVPPF established its Battered Immigrant Women's Rights Project to strengthen the legal and civil rights of immigrant women experiencing abuse in their homes. The FVPPF played a leadership role in the passage of VAWA and is co-chair of the National Network on Behalf of Battered Immigrant Women.

### **The Florida Immigrant Advocacy Center, Inc.**

The Florida Immigrant Advocacy Center ("FIAC") was founded to protect and promote the basic human rights of immigrants of all nationalities in Florida through direct legal services and impact advocacy efforts. As Florida's first and only holistic immigrants' rights organization, FIAC fills a crucial role in meeting the basic needs of the state's large immigrant population, over 1 million of whom live below poverty level. FIAC has a statewide presence, with five offices serving 18 counties located throughout southern Florida. Its staff, many of whom are themselves immigrants, are experienced advocates who have spent years working on behalf of Florida's low-income newcomers. FIAC's direct service component provides individual client representation to immigrants with complex immigration cases, where attorney representation is indispensable. Within this population, FIAC targets the most vulnerable and difficult-to-reach, such as immigrant women and children who are victims of domestic violence and eligible to obtain legal status under VAWA. FIAC's impact advocacy component addresses broad issues affecting immigrant groups, such as battered women and children, through litigation, education and other advocacy.

### **Georgetown University Law Center Domestic Violence Clinic**

The Georgetown University Law Center Domestic Violence Clinic is a clinical program in which law students have represented victims of domestic violence in Civil Protection Order cases since 1983. Each year, the Clinic provides legal representation to approximately 60 clients and provides legal counseling to another 100 victims of family abuse in Washington, D.C. The Clinic also administers the Emergency Domestic Relations Project, which has provided a wide range of legal services to more than 50,000 low-income, unrepresented victims of domestic violence over the past 21 years. Project personnel train local attorneys in domestic violence law, refer indigent victims to them for pro bono representation, and mentor them through their first cases. The Project also co-directs and staffs the D.C. Superior Court's Domestic Violence Intake Center. There, Project intake counselors provide essential counseling services to victims who cannot obtain attorneys.

### **Idaho Coalition Against Sexual and Domestic Violence, Inc.**

The Idaho Coalition Against Sexual and Domestic Violence, Inc. ("ICASDV") is a nonprofit organization founded in 1980 by advocates who were assisting victims throughout the state to flee the violence that was being inflicted upon them by their spouses or partners. The purpose of ICASDV is to educate law enforcement, prosecutors, health providers, the judiciary and the community regarding domestic violence and sexual assault. ICASDV is responsible for changes in state laws such as Protection Orders, Marital Rape Law, Full Faith and Credit legislation, and the Domestic Violence Criminal Code. It has worked with battered immigrant women on many occasions.

### **Iowa Coalition Against Domestic Violence**

The Iowa Coalition Against Domestic Violence ("ICADV") is a nonprofit organization, incorporated in the state of Iowa in 1985. ICADV provides educational and technical assistance to the domestic violence programs across Iowa, and also acts on a statewide level to promote public policy and legislative issues on behalf of battered women and their children. ICADV's purpose is to eliminate personal and institutional violence against women through support to programs providing safety and services to battered women and their children. ICADV advocates social change, legal and judicial reform, education and the end to all oppression. Through its Mujeres Unidas Por Un Nuevo Amanecer program, it provides assistance to battered immigrant women.

### **International Women's Human Rights Law Clinic**

The International Women's Human Rights Law Clinic ("IWHR") of the City University of New York is an internationally recognized, non-governmental clinical advocacy program dedicated to

advocating the human rights of women. IWHR was founded in 1992 with one of its major goals being the recognition of violence against women — intimate, community and official — as a violation of women’s human rights and a form of persecution under humanitarian law, human rights law and refugee law. IWHR participated as part of the legal drafting committee of the Women’s Caucus at the Vienna Conference wherein violence against women in all its forms was recognized as a priority human rights matter in all contexts. IWHR’s founders, Profs. Celina Romany and Rhonda Copelon, also participated in the first expert meeting to draft the Inter-American Convention for the Prevention, Punishment and Eradication of Violence Against Women, which set domestic violence alongside official violence as a profound human rights problem and has been ratified by most states of the Organization of American States. Since 1997, IWHR has worked as the Legal Secretariat to the Women’s Caucus for Gender Justice, which successfully negotiated sexual and gender violence into the International Criminal Court statute, including the codification of the crime of gender-based persecution. IWHR’s current director, Rhonda Copelon, has written a groundbreaking article entitled *Recognizing the Egregious in the Everyday: Domestic Violence as Torture*, which explores the persecutory nature of domestic violence and identifies both the suffering and vulnerability of battered women in the face of state acquiescence thereto as a form of torture, and, when less severe, as cruel, inhuman and degrading treatment.

