**Litigating After *Matter of A-B-***

**Model Domestic Violence Asylum Brief**

**Last updated October 4, 2019**

Thank you very much for volunteering with Tahirih Justice Center to represent a domestic violence survivor seeking asylum in the United States.

**BACKGROUND**

On June 11, 2018, the Attorney General issued a decision in a case, [*Matter of A-B-*,](https://www.justice.gov/eoir/page/file/1070866/download) that he certified to himself for review. This decision overturned the BIA’s decision in *Matter of A-B-* and sent the case back to the Immigration Judge to deny asylum to Ms. A.B.

*Matter of A-B-* overrules [*Matter of A-R-C-G-*](https://www.justice.gov/sites/default/files/eoir/legacy/2014/08/26/3811.pdf), the 2014 case that allowed for asylum to be granted based on domestic violence, and all other Board precedent “to the extent they are inconsistent with the legal conclusions set forth” in his decision in Matter of A-B-.

Although the decision focuses on the domestic violence cases of A-B- and A-R-C-G, the AG makes statements that broadly reference persecution by a non-state actor. It wrongly states that where the persecutor is a non-state actor, the harm must be “attributed to” to the government. This is not in line with the legal standard set by courts which require the government to be unwilling or unable to control the persecutor. Therefore, it is possible that any applicants who have suffered persecution at the hands of a private actor, such as on account of sexual orientation or religious affiliation, could face greater hurdles when attempting to apply for asylum.

It demonstrates a complete lack of understanding of the social dynamics of domestic violence in saying that “the mere fact that a country may have problems effectively policing certain crimes – such as domestic violence or gang violence – or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim.” In fact, it is often the deeply held views of the police themselves, unchecked and even encouraged by the government, that lead to the lack of intervention in domestic abuse.

**5TH CIRCUIT CASE LAW UPDATE**

*Gonzales-Veliz v. Barr*, \_\_\_ F.3d \_\_\_,2019 U.S. App. LEXIS 27294 (5th Cir.

Sept. 10, 2019): The first appellate decision squarely to address *Matter of A-B-* follows the Attorney General’s decision in *A-B-*. Gonzales-Veliz is an asylum-seeker from Honduras and sought asylum on the basis of the particular social group “Honduran women unable to leave their relationship.” 2019 U.S. App. LEXIS 27294, at \*2.

The immigration denied relief because Gonzales-Veliz was ineligible for asylum under the unlawful-reentry bar as well as on credibility and nexus grounds. See id. at \*2-3. The BIA affirmed solely based on its conclusion that Gonzales-Veliz “was able to leave her relationship” and thus “did not belong to her proffered” PSG. Id. at \*3. After Gonzales-Veliz filed a motion for reconsideration, the Attorney General decided *Matter of A-B-*, and the BIA used that decision to deny the motion.

Gonzales-Veliz petitioned for review from both BIA decisions. In a lengthy opinion, the Fifth Circuit affirmed. As to the initial asylum application, the Fifth Circuit held that because Gonzales-Veliz “testified before the IJ that she and her [abusive] ex-boyfriend had no problem after she left him and that ‘problems began’ only after she sued [him] for child support,” there was substantial evidence to support the view that the abuser was motivated solely by retribution. Id. at \*6-7.

As to *A-B-*, the Fifth Circuit first held that the injunction entered by the district court in *Grace* “does not affect our ability to review or rely on *A-B-* in deciding this case.” Id. at \*13. But rather than simply noting that *Grace* pertained only to “credible-fear claims in expedited removal proceedings,” the Fifth Circuit said that it “cannot be hindered from performing [its] duty” to say what the law is “by an injunction in another jurisdiction that is currently being appealed and is

predicated on a view of immigration law with which [it] disagree[s].” Id. at \*15.

After recounting the decision in *A-B-* at length, the Fifth Circuit rejected the argument that the BIA had erroneously read the decision as “creat[ing] a categorical ban against groups based on domestic violence.” Id. at \*24-25. Instead, the court said, “the BIA reasonably relied on the Attorney General’s reasoning,” because the PSG at issue “is substantially similar to” the group at issue in A-B-. Id. at \*25. And because A-B- held that group to be “impermissibly defined in a circular manner,” the Fifth Circuit concluded that the same must be true here. Id. at \*26. In addition, the court held that “reports of a widespread machismo culture” in Honduras “provide no guidance or aid in discerning whether” the proposed PSG is sufficiently particular. Id.

The Fifth Circuit also rejected the argument that “A-B- constituted an arbitrary and capricious change in policy.” Id. at \*27. The court principally held that “A-B- did not constitute a change in policy” at all, because it “did not create a blanket preclusion for groups based on domestic violence” but instead simply “restated” existing law and requirements. Id. at \*28-29.

The court stated in the alternative that even if A-B- had changed existing law, it “sufficiently explained” the change. Id. at \*31. In doing so, the Fifth Circuit undertook a full-throated defense of A-B-. The court suggested that A-B- was “more faithful to the \* \* \* text” of the INA that prior BIA precedents and that “interpreting the phrase ‘particular social group’ to include ‘[v]ictims of

general extortion and domestic violence \* \* \* that affects all segments of the population’ would render the asylum statute unrecognizable.” Id. at \*31-32. And it also said that “[r]emoving a source of” supposed “confusion” from asylum law is a “‘good reason’” for any change of policy in A-B-. Id. at \*33.

**INFORMATION ABOUT USING THE MODEL BRIEF**

In response, Tahirih created this model brief to assist attorneys to continue to litigate domestic violence asylum cases despite *Matter of A-B-*. This model brief is lengthy as it seeks to articulate a large number of particular social group formulations, as well as political opinion and religion grounds for a domestic violence survivor. When using this brief as a litigation resource, please ensure to:

* State the facts particular to your client’s case.
* Argue only those grounds that are applicable and non-frivolous to your client’s experience.
* Citations to case law are accurate as of October 5, 2019. Be sure to ensure the continued applicability of cited case law prior to submission.
* The Immigration Court Practice Manual encourages briefs to be no longer than 25 pages. Tahirih recommends that you balance the need to articulate all relevant arguments with a concise brief. Consider footnoting meritorious but weaker particular social group formulations.
* Exhibits are not attached to this model brief. Be sure to cite to your client’s declaration, witness affidavits, expert reports, and other relevant materials throughout your brief.
* Country conditions reports are cited here but not attached. Please contact your Tahirih mentor attorney and the [Center for Gender and Refugee Studies](https://cgrs.uchastings.edu/search-materials/cgrs-litigation-support-materials) at the University of California, Hastings, for expert reports and other country conditions materials.

If you have questions about the model brief or your domestic violence-based asylum case, please contact your Tahirih mentor attorney. If your case is not co-counseled with Tahirih Justice Center, please contact [justice@tahirih.org](mailto:justice@tahirih.org).

We would like to thank the many who contributed to this practice tool, including the Center for Gender and Refugee Studies, Tahirih staff, and Michael Burns at Hogan Lovells LLP, for his careful read through and final edits.

We greatly appreciate your time and assistance, as do the women and girls we serve.

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**OFFICE OF THE IMMIGRATION JUDGE**

**LOCATION OF COURT**

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IN THE MATTER OF: )

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**Esperanza Ramirez** ) File No.: A###-###-###

) Individual Hearing Scheduled

Respondent ) Date, at Hour

In Removal Proceedings ) Before Immigration Judge Name

)

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**RESPONDENT’S PRE-HEARING BRIEF**

**IN SUPPORT OF ASYUM AND WITHHOLDING OF**

**REMOVAL AND CONVENTION AGAINST TORTURE RELIEF**

# I. INTRODUCTION AND SUMMARY OF LEGAL ARGUMENT

This brief is submitted in support of Esperanza Ramirez’s application for asylum (“Application”) and withholding of removal pursuant to Sections 208(b)(1) and 241(b)(3), respectively, of the Immigration and Nationality Act (“INA”). Ms. Ramirez has suffered ten years of persecution and has a well-founded fear of future persecution on account of her political opinion, her religion, and her membership in the following particular social groups: (1) Guatemalan women, (2) Guatemalan mothers, (3) the mother of Milagro Alarcon, (4) Guatemalan women who refuse to be subservient in domestic relationships, (5) Guatemalan women who refuse to conform to societal norms, (6) Guatemalan women who favor women’s rights and equality, (7) Guatemalan women who subscribe to progressive Catholicism, (8) Guatemalan women who are viewed as property by virtue of their status in a domestic relationship, and (9) Guatemalan women who are unable to leave their domestic relationship. The Guatemalan government is unwilling and/or unable to protect her from this persecution. For the reasons explained below, Ms. Ramirez respectfully requests that she be granted asylum in the United States or, in the alternative, withholding of removal. This application is being filed within one year of Ms. Ramirez’s entry into the United States on July 8, 2014, and is therefore, timely pursuant to Section 208(a)(2)(A) of the INA. In the alternative, Ms. Ramirez requests relief based on humanitarian asylum, withholding of removal under the Act or under the Convention against Torture (“CAT”).

For ten years, Ms. Ramirez, a citizen of Guatemala, suffered persecution inflicted by her domestic partner, Alejandro Alarcon, due to her political opinions, her religion, and her immutable status as a member of the above-articulated particular social groups. Beginning only one month after their co-habitation, Mr. Alarcon began brutally physically, sexually and psychologically abusing Ms. Ramirez because as a woman in a relationship in Guatemala, he viewed her as his property, existing to attend to his physical and sexual demands. Further, Mr. Alarcon exacted his abuse on Ms. Ramirez because as the mother of their child in Guatemala, he knew his parental rights to access the child would ensure Ms. Ramirez would be unable to meaningfully leave the relationship. As Ms. Ramirez grew to adopt more progressive Catholic teachings, increasingly exerted her political opinion in favor of women’s autonomy, and refused to be subservient to her domestic partner or and conform to Guatemalan norms for women, Mr. Alarcon escalated his violence.