### **Lake County Crisis Center**

Lake County Crisis Center’s mission is to offer assistance to victims and survivors of domestic violence and sexual assault. The Center has been in operation for over 10 years, during which several hundred clients have been assisted.

### **Latin American Community Center**

The Latin American Community Center (“LACC”) is a nonprofit organization serving the Latino community in Delaware. The LACC has been in existence for 30 years providing advocacy, social and cultural services in northern Delaware. The LACC has a nationally recognized Domestic Violence Program entitled Families in Control that provides a myriad of services to victims and perpetrators of domestic violence in the Latino community, including legal, psychological and social services to families whose lives have been destroyed by domestic violence. The LACC services over 6,500 individuals per year throughout the State of Delaware.

### **LUCHA: A Women’s Legal Project**

LUCHA: A Women’s Legal Project (“LUCHA”) is an innovative project that serves women experiencing abuse at home by helping them resolve their immigration status without the assistance of their abuser under VAWA and by teaching them how to take charge of their life. LUCHA assists these immigrant women to develop skills and knowledge through community

education and training. At the same time, LUCHA provides legal representation to these women in immigration matters. Since its inception in August 1997, LUCHA has represented over 500 women and children in immigration matters. LUCHA also provides training to attorneys, social service providers and domestic violence advocates locally as well as statewide.

### **Massachusetts Law Reform Institute**

The Massachusetts Law Reform Institute (“MLRI”) is a statewide legal services support center providing advocacy, training, information and legal support on issues that affect low-income people. In particular, MLRI works on issues that involve the intersection of immigration law with other fields of law, including those pertaining to domestic violence. MLRI coordinates numerous statewide coalitions composed of attorneys, lay advocates and service providers who handle asylum and other immigration cases and/or domestic violence matters. MLRI has also submitted *amicus curiae* briefs to the U.S. Supreme Court and other federal courts on the significance of evidence of human rights conditions in applicants’ countries of origin on U.S. asylum decisions. MLRI staff have also been active in litigation and on *amicus curiae* briefs in Massachusetts state courts on issues relating to domestic violence.

### **Middle Way House, Inc.**

Middle Way House, Inc. is a domestic violence shelter and sexual assault crisis center in Bloomington, Indiana. Its mission is to end violence in the lives of women and children by implementing or sponsoring activities and programs aimed at achieving individual and social change. Middle Way House provides crisis intervention services in Bloomington and in 1981 began serving victims of domestic violence in a six-county area in south-central Indiana. Middle Way’s programs have been recognized by the Indiana Department of Education, the Indiana Criminal Justice Institute, the Children’s Defense Fund and the National Resource Center on Domestic Violence. Its legal advocates spend significant time and resources assisting battered immigrant women on protective orders, family law issues, VAWA self-petitions and other immigration matters.

### **Na Loio - Immigrant Rights and Public Interest Legal Center**

Na Loio - Immigrant Rights and Public Interest Legal Center is a nonprofit organization committed to providing immigration legal services and advocacy in the public interest for people living in Hawaii, with a particular emphasis on serving poor and low-income immigrants and their families. Founded in 1986, Na Loio serves over 700 persons annually through direct legal services, community education and the Immigrant Domestic Abuse Project (“IDAP”). IDAP is premised upon the belief that no person should be compelled to remain in an abusive relationship because of her immigration status. IDAP provides direct legal representation for battered women and children, advocates locally and nationally on behalf of battered

immigrants, conducts educational seminars on issues related to battered immigrant women and children, and publishes multilingual safety plans, emergency cards and brochures on domestic violence. On previous occasions Na Loio has participated as *amicus curiae* in landmark cases impacting immigrants. Na Loio also chairs the statewide Advocates for Immigrant Women, a coalition of domestic violence organizations focused on issues impacting abused immigrant women and children.

### **National Coalition Against Domestic Violence**

The National Coalition Against Domestic Violence (“NCADV”), founded in 1978, is dedicated to the empowerment of battered women and their children. NCADV’s work includes coalition building at the local, state, regional and national levels. It is a grassroots organization representing a national network of more than 2,000 local programs and state coalitions that serve battered women and their children. NCADV is committed to work for the major societal changes necessary to eliminate both personal and societal violence against all women and children, including battered immigrant women.

### **New York State Coalition Against Domestic Violence**

The New York State Coalition Against Domestic Violence (“NYSCADV”) is a nonprofit membership organization whose members include shelters, safe home projects, advocacy programs and counseling projects, as well as concerned individuals who share the goal and philosophy of providing services to battered women and their children and eradicating domestic violence through advocacy, education, public awareness and program development. Since its inception in 1981, the NYSCADV has been the driving force behind the development of hundreds of programs providing services to abused women and their children and the development of public policy to promote victim safety and offender accountability. The NYSCADV also works to improve access to services and legal protections by abused immigrant women. In addition to its efforts to reduce the compounded risks abused immigrant women face because of their immigration status, the NYSCADV is engaged in ongoing efforts to educate communities and policy makers that domestic violence is a civil rights issue and is rooted in gender bias.

### **North American Council for Muslim Women**

The North American Council for Muslim Women (“NACMW”) is a leading national, nonprofit, independent women’s organization working to educate Muslim women about their rights and improve their lives on all levels. NACMW was founded in February 1992 by a very diverse group of Muslim women from across North America. It was the first Muslim national organization to provide speeches and discussion at the national level on violence against women and it is in the process of devising nationwide training on this topic within the Muslim community. It is called

upon regularly as an expert on Muslim women on this issue and recently presented the first Dialogue on Violence Against Muslim Women at the U.S. Department of Justice in July 1999. It is a member of the National Task Force to End Violence Against Women as well as a member of the National Network on Behalf of Battered Immigrant Women.

### **Northern Manhattan Coalition For Immigrant Rights**

The Northern Manhattan Coalition for Immigrant Rights (“NMCIR”) is an incorporated, nonprofit, tax-exempt, Board of Immigration Appeals (“BIA”) recognized organization founded in 1982 with the overall goal and purpose of protecting and defending the rights of immigrants. Over the years NMCIR has grown to become a focal point in the empowerment of the largely Latino community in northern Manhattan. Along with a broad variety of immigration services, NMCIR provides legal support to battered immigrant women, assisting them in their self-petitioning process under VAWA.

### **Northwest Immigrant Rights Project**

Northwest Immigrant Rights Project (“NWIRP”), founded in 1983, is the Northwest’s principal advocate for immigrant and refugee rights. With offices in Seattle and the Yakima Valley of eastern Washington, NWIRP provides immigration legal services, community education and advocacy to more than 12,000 immigrants and asylum seekers of low income each year. NWIRP is deeply committed to assisting immigrant women and children who are survivors of domestic violence. In 1990, NWIRP launched a project, one of the first of its kind in the nation, to provide immigration advocacy to immigrant women and children. The experience and expertise of NWIRP staff played a key role in strengthening protections for battered immigrant women through passage of VAWA. For more than 15 years, NWIRP has also represented women in political asylum proceedings, including many who have been victims of gender-motivated persecution.

### **Partnership Against Domestic Violence**

The Partnership Against Domestic Violence (“PADV”) is a leading nonprofit agency that is dedicated to halting domestic violence through intervention, prevention and educational services. The agency was founded in 1975 and is the largest provider of services to victims of domestic violence in the State of Georgia. Services include two 24-hour shelters for women and their children in metropolitan Atlanta, a 24-hour telephone crisis line and community-based education and intervention programs. PADV is also actively involved in its community in policy efforts to promote greater legal protection for battered women.



## **Project Esperanza**

Project Esperanza is a coalition of groups and persons who have come together since 1993 to explore opportunities to better serve battered Latinas in North Carolina. The purpose of the organization is to prevent family violence in the Latino population in North Carolina by building the capacity of local domestic violence programs, health care centers, legal service providers and other human service providers to serve this population. It is the goal of this project to assist organizations to overcome obstacles and barriers that prevent battered Latinas from seeking and/or receiving domestic violence assistance and services and to develop culturally appropriate models for advocacy, outreach and intervention. It is also the goal of this project to assist in developing leadership and skills for advocacy, outreach and intervention among North Carolina's battered Latinas.

## **Raksha**

Raksha (which means "protection" in several South Asian languages) is a Georgia nonprofit social service organization for the South Asian community, which includes immigrants from India, Pakistan, Bangladesh, Bhutan, Nepal and Sri Lanka. Raksha's mission is to provide South Asians in distress with multilingual and multi-cultural support and referral services that are confidential and free of charge. Raksha's multilingual and multi-cultural volunteers and staff are involved in peer support, legal advocacy, community education and fund-raising. Since its establishment, Raksha has been inundated with calls from South Asian women, most of whom have been involved in family violence situations. Raksha seeks to prevent and ultimately end such abuse in Atlanta's South Asian community through its extensive peer support and community education programs.

## **Rockland Family Shelter**

The Rockland Family Shelter ("RFS"), established in 1978, is a not-for-profit social service agency dedicated to ending violence in the lives of women and children. RFS operates a 24-hour crisis hotline, an emergency shelter for battered women and their children, rape crisis services and numerous community outreach programs. In 1994, RFS developed its legal services program, "The Domestic Violence Law Project," which provides counseling, advice and, in some instances, legal representation in Family Court to domestic violence victims in need of Orders of Protection. The project also provides support in resolution of custody, visitation and support cases. In 1999, the legal project expanded its services to include legal assistance to immigrant victims of domestic violence, and particularly assisted these individuals with the filing of self-petitions under VAWA.