Mr. Alarcon’s violence against Ms. Ramirez were more than “isolated acts of random violence.” *Matter of O-Z- & I-Z-*, 22 I&N Dec. 23, 26 (BIA 1998). They were targeted, intentional acts of persecution to punish and subjugate Ms. Ramirez because of her religion, political views, and position in Guatemalan society as a woman, a mother, a woman in a domestic relationship, and a woman who flouted societal norms, refused subservient status, and favored women’s rights and autonomy. While government officials did not directly persecute Ms. Ramirez, the government’s outright failure to systematically address violence against women like Ms. Ramirez renders it unable and unwilling to protect Ms. Ramirez. Indeed, despite a 2008 federal law criminalizing violence against women,[[1]](#footnote-1) the Guatemalan government has refused to implement the law broadly and has failed to mandate sufficient funding, rendering the law itself utterly ineffective in protecting Ms. Ramirez and similarly situated women. This embedded structure of impunity for violence against women renders the Guatemalan government unable and unwilling to afford Ms. Ramirez protection from her persecutor.

Ms. Ramirez holds an objectively and subjectively well-founded fear that her life would be in peril if she were compelled to return to Guatemala because of the severity and potential lethality of the past abuse and because of Mr. Alarcon’s continued threats and harassment. Her greatest act of defiance was to leave him and travel to the United States without his permission. Mr. Alarcon continues to threaten her life and will not allow her escape to go unpunished should she return to Guatemala. Ms. Ramirez also reasonably believes that the Guatemalan government will not protect her from Mr. Alarcon even if she relocated to another region of the 42,042-square-mile country.

# II. FACTS AND PROCEDURAL HISTORY

### A. Mr. Alarcon targeted Ms. Ramirez for a domestic relationship when she was just a teenager.

Ms. Ramirez was born in the village of El Progreso, Jutiapa, Guatemala on January 1, 1985. She, her five siblings, mother, and father lived in a one-bedroom adobe house. Decl. at \_\_. Ms. Ramirez’s father only permitted her to attend school for three years, after which she was put to work. Decl. at \_\_. When she asked why she could not continue school like her brothers, Ms. Ramirez’s father told her girls were not intelligent like boys and had no use for school because they were meant to support their husbands and children. Decl. at \_\_. He told her that because she was a girl, she was put to better use working in the fields to help the family than waste her time in school. Decl. at \_\_. Despite her labor, her father controlled her pay. He told Ms. Ramirez that, like her mother, what she did was for him to decide and that her earnings belonged to him until she had a husband to make decisions for her. Decl. at \_\_. As a child, Ms. Ramirez saw the same patterns of female subservience and subjugation that she would later see in her relationship with Mr. Alarcon. Her father devalued his daughters by leaving them to go barefoot while he bought his sons shoes, and he routinely beat her mother for such “infractions” as failing to bring him his meals promptly enough. Decl. at \_\_. Neighbors and family members often witnessed her father slap, push, and kick her mother, yet no one intervened or attempted to stop her father. Decl. at \_\_. Once, when Ms. Ramirez was 13, her father beat her mother for talking to the neighbors alone outside their home. Decl. at \_\_. While Ms. Ramirez helped her mother tend to her cut lip, she asked her mother why she did not defend herself or take them away from her father. Her mother replied that it was God’s will for a woman to obey her husband, and besides, where would a woman alone with six children go? Decl. at \_\_.

When Ms. Ramirez was 16, she met Mr. Alarcon through mutual friends at a park. Decl. at \_\_. Mr. Alarcon was several years her senior, and Ms. Ramirez was charmed in the beginning by his caring nature. Decl. at \_\_. He showered her with small gifts and affection. Decl. at \_\_. Soon into their courtship, Mr. Alarcon pressured Ms. Ramirez to have sex with him. Decl. at \_\_. She was a virgin, a devout Catholic, and was ashamed to have premarital sex, but Mr. Alarcon promised her that when she got a little older, they would marry in the Church. Decl. at \_\_.

Soon after their sexual relationship began, Mr. Alarcon began suggesting, then pressuring Ms. Ramirez to move in with him. Decl. at \_\_. Ms. Ramirez had not yet turned 17, but her home life was difficult. Decl. at \_\_. She was mistreated by her father, and saw her mother being abused. Believing that moving in with Mr. Alarcon would help her mother by being one less mouth to feed, Ms. Ramirez agreed. Decl. at \_\_.

### B. Almost immediately after cohabiting, Mr. Alarcon began to dominate, control, beat, and rape Ms. Ramirez.

Within one month of moving in together, Mr. Alarcon began a pattern of physical and sexual violence and psychological and economic domination of Ms. Ramirez, which she endured for ten years. Although Ms. Ramirez and Mr. Alarcon never legally married, they had a child in common, and Mr. Alarcon acknowledged paternity of the child, Milagro Alarcon (“Milagro”). Decl. at \_\_. As soon as they began cohabiting, Mr. Alarcon, family, and community members consistently referred to Ms. Ramirez as his wife. Decl. at \_\_. The control and subjugation began immediately with Mr. Alarcon’s insistence that Ms. Ramirez follow myriad rules for her conduct and the running of the home. Decl. at \_\_. The abuse grew to include Mr. Alarcon’s restrictions on her movements and contact with friends and family. Decl. at \_\_. Mr. Alarcon took full control of the finances, making her economically dependent on him. Decl. at \_\_. If Ms. Ramirez gave her opinion about an economic decision, Mr. Alarcon ignored it and if she took action on an economic matter, he berated her for stepping out of line. Decl. at \_\_. When she suggested they buy property, he replied that it was his decision to make, not hers. Decl. at \_\_. Mr. Alarcon kept information about his earnings from her and became enraged if she tried to make economic decisions, such as the time she took a portion of grocery money to buy fruit and vegetable seeds for their small garden. Decl. at \_\_. Mr. Alarcon also did not allow Ms. Ramirez to leave the house or speak with others, so she was unable to seek employment outside of the home. Decl. at \_\_. Despite her economic dependence, Mr. Alarcon gave her small amounts of money – and only rarely – with which she was expected to survive. Decl. at \_\_. Ms. Ramirez’s family did not question or pry into why she rarely visited or contacted them. Decl. at \_\_.

Within a month, Mr. Alarcon began punching, kicking and slapping Ms. Ramirez when she failed to comply with his rules. Decl. at \_\_. Three weeks into their cohabitation, Ms. Ramirez had her menstrual cycle and tried to refuse Mr. Alarcon’s sexual demands. Decl. at \_\_. In response, Mr. Alarcon told her “you’re my woman, this is what you’re for” and raped her. Decl. at \_\_. A few weeks later, Mr. Alarcon forced Ms. Ramirez again to have sex, and that rape resulted in Ms. Ramirez’s first pregnancy. Decl. at \_\_. Their child, Milagro, was born on November 14, 2003. Birth Certificate of Milagro Alarcon. Mr. Alarcon was furious that it was a girl, and belittled and mocked Ms. Ramirez for not being “good enough” to make a boy. Decl. at \_\_.

Mr. Alarcon subjected Ms. Ramirez to severe psychological abuse, treating her as an object and as his personal property, and stripping her of any sense of personal dignity or confidence. Decl. at \_\_. Ms. Ramirez was expected to cater to Mr. Alarcon, ensuring that all domestic chores were done to his expectations. Decl. at \_\_. If they were not done to his liking, she often faced a beating. Decl. at \_\_. On one occasion, Mr. Alarcon threw hot coffee in her face because it was too hot. Decl. at \_\_. The coffee burned her face and she had to go to the health clinic to get medication for her injury. Decl. at \_\_; Medical Forensic Rep. at \_\_. The nurse bandaged her wound and gave her an ointment, but did not ask further questions when Ms. Ramirez told her that her husband had been angry and spilled the coffee on her. Decl. at \_\_. On another occasion, Ms. Ramirez accidently burned Mr. Alarcon’s pants while ironing them. Decl. at \_\_. As a result, Mr. Alarcon whipped her with his belt in front of her mother. Decl. at \_\_. Her mother tried to intervene by asking him to stop and to “calm down,” to which he replied that she had no right to tell him what to do with his wife. Decl. at \_\_. Ms. Ramirez’s mother did not press him further or contact the police. Decl. at \_\_. Aff. of Mother at \_\_.

Mr. Alarcon regularly threatened Ms. Ramirez, telling her on numerous occasions that she would not escape his machete and that “if he didn’t kill me in the house, he would kill me on the street.” Decl. at \_\_. Whenever Ms. Ramirez attempted to defend herself or assert her rights, Mr. Alarcon would belittle her and tell her that she was only a woman and as his wife, she was his woman, she belonged to him, and therefore had no right to stop his abuse. Decl. at \_\_. Even when Ms. Ramirez tried to defy or dispute his rules and act with minimal autonomy, Mr. Alarcon would belittle her beliefs and escalate his violence. Decl. at \_\_. Mr. Alarcon also remarked that as his wife, she was his property and she had no right to stop his abuse. Decl. at \_\_. Mr. Alarcon would ask Ms. Ramirez “[W]hat do you want to do, that I wear the skirt and you wear the pants? Why are you listening to other people, I am in charge.” Decl. at \_\_. Mr. Alarcon also told Ms. Ramirez, “You’re my wife, so I’m in charge of you” “and “I can do whatever I want to you because you’re my woman.” Decl. at \_\_.