## **St. Mary's University School of Law Immigration Clinic and Human Rights Clinic**

The St. Mary's University School of Law Immigration Clinic, established in 1992, and the Human Rights Clinic, established in 1995, provide a major source of legal representation and advocacy for immigrants living in South Texas. Clinic professors supervise law students working on direct representation of immigrant clients, community education initiatives, and training of legal and social service providers with respect to immigration issues. Advocacy for battered immigrant women and children is a central focus of both clinics. In the last four years, the clinics have represented dozens of battered immigrants seeking asylum or protection under the immigration provisions of VAWA.

## **San Francisco District Attorney's Office**

The San Francisco District Attorney's Office is a national leader on issues involving battered immigrant women. It works very closely with immigration advocates to assist domestic violence survivors who are being abused to self-petition for immigration status. The San Francisco District Attorney's Office is a member of the National Network on Behalf of Battered Immigrant Women and has often collaborated on national training involving the criminal justice system and issues of ultimate safety for battered immigrant women. The San Francisco District Attorney's Office has been engaged in many efforts to broaden protections for immigrant victims within the criminal justice system, to honor and uphold the City of Refuge Policy within the City and County of San Francisco, to train police departments on barriers that immigrants face within the criminal justice system, and to ensure that access to essential health and human services is provided to both documented and undocumented survivors.

## **Sexual Assault and Domestic Violence Center**

In 1977 the Sexual Assault and Domestic Violence Center began to provide crisis intervention services to battered women and sexual assault victims in Yolo County, California with a 24-hour crisis hotline, individual counseling and support groups. In 1980 it opened the Harper House, Yolo County's only shelter for battered women and children. In 1987 the Latina Outreach Program was launched providing bilingual crisis counseling and prevention education programs for the Latino community. In January of 1994 the Child Sexual Abuse Treatment Program was added, and in 1997 the Legal Advocacy Program began helping women to obtain restraining orders in cases of physical and sexual abuse by a partner or spouse. Both together and separately, the Latina and Legal Programs advocate for battered immigrant women from many backgrounds so that they can access the resources they need to feel safe.

### **Southern Arizona Legal Aid, Inc.**

Southern Arizona Legal Aid, Inc. (“SALA”) has provided legal services to indigent persons in eight Arizona counties for over 20 years. Its staff includes attorneys with extensive experience in immigration law, appearing before the INS, the Immigration Court, the BIA and the Ninth Circuit Court of Appeals. SALA’s attorneys have represented applicants for political asylum since the 1980s. SALA currently provides legal advice and representation to hundreds of immigrant victims of domestic abuse each year, including immigrant women and children seeking legal status through VAWA and victims of persecution based on gender.

### **Tahirih Justice Center for the Promotion of Human Rights and the Protection of Immigrant Women**

The Tahirih Justice Center for the Promotion of Human Rights and the Protection of Immigrant Women is a nonprofit organization that seeks to bring justice to the lives of immigrant and refugee women facing gender-based international human rights abuses. The Center was founded in 1997 by Layli Miller Bashir, following her work as a student attorney on the case of Fauziya Kassindja, who was the first woman to win political asylum from the BIA due to her fear of female genital mutilation (“FGM”). Servicing clients at the local, national and international levels, the Center provides pro bono legal representation and social services to clients facing abuses including rape, forced marriage, forced FGM, sexual slavery, domestic violence and gender apartheid. Recently, the Center has been involved in advocacy efforts to protect Afghan women and girls who, as a result of their gender, are being denied basic human rights and are being targeted for gender-based violence in Afghanistan.

### **The Texas Council on Family Violence and the National Domestic Violence Hotline**

The Texas Council on Family Violence (“TCFV”), established in 1978, is the collective voice for victims of family violence in Texas. TCFV’s purposes are to assist and empower battered women and their children and to eliminate violence against women by advancing the battered women’s movement in Texas. Services of TCFV include: training and technical assistance for service providers and allied professionals, on-site program consultations, community education and legislative advocacy. The National Domestic Violence Hotline is a project of TCFV.