Mr. Alarcon isolated her from the community by preventing her from speaking to anyone in public and humiliated her by preventing her from bathing for long periods of time. Decl. at \_\_. On one occasion in 2004, while Mr. Alarcon was away from the home for the day, Ms. Ramirez went into the village with Milagro to get out of the house for a while. Decl. at \_\_. She ran into a childhood friend who seemed to know something was wrong. Decl. at \_\_. When Ms. Ramirez told her she was having “troubles” with her husband and did not know what to do, the friend told her she felt bad for her, but that it was “not her place” to comment on their relationship, and to just “try harder to please” Mr. Alarcon. Decl. at \_\_.

On numerous occasions, Mr. Alarcon severely beat Ms. Ramirez, leaving her with several permanent physical injuries that continue to cause pain and deep psychological damage. Medical Forensic Rep. at \_\_. Mr. Alarcon hit Ms. Ramirez with his fists, kicked her, and grabbed her hair to repeatedly slam her head into the wall. Decl. at \_\_. Mr. Alarcon frequently beat Ms. Ramirez until she lost consciousness, and on several occasions, Ms. Ramirez felt she was “left more dead than alive.” Decl. at \_\_. He beat her while she was pregnant – once causing a miscarriage. Decl. at \_\_. He did not permit her to seek medical treatment for the miscarriage. Medical Forensic Rep. at \_\_. He chased her and threatened her with a machete, and he continually told her that he would kill her if she disobeyed him, left him, or sought protection. Decl. at \_\_. Mr. Alarcon told Ms. Ramirez that he liked her because he could beat her and she always came back to him even if she attempted to flee. Decl. at \_\_. He also flaunted his friendships with “important men” in the village, including men who worked for the mayor and the police department. Decl. at \_\_. Mr. Alarcon frequently reminded Ms. Ramirez that he had important connections who would ensure he never went to jail, even if he killed her. Decl. at \_\_.

Mr. Alarcon disliked religion but allowed Ms. Ramirez to go to church while he hung out with his friends. Decl. at \_\_. The Catholic Church that Ms. Ramirez attended also housed a women’s group, which Ms. Ramirez began attending in 2007, and which she was able to hide from Mr. Alarcon for a period of time. Decl. at \_\_. She became friendly with Susana, the female leader of the group. Decl. at \_\_. The group covertly offered peer discussions of “marital problems” including dealing with abuse and infidelity. Decl. at \_\_. Over time, Mr. Alarcon discovered that she was attending a women’s group, and though he did not stop her from attending church, he berated her and prohibited her from attending the group. Decl. at \_\_. Mr. Alarcon often called Ms. Ramirez and the other attendees of the women’s group at Ms. Ramirez’s church “vile whores.” Decl. at \_\_. Nonetheless, Ms. Ramirez surreptitiously continued to attend the women’s group. Decl. at \_\_. Although it was not professional counseling, through her church and women’s group attendance, Ms. Ramirez grew in her belief that while children should be raised in a two-parent home, the Bible did not condone a man beating or raping his wife or girlfriend, and that women should be able to make some decisions about their own lives and should not have to endure constant beatings and rapes. Decl. at \_\_. One time, in 2010, she said this to Mr. Alarcon when he was berating her for not cooking dinner on time. Decl. at \_\_. In response, Mr. Alarcon shoved her into a wall, and punched her in the face, screaming at her that if she and the other “whores” in the group wouldn’t harbor such idiotic resentment to their husbands and obeyed their men, they would not have to beat their women so much. Decl. at \_\_. Mr. Alarcon also brutally and frequently raped Ms. Ramirez, causing her extreme physical pain. Decl. at \_\_. When he raped her, Mr. Alarcon threatened to cut off her hand or leg if she resisted, complained, or sought help. Decl. at \_\_. Mr. Alarcon would also tell Ms. Ramirez that he would “give her something to talk about in the women’s meetings” while raping her. Decl. at \_\_. Mr. Alarcon once caught her chatting with the women’s group leader outside of the church in 2010, and when she got home, he beat her so severely that she was unable to walk afterwards. Decl. at \_\_.

As a devout Catholic, Ms. Ramirez also holds deep and sincere beliefs in protecting pregnant women, in opposition to abortion, and in the protection of children and the meek against acts of violence. Decl. at \_\_. Mr. Alarcon, knowing her deeply held religious beliefs, beat her while she was pregnant with Milagro and during a second pregnancy in 2009. Decl. at \_\_. In one incident, when Ms. Ramirez attempted to refuse sex during her second pregnancy, Mr. Alarcon raped her, telling her she was “not worthy of carrying his child,” and that if she did not submit to his demands he would, “beat the child out of her.” Decl. at \_\_. When she still resisted, begging Mr. Alarcon not to rape her because she was worried it would harm the unborn child, he threw her to the floor, kicked her in the back, and punched her in her stomach and face with his fists. Decl. at \_\_. The beating resulted in a miscarriage. Decl. at \_\_; Forensic Medical Rep. at \_\_.

Over the course of ten years, Mr. Alarcon’s physical and sexual abuse, as well as threats of physical abuse and psychological manipulation caused Ms. Ramirez so much trauma that she eventually was unable to complete even simple tasks, such as buying groceries, cleaning, or cooking dinner. Decl. at \_\_. She suffered from insomnia, became claustrophobic, and developed problems with her short-term memory. Decl. at \_\_. She continues to suffer from several of these symptoms, and when reminded of the abuse that she endured, her head begins to ache and her body shakes. Decl. at \_\_; Psych. Eval. at \_\_.

### C. Ms. Ramirez attempted to escape at least five times, but could not free herself from Mr. Alarcon.

Mr. Alarcon made clear that he would look for Ms. Ramirez wherever she fled and that when he found her he would kill her in the street. Ms. Ramirez attempted to flee at least five times and each time, Mr. Alarcon found her and dragged her back before severely beating her. Decl. at \_\_. Witnesses, including her own mother, did not intervene to stop Mr. Alarcon from physically forcing her to return to his home. Decl. at \_\_, Aff. of Mother at \_\_. Each time she attempted to extricate herself from Mr. Alarcon, he responded with more frequent and more severe beatings and rapes. Decl. at \_\_. In 2012, Ms. Ramirez fled over an hour and a half away to Jalapa, only for Mr. Alarcon to find her at her job. Mr. Alarcon dragged her into the street, beat her in front of multiple bystanders, all while shouting that “distance was no obstacle for him.” Decl. at \_\_. No one intervened to stop him or contact the police. Decl. at \_\_. When he got her back to the car, he raped Ms. Ramirez. Decl. at \_\_.

Mr. Alarcon also threatened to use violence against their own child in order to control Ms. Ramirez. Whenever she attempted to leave, she was compelled to return in order to protect her child from him. Decl. at \_\_. Mr. Alarcon refused to give permission to allow Milagro to obtain a passport. Decl. at \_\_. When Ms. Ramirez attempted to leave at least five times, she returned due to Mr. Alarcon’s threats to beat and rape their daughter. Decl. at \_\_. When Ms. Ramirez tried to leave again in 2013, Mr. Alarcon waited in the house she was staying at for Ms. Ramirez, and told their daughter that he was waiting for her mother to return so that he could kill Milagro in front of her mother. Decl. at \_\_; Aff. of Milagro Alarcon at \_\_. He told Milagro that he will not stop looking for her mother and upon her return she would not escape his machete. Decl. at \_\_; Aff. of Milagro Alarcon at \_\_.

### D. The Guatemalan government could not and would not protect Ms. Ramirez from Mr. Alarcon.

The Guatemalan government’s inability and unwillingness to protect Ms. Ramirez from Mr. Alarcon’s persecution is properly viewed in light of both the direct response by government officials to Ms. Ramirez’s pleas for help and in the failure of the Guatemalan government, on the whole, to take meaningful steps to implement its own law against violence against women.

Ms. Ramirez attempted to seek help from the police in 2012 after Mr. Alarcon slapped her and threatened her with a machete. Decl. at \_\_. Fearing that this time Ms. Ramirez would finally kill her, she managed to run with the phone and lock herself into a bedroom, where she called the police. Decl. at \_\_. Though a police officer arrived, when Ms. Ramirez explained what happened, the officer told her there was no evidence that a crime had occurred. Decl. at \_\_. He told Ms. Ramirez she could go to the police department and make a complaint, but offered her no other instructions on how to do it. Decl. at \_\_. The police station was 15 miles from Ms. Ramirez’s home, and it would have taken her all day to walk to the station and back. Decl. at \_\_. There were no specialized courts or victim advocates in the department where Ms. Ramirez lived. Decl. at \_\_. After the police left, Mr. Alarcon raped and beat her even more brutally, threatening her that he should not defy him or call the authorities again. Decl. at \_\_. He mocked her and told her, “See? Even when you tried to say I did something bad to you, the police see the truth and do nothing. You are my woman, you must obey me.” Decl. at \_\_. He told her that if she ever tried to leave or called the police again, he would kill her and either his important friends would ensure he went free or he would pay off whomever he needed in order to find her and kill her. Decl. at \_\_.

Mr. Alarcon persecuted Ms. Ramirez with impunity because Guatemalan laws that purportedly address domestic violence are anemically implemented and rarely enforced. They pay little more than lip service to addressing historically entrenched norms that subjugate women in domestic relationships and ignore domestic violence, femicide, and other targeted violence against women, particularly those who cannot leave their relationships, refuse to be subservient, or otherwise refuse to conform to norms that dictate women are inferior to their male relatives and partners.