### **Victim Services**

Victim Services is a nonprofit organization that operates 70 programs in community offices, courts, police precincts, schools and medical facilities throughout New York City. The purpose of Victim Services is to provide support, prevent violence and promote justice for victims of crime and abuse, their families and communities. Founded in 1978, Victim Services has grown to

become the nation's leading crime victim assistance organization, helping more than 200,000 New Yorkers each year, including 90,000 domestic violence victims. The organization's sites provide a range of practical and counseling services for domestic violence victims, children and youth, elderly victims, families, sexual assault victims and homeless youth. Victim Services' Immigration Legal Services ("ILS") program in Jackson Heights, New York provides direct legal representation for low-income and moderate-income immigrant victims of crime and abuse, including immigrant domestic violence victims. It represents clients before 24 Immigration Courts, the BIA, Asylum Offices and INS offices. ILS provides extensive legal advice and counseling to the many refugees, asylum seekers and families who seek its support, including over 60 survivors of torture, persecution or gender-based abuse.

### **Women Empowered Against Violence, Inc.**

Women Empowered Against Violence, Inc. ("WEAVE") is a nonprofit corporation operating in Washington, D.C. that provides legal, psychological and social services to survivors of domestic violence. WEAVE's mission is to empower victims of domestic violence so that they can free themselves safely from the cycle of abuse and obtain independence and self-sufficiency. WEAVE was founded in June 1996 and became operational in September 1997. To date, WEAVE has assisted over 600 women in the greater Washington, D.C. metropolitan area and its legal division handles domestic violence-based asylum claims.

### **Women's Justice Center of the Pace University School of Law**

The Women's Justice Center of the Pace University School of Law is dedicated to eradicating domestic violence and furthering the legal rights of women through skillful and innovative use of the law. The Center's goal is to give those who support battered women, the elderly, women with low income and victims of sexual assault the legal tools they need to stop violence against women, seek economic justice, protect families and save lives. The Center provides direct legal services, as well as public education programs and training for judges, attorneys and institutions. Its Battered Women's Division serves as a national resource center to lawyers in providing protection for battered women and their children. Its work on domestic violence intervention includes legal training, scholarship and research, direct client work and public education.

## **LAW TEACHERS** <sup>71</sup>

### **Nawal Ammar, Professor, Justice Studies Department, Kent State University,**

Nawal Ammar is a professor of Justice Studies at Kent State University. Dr. Ammar is trained in social sciences and in law, and teaches and conducts research on issues pertaining to the victimization of women, domestic violence and women/minorities and criminal justice. He also currently conducts research on the interaction of domestic violence and immigration.

### **Margaret Martin Barry, Associate Professor of Law, Catholic University of America**

Professor Margaret Martin Barry has represented victims of domestic violence in the District of Columbia since 1987, including immigrant women. She also teaches in Catholic University's Families and the Law Clinic, in which the client base is victims of domestic violence.

### **Jacqueline Bhabha, Director, Human Rights Program, University of Chicago**

Professor Jacqueline Bhabha directs the University of Chicago Human Rights Program and teaches human rights law, European law and refugee law at the University's Law School. She has written extensively on gender-based claims to asylum, and more generally on gender issues in United States and European immigration, nationality and refugee law.

### **Carolyn Patty Blum, Director, International Human Rights Law Clinic, Boalt Hall, University of California at Berkeley**

Professor Carolyn Patty Blum is the Director of the International Human Rights Law Clinic at Boalt Hall Law School, University of California at Berkeley. In the Clinic, Professor Blum supervises students representing asylum seekers. Professor Blum also teaches as well as writes in the field of refugee law. She personally has represented refugees at all stages of proceedings, including before the U.S. Court of Appeals for the Ninth Circuit in the rehearing *en banc* of *Fisher v. INS*.

### **Linda Bosniak, Professor of Law, Rutgers Law School**

Linda Bosniak is a Professor of Law at Rutgers Law School and teaches courses in immigration law and refugee law.

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71. Institutional affiliations are provided for identification purposes only.

**Richard A. Boswell, Professor of Law, University of California, Hastings College of Law**

Professor Richard Boswell is director of the Center for International Justice and Human Rights at the University of California, Hastings College of Law. He has written extensively on the domestic incorporation of international immigration and asylum law.

**Stacey Brustin, Assistant Professor of Law, Catholic University of America**

Stacey Brustin is an Assistant Professor of Law at Catholic University of America and teaches in the Columbus Community Legal Services Clinic. She has a background in family law, poverty law and community legal education.

**Susan Bryant, Director of Clinical Education and Associate Professor of Law, CUNY School of Law**

Professor Susan Bryant works with the Battered Women's Rights Clinic and teaches family law courses at the City University of New York School of Law.

**Stacy Caplow, Professor of Law and Director of Clinical Education, Brooklyn Law School**

Stacy Caplow is a Professor of Law and Director of Clinical Education at Brooklyn Law School. In addition to teaching courses in criminal law and criminal procedure, she is the co-founder and co-director of the Safe Harbor Project, a clinical program in which students represent asylum seekers and other clients seeking immigration remedies.