### E. After 10 years of unabated physical and sexual abuse, and facing escalating death threats, Ms. Ramirez fled to the United States seeking safety from Mr. Alarcon.

As Ms. Ramirez’s attempts to flee Mr. Alarcon within Guatemala grew more frequent, his abuse grew more brutal. The final time she attempted to leave Mr. Alarcon in 2014, he tracked her down, beat her to the point of unconsciousness and told her that the next time she attempted to leave him, he would “take care of her for good,” which Ms. Ramirez understood as a credible death threat. Decl. at \_\_. She had seen and heard stories of women who tried to separate from their husbands and been murdered in response. Decl. at \_\_. She had witnessed her own father beat and threaten to kill her mother if she “got out of line.” Decl. at \_\_. As the government of Guatemala had proven unwilling and unable to protect her from Mr. Alarcon’s targeted violence, and finding no place in Guatemala she could be safe from beatings, rapes, and likely murder, she fled to the United States. Decl. at \_\_. Mr. Alarcon repeatedly told Ms. Ramirez that she was not to defy his authority by leaving him; her escape to the United States was thus the ultimate act of defiance. Decl. at \_\_. Mr. Alarcon continues to harass Ms. Ramirez’s relatives, and has told them and Milagro that he will kill Ms. Ramirez if he ever finds her. Decl. at \_\_; Aff. of Milagro Alarcon at \_\_; Aff. of Mother at \_\_.

Ms. Ramirez entered the United States on July 8, 2014, near McAllen, Texas. She was apprehended and detained upon entry. Upon passing a credible fear interview, she was released and relocated to Falls Church, Virginia. Her application for asylum and withholding of removal under the Act and under the Convention Against Torture was filed in this Court on July 1, 2015, and is therefore timely.

# III. LEGAL ARGUMENT

## A. Summary of Legal Standard for Asylum and Alternate Relief

Ms. Ramirez is eligible for and merits asylum under the law. To qualify for asylum, an applicant must show she has (1) suffered past persecution or has a well-founded fear of future persecution (2) on account of an enumerated statutory ground and that (3) the government is unwilling or unable to protect her. 8 U.S.C. § 1158 (2012). *See also Ngarurih v. Ashcroft,* 371 F.3d 182, 187 (4th Cir. 2004); *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1062 (9th Cir. 2017); *Cabrera v. Sessions*, 890 F.3d 153, 159 (5th Cir. 2018); *Sepulveda v. U.S. Att’y Gen.*, 401 F.3d 1226, 1230–31 (11th Cir. 2005). Ms. Ramirez has suffered past persecution in the form of rape, physical beatings, and death threats and has a well-founded fear of future persecution. *See* 8 U.S.C.A. § 1101 (a)(42)(A)-(B) (West 2011); 8 C.F.R. §208.13 (a) (2018). This persecution is on account of her membership in multiple particular social groups, her political opinions, and her religion. The government is unwilling and unable to protect her and other similarly situated Guatemalan women from persecution in the form of domestic violence, sexual assault, and femicide.[[2]](#footnote-2) *See* *Matter of S-A-*, 22 I&N Dec. 1328, 1335 (BIA 2000) (where the persecutor is a non-government actor, the applicant bears the burden of demonstrating that the government is either unwilling or unable to protect her). Internal relocation is impossible and unreasonable because Mr. Alarcon has found Ms. Ramirez each of the five times she has attempted to flee, because he has threatened to find her and kill her, and because she lacks education and resources to support herself and her daughter in remote areas of the country. *Matter of Acosta*, 19 I&N Dec. 211, 235-36 (BIA 1985); *modified on other grounds* by *Matter of Mogharrabi*, 19 I&N Dec. 439 (1987); *Matter of Fuentes*, 19 I&N Dec. 658, 663 (BIA 1988).

## B. Ms. Ramirez has suffered past persecution in the form of beatings, rapes, and death threats.

Ms. Ramirez experienced abuse and violence that rises to the level of persecution. The INA does not define “persecution,” but courts and the Board have found that persecution involves “the infliction or threat of death, torture, or injury to one’s person or freedom” because of one of the statutorily protected grounds. *Li v. Gonzales*, 405 F.3d 171, 177 (4th Cir. 2005) (quoting *Kondakova v. Ashcroft*, 383 F.3d 792, 797 (8th Cir. 2004)). S*ee also* *Acosta*, 19 I&N Dec. at 222; *Crespin-Valladares v. Holder*, 632 F.3d 117, 126 (4th Cir. 2011); *Sanchez Jimenez v. U.S. Att’y Gen.*, 492 F.3d 1223, 1232 (11th Cir. 2007); *Morales v. Sessions*, 860 F.3d 812, 816 (5th Cir. 2017) (“Examples of persecution include, but are not limited to, ‘threats to life, confinement, torture, and economic restrictions so severe that they constitute a threat to life or freedom.’”) (internal citation omitted). Persecution includes the “threat of death” and also encompasses behavior broader than “threats to ‘life or freedom.’” *I.N.S. v. Stevic*, 467 U.S. 407, 428 n.22 (1984); *see also Diallo v. U.S. Att’y Gen.*, 596 F.3d 1329, 1331 (11th Cir. 2010) (“[A] credible death threat made in person by one with the ability to carry out that threat rises to the level of persecution.”). Rape and sexual assault are such “atrocious forms of persecution” that they justify granting asylum even when there is little fear of future persecution. *See Garcia-Martinez v. Ashcroft*, 371 F.3d 1066, 1072 (9th Cir. 2004); *Lopez-Galarza v. I.N.S.*, 99 F.3d 954 at 962–63 (9th Cir. 1996) (noting that 1995 INS Guidelines for asylum adjudicators specifically cited rape as a form of persecution and that “[t]he severity of the harm of rape is underscored by numerous studies revealing the physical and psychological harms rape causes… The effects of rape appear to resemble the effects of torture.”); *see also Matter of D-V-*, 21 I&N Dec. 77, 79 (1993); *Zubeda v. Ashcroft*, 333 F.3d 463, 472 (3rd Cir. 2003); *Ayala v. U.S. Att’y Gen.*, 605 F.3d 941, 949 (11th Cir. 2010) (remanding case to the Board for failing to consider if sexual assault constituted persecution). Threats of violence and repeated beatings in a domestic relationship may also constitute persecution. *See* *In re R-A-*, 22 I&N Dec. 906, 914 (BIA 1999), remanded by *Matter of R-A-,* 24 I&N Dec. 629 (A.G. 2008) (noting, in the case of domestic violence, that “the severe injuries [R-A-] sustained [were…] sufficient to constitute “persecution”). Although singular acts of violence may rise to persecution, a determination of persecution should also consider cumulative incidents. *See. e.g., O-Z- & I-Z-*, 22 I&N Dec. at 25–26 (finding that,”[i]n the aggregate” being physically assaulted three times, harassed through the mail system, and suffering property vandalism, “rise to the level of persecution”); *Korablina v . I.N.S.*, 158 F.3d 1038, 1044 (9th Cir. 1998); *Delgado v. U.S. Att’y Gen.*, 487 F.3d 855, 861 (11th Cir. 2007).

Ms. Ramirez has suffered harm rising to persecution in the form of threats to her life, repeated and severe physical beatings, and systematic rape over the course of 10 years. Any one of the physical beatings, death threats, or rapes inflicted upon her by Mr. Alarcon would alone constitute persecution. The cumulative ten years of beatings, rape, and death threats wove a tightly-knitted pattern of violence, domination, and subjugation that clearly establish persecution in the aggregate. *See O-Z- & I-Z-*, 22 I&N Dec. at 25–26. As such, Ms. Ramirez has been persecuted in her home country.[[3]](#footnote-3)

## C. Ms. Ramirez was persecuted on account of her membership in cognizable particular social groups.

To qualify for asylum based on membership in a particular social group, the applicant must establish three elements: (1) she must identify a group that constitutes a particular social group; (2) demonstrate membership in that social group; and (3) prove that she has a well-founded fear of persecution based upon her membership in that social group. *Fatin v. I.N.S.*, 12 F.3d 1233, 1240 (3rd Cir. 1993) (citing *Acosta*, 19 I&N Dec. at 233). Triers of facts must determine whether an applicant establishes each of these elements separately, and they should not be conflated.

Social groups must be assessed on a case-by-case basis. In *Matter of A-B-*, 27 I&N Dec. 316, 319 (A.G. 2018), the Attorney General’s rejection of the evidence submitted in *Matter of A-R-C-G-,* 26 I&N Dec. 388 (BIA 2014), does not impose a conclusion that no domestic violence claim could be sufficiently proven. *See also* *Matter of Acosta*, 19 I&N Dec. at 233 (stating “[t]he particular kind of group characteristic that will qualify under this construction remains to be determined on a case-by-case basis”); *see also Paiz-Morales v. Lynch*, 795 F.3d 238, 245 (1st Cir. 2015) (“We do not mean to suggest a blanket rejection of all factual scenarios involving gangs.”) (internal quotation marks omitted); *Pirir-Boc v. Holder*, 750 F.3d 1077, 1084 (9th Cir. 2014) (“[T]he BIA may not reject a group solely because it had previously found a similar group in a different society to lack social distinction or particularity.”); *Matter of M-E-V-G-*, 26 I&N Dec. 227, 251 (BIA 2014) (“Social group determinations are made on a case-by-case basis”); *Gonzales-Veliz v. Barr*, No. 18-60174, 2019 U.S. App. LEXIS 27294, at \*28 (5th Cir. Sep. 10, 2019) (“[T]he Attorney General’s *A-B-* decision did not create a blanket preclusion for groups based on domestic violence.”). The statute and regulations require the exercise of judgment in analyzing each case before the court or Board. INA § 240(c)(4)(B); 8 C.F.R. § 1003.1(d)(1)(ii). Indeed, the Attorney General’s categorical statement in *Matter of A-B-* that “[g]enerally, claims by aliens pertaining to domestic violence or gang violence perpetrated by non-governmental actors will not qualify for asylum,”[[4]](#footnote-4) is dictum that hold no binding application.[[5]](#footnote-5) Put simply, *Matter of A-B-* did not foreclose asylum claims based on domestic violence.[[6]](#footnote-6)

Ms. Ramirez is a member of the following cognizable particular social groups: (1) Guatemalan women, (2) Guatemalan mothers, (3) the mother of Milagro Alarcon, (4) Guatemalan women who refuse to be subservient in their domestic relationships, (5) Guatemalan women who favor women’s rights and autonomy, (6) Guatemalan women who refuse to conform to societal norms, (7) Guatemalan women who subscribe to progressive Catholic teachings, (8) Guatemalan women who are viewed as property by virtue of their status in a domestic relationship, and (9) Guatemalan women who are unable to leave their domestic relationship.

#### **1. Ms. Ramirez’s social groups are cognizable.**

Well-settled jurisprudence establishes three distinct requirements for a cognizable social group. First, its members must share a “common, immutable characteristic” that are either “beyond the power of an individual to change or is so fundamental to individual identity or conscience that it ought not be required to be changed.” *Matter of Acosta*, 19 I&N Dec. at 233. In making the determination that members of a group share common immutable traits, both the applicant’s circumstances and country conditions information should be considered.[[7]](#footnote-7)

Second, the group must be sufficiently particular such that they are not amorphous and are defined by characteristics that provide a clear benchmark for who falls within the group. *Matter of M-E-V-G-*, 26 I&N Dec. 227, 239 (BIA 2014). Third, it must be socially distinct, meaning the group would be meaningfully distinguished from other persons in the same society. *Id.* at 238. A particular social group is socially distinct when it is “generally recognizable by others in the community” and is not “too amorphous to provide an adequate benchmark for determining group membership.” *See Matter of A-M-E- & J-G-U-,* 24 I&N Dec. 69, 74 (BIA 2007). The BIA has clarified that “a group’s recognition for asylum purposes is determined by the perception of the society in question, rather than by the perception of the persecutor.” *See Matter of M-E-V-G-*, 26 I&N Dec. at 242; *Matter of W-G-R-,* 26 I&N Dec. 208, 217–18 (BIA 2014). It further clarified that social distinction does not require ocular visibility; “rather, it must be *perceived* as a group by society.” *Matter of M-E-V-G-*, 26 I&N Dec. at 240 (emphasis added).

##### a. Ms. Ramirez’s social groups are defined by common, immutable traits.

Ms. Ramirez’s articulated social groups are defined by commonly understood, immutable traits, including nationality, gender, status in a domestic relationship, and fundamental beliefs.

###### *i.**“Guatemalan women”*

“Guatemalan women” is defined by nationality and gender, both of which the Board has repeatedly affirmed as immutable. In *Matter of Acosta*, 19 I&N Dec. at 233, the Board stated that “[t]he shared characteristic might be an innate one such as sex, color, or kinship ties.” In *Matter of Kasinga*, 21 I&N Dec. at 366, it recognized a group formed by gender, tribal identity, youth, and other characteristics.The circuit courts have similarly recognized the viability of gender- and nationality-based social group asylum claims in a variety of contexts. *See, e.g., Haoua v. Gonzales*, 472 F.3d 227, 232 (4th Cir. 2007) (“‘Forced female genital mutilation involves the infliction of grave harm constituting persecution on account of membership in a particular social group that can form the basis of a successful claim for asylum.’”) (quoting *Abay v. Ashcroft*, 368 F.3d 634, 638 (6th Cir. 2004)); *Ngengwe v. Mukasey*, 543 F.3d 1029, 1034 (8th Cir. 2008) (recognizing group of “Cameroonian widows”); *Niang v. Gonzales*, 422 F.3d 1187, 1198–1200 (10th Cir. 2005) (discussing why gender plus tribal identity, without more, may satisfy the *Acosta* standard for social group); *Cece v. Holder*, 733 F.3d 662, 672 (7th Cir. 2013) (en banc); *Fatin v. INS*, 12 F.3d at 1240. UNHCR guidance also provides unequivocally that sex is an immutable or fundamental characteristic. *See* UNHCR, Guidelines on International Protection: Gender-Related Persecution ¶ 30 (May 7, 2002) (“It follows that sex can properly be within the ambit of the social group category, with women being a clear example of a social subset defined by innate and immutable characteristics, and who are frequently treated differently than men.”).

###### *ii.**“Guatemalan mothers” and “mother of Milagro Alarcon”*

“Guatemalan mothers” and “mother of Milagro Alarcon” are defined by nuclear family ties, which are plainly immutable. Kinship ties, such as a mother-child relationship, have repeatedly been identified as a quintessential social group. *Matter of Acosta*, 19 I&N Dec. at 233; *see also Matter of W-G-R-*, 26 I&N Dec. at 216; *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 949 (4th Cir. 2015); Crespin–Valladares, 632 F.3d at 125.

To be a mother is to be referenced by gendered terminology. “Mother” is defined as “a female parent.”[[8]](#footnote-8) Guatemalan mothers are commonly recognized by the immutable traits of their gender—this immutability is analogous to other social groups centered on race, nationality or religion. Additionally, once a mother has a child, they cannot change their parental identity.

###### *iii. “Guatemalan women who refuse to be subservient in domestic relationships,” “Guatemalan women who refuse to conform to societal norms,” and “Guatemalan women who favor women’s rights and autonomy”*

In addition to the immutable traits of nationality and gender, “Guatemalan women who refuse to be subservient in domestic relationships” is defined by the immutability of the domestic relationship and a fundamental belief opposing and refusing subservience in a domestic relationship.

An assessment of the immutability of a domestic relationship must consider whether a woman’s intimate partner would recognize her ability to end the relationship, as well as the broader societal context. DHS Br., *Matter of L-R-,* at16; *cf. Niang*, 422 F.3d at 1187 (noting “adherence to certain gender roles and expectations” within family and cultural expectations). A deeply embedded pattern of violent domination and control that reflects a belief in a man’s right to abrogate his female domestic partner’s autonomy can render the woman’s status in the relationship immutable, particularly when reinforced by deeply-rooted social dynamics that subordinate women to men. Further, DHS conceded in its briefin *Matter of R-A-*, whose asylum grant remains undisturbed by *Matter o*f *A-B-*, that a married woman’s status may be immutable where religious or moral identity would preclude a divorce, or where religious, cultural, or legal constraints made dissolution of the marriage impossible. DHS Br. at 28. The DHS extended that statement in its brief in *Matter of L-R-* that a women’s status in a domestic relationship is immutable, “such as cases where economic, social, physical or other constraints made it impossible for the applicant to leave the relationship during the period when the persecution was inflicted.” DHS Br., *Matter of L-R-*, at 16. It similarly recognized that status in a domestic relationship may be immutable “if the abuser would not recognize a divorce or separation as ending the abuser’s right to abuse the victim.” *Id.*

Guatemalan women who refuse to be subservient in domestic relationships,” “Guatemalan women who refuse to conform to societal norms,” and “Guatemalan women who favor women’s rights and autonomy” are further defined by the immutable characteristics of refusal of subservience, refusal to conform to societal expectations, and beliefs in the rights and autonomy of women, respectively. A person’s refusal to be subservient in their own domestic relationship, and a person’s broader belief in the rights and autonomy of all women, are fundamental beliefs that are central to a person’s identity as a feminist and an autonomous individual who acts in self-agency within a domestic relationship. Similarly, where societal norms mandate that women are subordinate to men[[9]](#footnote-9) Guatemalan women who refuse to be subservient, who refuse to conform to societal norms for women’s behavior, and who favor the rights and autonomy of women hold beliefs that are immutable in that they “should not be required to change because it is fundamental to their individual identities or consciences” to evade harm. *Matter of Acosta*, 19 I&N Dec. at 233; *see also Castillo-Arias v. U.S. Att’y Gen.,* 446 F.3d 1190, 1196 (11th Cir. 2006) (applying the Board’s formulation of “particular social group” in *Acosta*); *Ontunez–Tursios v. Ashcroft,* 303 F.3d 341, 352 (5th Cir. 2002).

###### *iv. “Guatemalan women who subscribe to progressive Catholic teachings”*

Similarly, Guatemalan women who subscribe to progressive Catholic teachings is immutable in that it hinges on immutable religious beliefs. Religion is a trait that is “so fundamental to individual identity or conscience that it ought not be required to be changed,” such that religion alone constitutes a protected ground under the Act and the Convention. *Matter of Acosta*, 19 I&N Dec. at 233.

###### *v.**“Guatemalan women who are viewed as property by virtue of their status in a domestic relationship” and “Guatemalan women who are unable to leave their domestic relationships”*

“Guatemalan women who are viewed as property by virtue of their status in a domestic relationship” and “Guatemalan women who are unable to leave their domestic relationship” are defined by the immutable traits of nationality, gender, and permanence of the domestic relationship. *See supra* Sections III.C.1.a.i., III.C.1.a.iii.