**F.J. Capriotti III, Adjunct Professor of Immigration Law, Northwestern School of Law of Lewis and Clark College**

F.J. Capriotti is an adjunct professor of immigration law at Northwestern School of Law of Lewis and Clark College in Portland, Oregon. He has also served as the Co-Chair of the American Immigration Lawyers Association's Law Professor Committee from 1995-2000.

**Lori L. Cohen, Adjunct Professor, University of Michigan Law School**

Lori Cohen is an adjunct law professor at the University of Michigan Law School, where she teaches immigration law and advises the student Refugee and Asylum Law Project. She has represented asylum applicants before the INS asylum office and the Immigration Court on gender-based claims, and has assisted domestic violence victims in seeking immigration relief under VAWA.

**Donna K. Coker, Associate Professor of Law, University of Miami School of Law**

Donna Coker is an Associate Professor of Law at the University of Miami School of Law, where she teaches courses in family, criminal and domestic violence-related law. Professor Coker has worked on behalf of battered women, including battered immigrant women, for over 20 years. This work includes direct social services as well as legal representation. Professor Coker has also been involved in domestic violence legislative reform work at both the state and national level.

**Edna Erez, Professor and Chairperson, Justice Studies Department, Kent State University**

Edna Erez is Professor and Chairperson of the Justice Studies Department at Kent State University. Dr. Erez is trained in the social sciences and in law, and teaches and conducts research on issues pertaining to victimization of women, domestic violence and women/minorities and criminal justice. Professor Erez currently engages in a study funded by the Institute of Justice on the interaction of domestic violence and immigration.

**Joan Fitzpatrick, Professor of Law, School of Law, University of Washington**

Professor Joan Fitzpatrick teaches immigration law, human rights law and refugee law at the University of Washington in Seattle, Washington. She has written extensively on domestic incorporation of international law, asylum law, gender-based migration and on violence against women as a violation of international human rights standards.

**Paula Galowitz, Clinical Professor of Law, New York University School of Law**

Professor Paula Galowitz teaches in New York University's Civil Legal Services Clinic, a field work clinic that represents indigents in a wide variety of matters involving housing, government benefits, family law, immigration and probate.

**Sally F. Goldfarb, Associate Professor, Rutgers University School of Law**

Sally Goldfarb is an Associate Professor at Rutgers University School of Law in Camden, New Jersey, where she teaches courses on family law and other subjects. She is the author of several articles on domestic violence and has been actively involved in legislation and litigation involving violence against women.

**Leigh Goodmark, Clinical Instructor, Columbus School of Law, Catholic University of America**

Leigh Goodmark is a clinical instructor at the Columbus School of Law, Catholic University of America, in the Families and the Law Clinic, which focuses on cases involving survivors of

domestic violence. Prior to teaching at the Columbus School of Law, she provided direct legal services to victims of violence, including a large number of battered immigrant women.

**Mark J. Heyrman, Clinical Professor of Law, University of Chicago Law School**

Professor Mark J. Heyrman has represented indigent women, including foreign-born women, for 21 years.

**Barbara Hines, Professor, University of Texas Law School**

Professor Barbara Hines teaches in the immigration law clinic at the University of Texas Law School.

**Sarah Ignatius, Lecturer, Boston College Law School**

Sarah Ignatius lectures on immigration law at Boston College Law School. She is also the Executive Director of the Political Asylum Immigration Representation Project, which is a nonprofit organization in Boston that represents, through pro bono attorneys, hundreds of indigent asylum seekers, many of whom are women who have been the victims of sexual violence.

**Suzanne H. Jackson, Visiting Professor of Law, American University, Washington College of Law**

Suzanne H. Jackson is a Visiting Professor of Law at American University, Washington College of Law. For the past 10 years she has advocated for battered immigrant women in the Washington, D.C. metropolitan area. During seven years at Ayuda, Inc., a nonprofit organization providing legal services to low-income immigrants and refugees, she was responsible for the representation of over 500 immigrant women who had been abused by their partners while in the U.S. and in their home countries. Ms. Jackson was selected to participate in several human rights projects addressing women's human rights in Central and South America and in Southeast Asia, and continues to address gender justice issues in the development of the United Nations' International Criminal Court.

**Kevin R. Johnson, Associate Dean for Academic Affairs and Professor of Law, University of California at Davis, School of Law**

Associate Dean Kevin Johnson teaches immigration law and refugee law at the University of California at Davis. He has written extensively in the area of immigration law, specifically U.S. asylum law. Dean Johnson also has focused on immigration and civil rights issues, both in law review articles and a recent book.