Likewise, Guatemalan society continues to make it impossible for a woman in Ms. Ramirez’s position to leave her abusive partner. Police, prosecutors, and the judiciary routinely fail to comply with the 2008 Law criminalizing violence against women.[[10]](#footnote-10) There are only about six domestic violence shelters available, at least two of which were in the process of closing as of 2016.[[11]](#footnote-11) The Guatemalan police force demonstrates general lack of regard for the 2008 Law, which provides protocols for police in cases of violence against women in domestic relationships.

##### b. Ms. Ramirez’s articulated social groups are particular and socially distinct.

A social group must also be “defined with particularity, and [be] socially distinct within the society in question.” *Matter of A-R-C-G-,* 26 I&N Dec. at 392, *overruled* by *Matter of A-B-,* 27 I&N Dec. 316*)*; s*ee also Matter of M-E-V-G,* 26 I&N Dec. at 227; *Matter of W-G-R-,* 26 I&N Dec. at 213–15; and *Crespin-Valladares*, 632 F.3d at 125.

A group must have “particular and well-defined boundaries” and constitute a “discrete class of persons.” *Matter of S-E-G-*, 24 I&N Dec. 579, 582, 584 (BIA 2008). Particularity considers whether terms used to describe the groups have “commonly accepted definitions in the society of which the group is a part.” *Matter of M-E-V-G-*, 26 I&N Dec. at 239. Although the Attorney General stated “that each term has a commonly understood definition, standing alone, does not establish that these terms have the requisite particularity,” he did not alter the particularity standard.[[12]](#footnote-12)

Social distinction depends on “evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group.” *Matter of W-G-R-*, 26 I&N Dec. at 217. As the Board has set forth — in a decision cited favorably by *Matter of A-B-*, 27 I&N Dec. at 330–31 — “country conditions reports, expert witness testimony, and press accounts of discriminatory laws and policies, historical animosities, and the like” are relevant to establishing a social group. *Matter of M-E-V-G-*, 26 I&N Dec. at 244; s*ee also Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1092 (9th Cir. 2013) (en banc).

###### *i. “Guatemalan women”*

“Guatemalan women” is particular. The commonly understood definitions of “Guatemalan” and “woman” impose clear benchmarks on who is a Guatemalan woman. It is socially distinct in that the combination of nationality and gender is perceived by the government and Guatemalan society generally as distinct from men and non-Guatemalan women. Gender and nationality are indicated on an individual’s birth certificate, national identity card, and passport.[[13]](#footnote-13) There is substantial evidence to support that Guatemalan women “exis[t] and [are] set apart within the society in some significant way” in Guatemala. *Matter of M-E-V-G-*, 26 I&N Dec. at 244; *see also Perdomo v. Holder*, 611 F.3d 662, 667 (9th Cir. 2010) (reversing summary rejection of the social group “Guatemalan women” and remanding); *Silvestre-Mendoza v. Sessions*, 729 Fed.Appx. 597, 599 (9th Cir. July 3, 2018) (post- *A-B-* case remanding to consider “Guatemalan women” as a particular social group).

###### *ii. “Guatemalan mothers” and “mother of Milagro Alarcon”*

“Guatemalan mothers” and “mother of Milagro Alarcon” are similarly particular and socially distinct groups. Motherhood is recognized in Guatemala’s Constitution as it relates to protections for working pregnant women, working mothers, lactating mothers, and maternity leave. *See* Constitución de 1985 con las reformas de 1993 [1985 Constitution including 1993 reforms], Tit. II, Art. 102(k). It defines children of “Guatemalan fathers and mothers” as nationals. *Id.* Tit. III, Art. 144. The Guatemalan Civil Code uses the term “mother” 52 times. *See* Código Civil de Guatemala (adoptada por Decreto-Ley N ° 106, del 14 de septiembre de 1963) [Civil Code of Guatemala (adopted by Decree-Law No. 106 of 14 September 1963)]. There are clear benchmarks – enshrined in birth certificates, school registration, and other identity documents that identify when a Guatemalan person is a mother, and in this case, specifically that Ms. Ramirez is the mother and nuclear family member of Milagro Alarcon, distinguishing her from others who are not Milagro Alarcon’s mother.

###### *iii. “Guatemalan women who refuse to be subservient in domestic relationships”*

The term “domestic relationships” in which women “refuse to be subservient” is also clearly defined in the context of Guatemalan society and culture. Guatemalan law recognizes a range of domestic relationships, including formal marriage as well as other arrangements. *See* Paz y Paz Bailey Decl. ¶ 7 (noting that “abusive relationships . . . includes formal marriages as well as a range of other domestic relationships covered under our laws”). Substantial evidence in record demonstrates societal expectations regarding gender, the subordination of women, high rates of violence perpetrated against them, and the refusal of Guatemalan authorities to intervene in domestic violence cases. The existence of a specific law – though utterly ineffective – for Guatemalan women who are subjugated and abused by their domestic partners further evidences that groups of Guatemalan women in domestic relationships are perceived by Guatemalan society, have well-defined boundaries and describe discrete classes of persons.

In addition to the clear benchmarks and visibility imposed by nationality, gender, and domestic relationship status, women who refuse to be subservient in a domestic relationship, is a socially distinct and particular group. Women like Ms. Ramirez, who work or leave the domestic home without their partner’s permission, reject sexual servitude, or attempt to separate from their male partners take clear actions that place them within a class of individuals that society perceives as distinct from women who accept a subservient role in a domestic relationship. As in Ms. Ramirez’s case, such actions are frequently taken in public, where they are witnessed by members of the society. That public perception of women who refuse or reject prevailing norms of subservience is buttressed by the existence of laws that purport to protect women from violence they experience when rejecting subservience in their domestic relationships.

###### *iv. “Guatemalan women who refuse to conform to societal norms” and “Guatemalan women who favor women’s rights and autonomy”*

Guatemalan women who refuse to conform to societal norms and Guatemalan women who favor women’s rights and autonomy are also socially distinct and particular because nationality, gender, and shared experience are not subjective or amorphous characteristics, and Guatemalan women who act outside of social norms and who hold feminist beliefs are a perceived group within society. Evidence in the record supports a finding of pervasive patriarchal attitudes and deeply rooted gender stereotypes about the roles and responsibilities of women and men in society, as well as norms dictating that a woman should be subservient to her male partner, which interfere with a woman’s right to enjoyment of a life in which she is able to exercise autonomy and equality in her relationship.[[14]](#footnote-14) There is substantial evidence on record that women who act outside of those norms – by advocating for women’s equality, by refusing to accept gender-based violence, and by exerting self-agency and autonomous decision-making in their relationships – are perceived as “set apart within the society in some significant way”[[15]](#footnote-15) in Guatemala.[[16]](#footnote-16)

###### *v. “Guatemalan women who subscribe to progressive Catholic teachings”*

“Guatemalan women who subscribe to progressive Catholic teachings” also is particular and socially distinct. In addition to being bound by the socially perceptible benchmarks of gender and nationality, there are clear and perceptible bounds of the class of Guatemalan women who practice progressive Catholicism. Members of the Catholic Church is a large but clearly defined group. Among Catholics, there is a widely recognized spectrum of beliefs ranging from orthodox, traditionalist Catholicism – which generally opposes Second Vatican Council reforms[[17]](#footnote-17) – to Catholic liberation theology, a progressive movement that focuses on liberation from social, economic, and other oppression.[[18]](#footnote-18)

The existence of a liberation theology-oriented parish and a women’s support and empowerment group within Ms. Ramirez’s church make the group of Guatemalan women who subscribe to progressive teachings both define with particularity and make visible to the community and society its members as a distinct class of persons.

###### *vi. “Guatemalan women who are viewed as property by virtue of their status in a domestic relationship” and “Guatemalan women who are unable to leave their domestic relationships”*

Guatemalan women who (1) are viewed as property by virtue of their status in a domestic relationship and (2) are unable to leave their domestic relationships are both particular and socially distinct groups.

Here, in addition to “domestic relationship,” “unable to leave” and “perceived as property” have commonly understood definitions in Guatemalan society. The belief that “girls are seen as the property of their father,” changes only upon their marriage or entry into a domestic relationship, upon which “they are viewed as the property of their partner” is ingrained in Guatemalan history and culture and pertains to individuals in both married and common law relationships.[[19]](#footnote-19) This belief also contributes to women’s general financial dependence on men – as women are often not permitted to work outside the home, their ability to leave their abusers is limited by their lack of financial resources, and even if a woman does leave, her abuser is unlikely to accept her independence, as he “is understood socially as never having extinguished his right to exercise dominance over her.”[[20]](#footnote-20)

In its brief in *Matter of L-R-*, DHS suggested that the definition of “crime of domestic violence” in Section 237(a)(2)(E)(i) of the Immigration and Nationality Act, 8 U.S.C. §§ 1101 *et seq.* (“INA”), could be instructive in determining whether a domestic relationship is immutable, within the meaning of *Acosta*, for purposes of particular social group analysis. DHS Br., *Matter of L-R-*, at 16–19. This provision states that a “crime of domestic violence include offenses committed by […] an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs . . . .” 8 U.S.C. § 1227(A)(2)(E)(i). Similarly, intimate and cohabiting relationships are a specified group that Guatemala’s 2008 Law criminalizing violence against women identifies as in need of protection.[[21]](#footnote-21)

These two groups are socially distinct because they are “generally recognizable by others in the community.” *See Matter of A-M-E- & J-G-U-,* 24 I&N Dec. at 74. An inquiry into the social distinction of groups predicated on domestic relationships should consider “whether the society in question recognizes the need to offer protection to victims of domestic violence, including whether the country has criminal laws designed to protect domestic abuse victims, whether those laws are effectively enforced, and other sociopolitical factors.” *Matter of A-R-C-G-*, 26 I&N Dec. at 393, *overruled* by *Matter of A-B-, 2*7 I&N Dec. 316*.[[22]](#footnote-22)*

Substantial country conditions evidence support the contention that Guatemalan women unable to leave their relationship and Guatemalan women who are viewed as property by virtue of their position in a domestic relationship “exist[ ]and [are] set apart within the society in some significant way” in Guatemala. *Matter of M-E-V-G-*, 26 I&N Dec. at 244. Evidence in the record supports a finding of pervasive patriarchal attitudes and deeply rooted gender stereotypes about the roles and responsibilities of women and men in society which interfere with women’s right to enjoyment of a life that is free from violence.[[23]](#footnote-23) Such attitudes contribute to the widely-held perception that domestic abuse is socially acceptable.[[24]](#footnote-24) The Guatemalan government has also explicitly recognized the need to protect victims of domestic violence by passing legislation in 1996 and 2008 that creates protections and special protocols for addressing domestic abuse, yet those laws remain vastly under-implemented and under-enforced to this day.[[25]](#footnote-25)

These legal protections existed when Ms. Ramirez was in Guatemala, yet the police refused to act in accordance with their legal obligation to protect her from Mr. Alarcon. Decl. at \_\_. Additionally, the failure to intervene by bystanders each of five times that Mr. Alarcon physically forced Ms. Ramirez to return to him and the domestic home evidences a societal perception of Ms. Ramirez as being in the class of women in Guatemalan who are viewed as property and who cannot leave their relationships. Decl. at \_\_. Ms. Ramirez’s personal experience reflects the general reality that Guatemalan society does perceive “women who are unable to leave a domestic relationship” and “women who are perceived as property by virtue of their position within a domestic relationship” as distinct groups.

A social group must also be defined with particularity, that is, “by characteristics that provide a clear benchmark for determining who falls within the group”. *See Matter of M-E-V-G-,* 26 I&N Dec. at 239. As discussed above, Guatemalan law recognizes a range of domestic relationships, including formal marriage as well as other arrangements, establishing clear benchmarks for membership in the groups.[[26]](#footnote-26) Additionally, substantial evidence on record establishes that within the context of Guatemalan society and laws, there is entrenched subordination of women, high rates of violence perpetrated against women by male partners who operate with impunity, and the resulting—and widely understood—inability of women to leave domestic relationships. The existence of special laws, courts, and procedures for Guatemalan women who are unable to leave their domestic relationships and who are subjugated by their intimate partners because they are viewed as property of that partner further evidences that the groups have well-defined boundaries and describe discrete classes of persons.

Ms. Ramirez’s articulated social groups are sufficiently immutable, socially distinct, and particular to qualify for asylum.

##### c. Ms. Ramirez’s articulated social groups are not circularly defined by the persecution suffered.

Case law on circular social groups from the Board and circuit courts has clearly and consistently held that the group definition does not have to be completely removed from the harm suffered. Rather, a cognizable social group may not be defined *solely* by the harm suffered. *See Matter of A-M-E- & J-G-U-*, 24 I&N Dec. at 74 (“Although a social group cannot be defined exclusively by the fact that its members have been subjected to harm, we noted that this may be a relevant factor in considering the group’s visibility in society.”); *see also Matter of W-G-R-*, 26 I&N Dec. at 215 (emphasis added) (citations omitted) (“Persecutory conduct aimed at a social group cannot alone define the group, which must exist independently of the persecution. Circuit courts have long recognized that a social group must have ‘defined boundaries’ or a ‘limiting characteristic,’ other than the risk of being persecuted, in order to be recognized”); *Cece*, 733 F.3d at 671 (“[T]he Board of Immigration Appeals has never required complete independence of any relationship to the persecutor.”). Despite dicta elsewhere in the decision, *Matter of A-B-* acknowledged this standard when it notes that group members “must share a narrowing characteristic *other than* their risk of being persecuted.” *Matter of A-B-*, 27 I&N Dec. at 335 (internal quotation marks omitted) (emphasis added). Like the social group articulated in *Matters of A-R-C-G-* and *A-B-,* Ms. Ramirez is a member of social groups that are defined by narrowing characteristics other than experiencing the persecutory harms of beatings, rapes, and death threats. Among the social groups articulated here, none are defined by persecution. Instead, they are defined by various combinations of nationality, gender, parental status, kinship ties, status in a domestic relationship, refusal to subservience and to conform to societal norms, and religious beliefs.[[27]](#footnote-27) Accordingly, Ms. Ramirez’s articulated social groups are not circularly defined.

#### **2. Respondent is a member of the articulated social groups**

Ms. Ramirez is a Guatemalan woman, as evidenced by her birth certificate and nationality identity document. Birth Certificate of Esperanza Ramirez, Documento de Identificación [Personal Identification Document] of Esperanza Ramirez. She is a Guatemalan mother, as evidenced by her motherhood and nationality indicated on Milagro’s birth certificate. Birth Certificate of Milagro Alarcon.

Ms. Ramirez is a Guatemalan woman who is unable to leave her domestic relationship, as evidenced by her at least five attempts to leaveMr. Alarcon and sever the relationship. Decl. at \_\_. Mr. Alarcon Mr. Alarcon refused to acknowledge the separation, his contact with her was supported by his paternal rights of access to Milagro, and he physically forced Ms. Ramirez’s return to the domestic home each time she fled. Decl. at \_\_. Her inability to leave the relationship reflects not a personal choice, but embedded cultural norms and a failure of protection and support for women seeking to leave marriages and domestic relationships.[[28]](#footnote-28) The only way Ms. Ramirez has been able to extricate herself from Mr. AlarconMr. Alarcon’s control was by fleeing the country, and Mr. Alarcon has threatened to kill her upon her return, reflecting that within Guatemala, she would continue to be bound within the relationship. Decl. at \_\_.

Ms. Ramirez is a Guatemalan woman who is viewed as property by virtue of her position in a domestic relationship. As discussed above, entrenched cultural norms support the prevailing view of women in intimate relationships with men as being subordinate and subject to the subordination, domination, and control of men in all realms of their lives.[[29]](#footnote-29) Ms. Ramirez’s personal experiences with Mr. AlarconMr. Alarcon reflect this status. When Mr. AlarconMr. Alarcon Mr. Alarconwanted to have sex, he forced himself upon her body with total disregard to her lack of consent. Decl. at \_\_. It did not matter if she said no; Ms. Ramirez and her body “belonged” to Mr. AlarconMr. Alarcon Mr. Alarcon for use as he wished. Decl. at \_\_. When Mr. AlarconMr. AlarconMr. Alarcon wanted meals cooked or household chores completed, he expected her to cater to his demands as if she were his servant. Decl. at \_\_. Like chattel, Mr. AlarconMr. AlarconMr. Alarcon expected Ms. Ramirez to exist and act as he saw fit, and punished her for any attempt to exert her personhood independent of him. Decl. at \_\_. His own words – “you’re *my* woman” and “you *belong to me*” – repeatedly expressed this reality. Decl. at \_\_.

Ms. Ramirez is a Guatemalan woman who refuses subservience in her domestic relationship. She attempted to leave the home multiple times, rejected sexual obedience and servitude to Mr. AlarconMr. AlarconMr. Alarcon, and actively participated in a women’s group that encouraged women to seek equality and dignity in their marriages and relationships. Decl. at \_\_. In both subtle and direct acts, such as refusing unwanted sex, defying Mr. AlarconMr. AlarconMr. Alarcon’s rules, refusing to abort a pregnancy, attempting to exercise freedom of movement, and joining a women’s empowerment group, Ms. Ramirez demonstrated that she was a Guatemalan woman who refused to be subservient in her domestic relationship. Decl. at \_\_. These acts also demonstrate that she was a Guatemalan woman who believed in women’s rights and autonomy.

Ms. Ramirez is a Guatemalan woman who subscribes to progressive Catholic teachings. Ms. Ramirez was raised Catholic but through her church’s women’s group, grew to adopt more progressive interpretations of Catholic teachings than her orthodox father. Decl. at \_\_. Whereas she was taught as a child that her Church demanded that a woman obey her husband and that a husband may discipline his wife with physical violence, Ms. Ramirez later adopted more liberal interpretations that a man is supposed to protect his wife, and that subjugation, domination, and physical and sexual violence violate God’s mandate that a man honor and protect his wife. Decl. at \_\_.

#### **3. Respondent was persecuted on account of her membership in the articulated social groups.**

An asylum applicant must demonstrate a nexus between her membership in a cognizable particular social group and the persecution she has suffered or fears. The protected ground must be “at least one central reason for persecuting the applicant.” INA § 208(b)(1)(B)(i). The persecutor’s motives may be shown through direct or circumstantial evidence. *I.N.S. v. Elias-Zacarias*, 502 U.S. 478, 483 (1992). In *Matter of A-B-*, the Attorney General takes issue with the DHS’s concession in *Matter of A-R-C-G-* that the persecution was on account of Ms. A-R-C-G’s gender-defined particular social group, and draws the improper conclusion that because a personal relationship between the persecutor and victim exists, that the preexisting personal relationship necessarily was the motivation for the persecution, without citing to any evidence in the record supporting such a conclusion.[[30]](#footnote-30)

There is no requirement that an applicant establish that her persecutor would harm *all* members of her particular social group, only that membership in the group was known to the persecutor and constitutes at least one central reason for the persecution of the *applicant*. *See, e.g., Bi Xia Qu v. Holder*, 618 F.3d 602, 608 (6th Cir. 2010) (recognizing that although the applicant was targeted for forced marriage and involuntary servitude in part for financial reasons to repay from the girl’s father, her gender within the societal context was nonetheless one central reason for her persecution).