**Catherine F. Klein, Associate Professor and Director of the Families and the Law Clinic,  
Catholic University of America**

Professor Catherine Klein has worked as an advocate and educator regarding the problem of domestic violence since 1981. She has represented hundreds of individual clients, including many immigrant and foreign-born women in cases where domestic violence is a central issue. In addition, she has engaged in extensive research and writing in the field of family law and domestic violence.

**Daniel M. Kowalski, Editor-in-Chief, *Bender's Immigration Bulletin***

Daniel Kowalski has taught immigration law as an adjunct faculty member at the University of Colorado at Boulder and at the University of Washington at Seattle and is the Editor-in-Chief of *Bender's Immigration Bulletin*.

**Kate Laner, Supervising Attorney, Immigration Law Clinic, University of Washington**

Kate Laner is a staff attorney with the Northwest Immigrant Rights Project and is a clinical instructor of immigration law at the University of Washington School of Law. Her primary areas of practice include naturalization and asylum.

**Stephen Legomsky, Professor and Director of the Institute for Global Legal Studies,  
Washington University School of Law**

Professor Stephen Legomsky is Charles F. Nagel Professor of International and Comparative Law and Director of the Institute for Global Legal Studies at Washington University School of Law. He is the author of *Immigration and Refugee Law and Policy*, which has been adopted as the required text at 121 United States law schools.

**Nancy K.D. Lemon, Lecturer, University of California at Berkeley, Boalt Hall School of  
Law**

Nancy Lemon lectures on domestic violence law at U.C. Berkeley's Law School, Boalt Hall School of Law. She is the author of the textbook *Domestic Violence Law*.

**Mary A. Lynch, Professor, Albany Law School**

Professor Mary A. Lynch of the Albany Law School teaches domestic violence law and has represented survivors of domestic violence through the Albany Law School's Domestic Violence Clinic.

**Beth Lyon, Practitioner-in-Residence, International Human Rights Law Clinic,  
Washington College of Law, American University**

Beth Lyon works in a human rights clinic that advocates on behalf of individual refugees.

**Audrey Macklin, Associate Professor, Dalhousie Law School**

Professor Audrey Macklin teaches immigration and refugee law, administrative law and criminal law at Dalhousie Law School in Halifax, Canada. She has written extensively on gender persecution and refugee status in Canada, the U.S. and Australia. From 1994 - 1996, she was a member of Canada's Immigration and Refugee Board, where she adjudicated refugee claims and chaired the Ottawa-Atlantic Immigration and Refugee Board Committee on Refugee Women.

**Susan F. Martin, Executive Director, Law and Policy Studies, Georgetown University's  
Institute for the Study of International Migration**

Susan F. Martin is the Executive Director of Law and Policy Studies at Georgetown University's Institute for the Study of International Migration. She teaches refugee law and policy to students of law and international affairs at the Georgetown University Law Center. Dr. Martin has researched and written extensively about refugees and displaced persons in Africa, Asia and the Americas. Dr. Martin is the author of *Refugee Women*, and a co-founder and board member of the Women's Commission for Refugee Women and Children. As a consultant to the United Nations High Commission for Refugees ("UNHCR"), Dr. Martin wrote the *Guidelines on the Protection of Refugee Women*. She served as Executive Director of the U.S. Commission on Immigration Reform. She has written several recent articles on the temporary protection of forced migrants.

**Laura Ann Martinez, Adjunct Professor, Domestic Violence Clinic, University of Texas  
School of Law**

Laura Ann Martinez is a staff attorney with Legal Aid of Central Texas in the Family Law Division and a part-time Adjunct Professor at the University of Texas School of Law in the Domestic Violence Clinic. She assists survivors of domestic violence in obtaining protective orders, custody, child support and divorces. Ms. Martinez provides training in the State of Texas on various issues with the Texas Council on Family Violence and is a resource for immigrant and refugee survivors through the National Domestic Violence Hotline. Previously, Ms. Martinez was a staff attorney at Ayuda Clinica Legal Latina, a nonprofit organization in the District of Columbia representing immigrant women in obtaining protective orders. She was also a member of the review panel on Domestic Violence Against Women with the Maternal and Child Health Bureau of the Department of Health and Human Services.

**M. Isabel Medina, Associate Professor, Loyola University, New Orleans School of Law**

Professor Medina teaches and writes in the areas of immigration, constitutional law and sex discrimination law. Both through her teaching and writing, and by organizing a symposium on sexual violence and participating in a number of community efforts to address immigration and domestic violence issues, Professor Medina has explored how issues of domestic violence relate to immigration policies and laws, and the extent to which domestic violence is an international problem.

**Joan Meier, Director, Domestic Violence Advocacy Project, George Washington University Law School**

Professor Joan Meier founded the Domestic Violence Advocacy Project (“DVAP”) in 1993. The DVAP specializes in the representation of battered women in court, and periodically assists immigrant women.

**Carrie Menkel-Meadow, Professor, Georgetown University Law Center**

Professor Carrie Menkel-Meadow is a political asylum case supervisor in the Georgetown University Law Center for Applied Legal Studies Clinic, where she represents, with students, those seeking political asylum. She has been a law professor, teaching clinical courses and writing on women’s issues, for 25 years.

**Elliott S. Milstein, Professor of Law, American University, Washington College of Law**

Professor Elliott Milstein is an international human rights lawyer and clinical teacher at the Washington College of Law.

**Craig B. Mousin, Professor, DePaul University College of Law**

Professor Craig B. Mousin teaches immigration law, asylum and refugee law, and a legal clinic course in asylum and immigration issues at DePaul University College of Law. Through the Legal Clinic, students represent asylum applicants before the Executive Office for Immigration Review and the Asylum Office of the INS.

**Kevin Ruser, Clinical Professor of Law, Lincoln College of Law, University of Nebraska**

Professor Kevin Ruser has supervised all of the immigration cases in the Civil Clinical Law Program at the University of Nebraska-Lincoln College of Law since 1989. Professor Ruser has published several immigration articles designed to acquaint general practitioners with the basics of

immigration law. He currently serves on the Governor's Task Force investigating the impact of INS workplace enforcement on the meat-packing industry in Nebraska.

**John A. Scanlan, Professor of Law, Indiana University School of Law**

John Scanlan is a law professor at Indiana University School of Law. Professor Scanlan teaches and writes about refugee law and immigration history. With Gil Loescher, he wrote *Calculated Kindness*, which is the definitive history of U.S. refugee admissions policy and law since the end of World War II. He has also provided representation to migrants, usually at the appellate level.

**Irene Scharf, Associate Professor of Law, Southern New England School of Law**

Irene Scharf is an Associate Professor of Law at Southern New England School of Law and teaches, and has written on, immigration law.

**Elizabeth M. Schneider, Professor of Law, Brooklyn Law School**

Professor Elizabeth M. Schneider teaches courses entitled Women and the Law and Battered Women and the Law at Brooklyn Law School and has also taught these courses at Harvard Law School. She has written widely on domestic violence, including an upcoming book, *Battered Women, Feminist Lawmaking and The Struggle for Equality*, and is co-authoring a casebook, *Battered Women and the Law*.

**Andrew I. Schoenholtz, Director of Law and Policy Studies, Institute for the Study of International Migration, Georgetown University**

Andrew I. Schoenholtz is the Director of Law and Policy Studies at Georgetown University's Institute for the Study of International Migration. He teaches refugee law and policy to students of law and international affairs at the Georgetown University Law Center. Dr. Schoenholtz has written on U.S. asylum policy and the meaning of U.S. obligations toward refugees under the Refugee Convention. He served as the Deputy Director of the U.S. Commission on Immigration Reform. He has written several recent articles on the temporary protection of forced migrants.

**Philip G. Schrag, Professor of Law, Georgetown University**

Professor Philip Schrag directs an asylum law clinic in which students represent victims of persecution. He is also the author of *A Well-founded Fear: the Congressional Battle to Save Political Asylum in America*.

**Ellen M. Scully, Clinical Assistant Professor, Columbus School of Law, Catholic University of America**

Ellen Scully is a clinical assistant professor at Columbus Community Legal Services at the Columbus School of Law.

**Antoinette Sedillo Lopez, Professor of Law, University of New Mexico**

Professor Antoinette Sedillo Lopez teaches in the University of New Mexico Clinical Law Program. She supervises students who work with shelters for domestic violence survivors and who represent survivors of domestic violence.

**Ann Shalleck, Professor of Law, American University, Washington College of Law**

Professor Ann Shalleck teaches family law and is Director of Clinical Programs at Washington College of Law. She is also Director of the school's Women and the Law Program.

**Enid Trucios-Haynes, Professor of Law, Louis D. Brandeis School of Law, University of Louisville**

Professor Enid Trucios-Haynes teaches immigration law, international law, constitutional law and administrative law at the Brandeis School of Law of the University of Louisville. She also provides pro bono representation, with the assistance of students, to non-citizens in Louisville, Kentucky.

**Deborah M. Weissman, Associate Clinical Law Professor, UNC Civil Legal Assistance Clinic, University of North Carolina School of Law**

Deborah M. Weissman is an Associate Clinical Law Professor at the University of North Carolina at Chapel Hill. She has worked with coalitions of groups and individuals, both in Florida and North Carolina, in an effort to better serve battered Latinas.

**Leah Wortham, Associate Professor of Law, Columbus School of Law, Catholic University of America**

Leah Wortham is a law professor at the Columbus School of Law, Catholic University of America. She is the former Director of Clinical Programs at Catholic University.