Mr. AlarconMr. Alarcon was clear in his actions and in his words that at least one central reason for his persecution was the fact that Ms. Ramirez was a woman, a mother, because she refused to act in subservience to him and flouted societal norms, to ensure that she could not leave their relationship, because he viewed her as his personal property, and because she was a progressive Catholic woman and favored the rights and autonomy of women. Those facts were central, not “incidental, tangential, or subordinate” to his motivation. *Matter of A-B-*, 27 I&N Dec. at 338 (citing *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 214 (BIA 2007)). The best evidence of Mr. AlarconMr. Alarcon’s motive is his own words and actions. Mr. AlarconMr. Alarcon did not inflict harm upon non-Guatemalan women or upon men. Instead, he was motivated to target Ms. Ramirez for his persecution because of her status as a Guatemalan woman and the corresponding view that as a man, he was superior to women and could subjugate and abuse a female domestic partner with impunity. In nearly every act of persecution over ten years, Mr. AlarconMr. Alarcon articulated that Ms. Ramirez’s status as *a* woman and as *his* woman was the reason he could and would continue to abuse Ms. Ramirez. Decl. at \_\_. Mr. AlarconMr. Alarcon made clear that he believed women are subordinate to men, telling Ms. RamirezMr. Alarcon “you’re my woman, I can do whatever I want.” Decl. at \_\_. When Ms. RamirezMr. Alarcon asserted herself and her rights, Mr. Alarcon replied: “[w]hat do you want to do, I wear the skirt and you wear the pants? … I am in charge.” Decl. at \_\_. When Ms. Ramirez attempted to defend herself or assert that she should not be controlled or subjugated by Mr. AlarconMr. Alarcon, he belittled her and told her that she was “only a woman.” Decl. at \_\_. On one occasion, after Ms. Ramirez escaped Mr. AlarconMr. Alarcon’s abuse but returned to the family home because of threats to Milagro, Mr. AlarconMr. Alarcon told her that he liked her because as his woman, he could beat her like a dog and she would always come back to him. Decl. at \_\_.

Ms. Ramirez’s inability to leave the relationship further motivates her abuser to harm her because he knows he can continue his abuse with impunity. When Ms. Ramirez suggested separation or attempted to leave him, he said that he would rather kill her than let her leave. Decl. at \_\_. Later, when she brought the topic up again, he responded with a show of extreme rage, breaking their household items, telling her that she belonged to him and that he would not permit her to leave, and brandishing a machete while threatening to kill her if she attempted to leave or defied him. Decl. at \_\_.

Mr. Alarcon Mr. Alarcon explicitly stated that he considered Ms. Ramirez to be his property on multiple occasions, including when she suggested or attempted to separate. In a demonstration of his ownership and domination, he stated that he was the man and she was the woman – *his* woman – to whom he could do whatever he wanted. When Ms. Ramirez resisted Mr. AlarconMr. Alarcon’s sexual advances, it was her refusal to be subservient that he viewed as a challenge to his authority. In response, he told her that “because [she] was his woman, he was going to be with [her] anytime he wanted” and that he “had every right to be with [her] whether [she] wanted to or not,” whereupon he raped her, demonstrating his view that Ms. Ramirez’s body was an object belonging to him, which he could take at any time, regardless of her consent. Decl. at \_\_. But for Mr. AlarconMr. Alarcon’s view that Ms. Ramirez was unable to leave their relationship, that she was his property, and her refusal to be subservient to his demands, he would not have raped, threatened, or beaten her.

Similarly, Mr. AlarconMr. Alarcon’s words and actions are the best indicators of his motivation to persecute Ms. Ramirez on account of her status as a Guatemalan mother. HeMr. Alarcon was infuriated that Milagro was a girl, and when Ms. Ramirez’s second pregnancy was with another girl, he raped and beat her, stating he “did not want another fucking girl.” Decl. at \_\_. Mr. Alarcon He knew that she was the mother of their child and repeatedly told her while beating her that she must take it because she was bound to him forever as Milagro’s mother. Decl. at \_\_. Mr. Alarcon Mr. Alarcon knew and exploited Ms. Ramirez’s sense of maternal duty to protect Milagro by threatening to kill her in front of Ms. Ramirez. Decl. at \_\_. Mr. Alarcon He knew that as the mother of his child, Guatemalan laws, customs, and norms would not permit Ms. Ramirez to fully cut herself off from him and his abuse, and that her maternal love and protection of Milagro would ensure that she remained under his control and domination. Thus, but for her status as a Guatemalan mother, and as Milagro’s mother, heMr. Alarcon would not have targeted his beatings and rapes to Ms. Ramirez.

## D. Ms. Ramirez was persecuted on account of her political opinions in favor of women’s rights and autonomy and in opposition to the intentional termination of pregnancy.

An asylum applicant making a claim of persecution based on political opinion must: “(1) specify the political opinion on which he or she relies, (2) show that he or she holds that opinion, and (3) show that he or she would be persecuted or has a well-founded fear of persecution based on that opinion.” *Fatin*, 12 F.3d at 1242. An applicant’s political opinion may be actual or imputed for purposes of satisfying the requirements to be considered a “refugee” under 8 U.S.C. § 1101(a)(42). *Chun Gao v. Gonzales*, 424 F.3d 122, 129 (2d Cir. 2005) (“‘[A]n imputed political opinion, whether correctly or incorrectly attributed, can constitute a ground of political persecution within the meaning of the Immigration and Nationality Act.’”) (quoting *Alvarez-Flores v. I.N.S.*, 909 F.2d 1, 4 (1st Cir. 1990)); *see also* *Al Najjar v. Ashcroft*, 257 F.3d 1262 (11th Cir. 2001). Thus, persecution on account of an applicant’s imputed political opinion can satisfy the “refugee” definition. *See, e.g., Elias-Zacarias*, 502 U.S. at 482; *Matter of S-P-*, 21 I&N Dec. 486, 489 (BIA 1996).

In order to establish her political opinion, an asylum-seeker may testify about her political beliefs[[31]](#footnote-31) or provide evidence of her past activities.[[32]](#footnote-32) A petitioner may also be held to hold a political opinion even if they did not participate in organized political activities. *See Lazo-Majano v. INS*, 813 F.2d 1432, 1435 (9th Cir. 1987) (finding that a belief that “the Armed Force [was] responsible for lawlessness, rape, torture and murder,” constituted a political opinion, even though the woman who held that belief did not participate in politics), overruled on other grounds by *Fisher v. I.N.S.*, 79 F.3d 955 (9th Cir. 1996); *see* *also* *Rivas-Martinez v. I.N.S.*, 997 F.2d 1143, 1148 (5th Cir. 1993) (acts or refusal to act can constitute evidence of political opinion). Furthermore, political expression is not limited to “conventionally ‘political’ action.” *Coriolan v. I.N.S.*, 559 F.2d 993, 1001 (5th Cir. 1977).[[33]](#footnote-33) Less overtly symbolic acts may also reflect a political opinion. *Saldarriaga v. Gonzalez*, 402 F.3d 461, 466 (4th Cir. 2005).

While traditional interpretations of political opinion include opinions such as opposition or whistle blowing,[[34]](#footnote-34) opposition to government corruption,[[35]](#footnote-35) party membership,[[36]](#footnote-36) or opposition to strategy of using violence,[[37]](#footnote-37) courts have also recognized that feminism constitutes a political opinion. *Fatin,* 12 F.3d at 1243; *see also Fisher*, 79 F.3d at 970. In *Fatin*, 12 F.3d at 1237, the court found that the applicant had a “deep[ly] rooted belief in feminism” and “equal rights for women.” It further held that “we have little doubt that feminism qualifies as a political opinion within the meaning of the relevant statutes.” *Id.* at 1242; *see also* *Sakhawati v. Lynch*, 823 F.3d 852 (6th Cir. 2016) (remanding for further proceedings where applicant was initially granted asylum and withholding of removal based on her claim of persecution resulting from her role as a feminist in Bangladesh but BIA subsequently discovered evidence that applicant’s story was fraudulent).

### 1. Ms. Ramirez was persecuted on account of her political opinions in favor of women’s rights and autonomy.

As discussed above, as Ms. Ramirez grew older and engaged in a women’s empowerment group at her church, she developed deeply held feminist beliefs that women are not the property of their male relatives, should not be subjugated by the men in their lives, and should enjoy free association with the friends, coworkers, and family members of their choosing. Decl. at \_\_. She believes – and her opinions are reinforced by her interpretation of her Catholic faith – that women are entitled to make decisions about their lives, including the freedom to work and have social networks independent of their husbands or male domestic partners, and to have the autonomy to determine their physical and sexual safety and the safety of their children. Decl. at \_\_. Despite the abuse Ms. Ramirez endured, her feminist beliefs grew stronger over the years, as demonstrated by her attempts to defy Mr. AlarconMr. Alarcon’s rules and control, leaving the house without his permission, meeting with other women and friends without his prior approval, attempting to refuse unwanted sexual advances, and attempting separate herself from Mr. AlarconMr. Alarcon and the violence he exacted on her and their child. Decl. at \_\_.

Whenever she expressed her opinion by asserting her rights, Mr. AlarconMr. Alarcon would belittle her and tell her she was only a woman and as *his* woman he could do whatever he wanted and she had no right to question or disobey him. Decl. at \_\_. When she did not retreat from her insistence that she was an equal in God’s eyes, and that she had the right to live free from violence and domination, Mr. AlarconMr. Alarcon responded with escalated violence. Decl. at \_\_. Early in the relationship, when she attempted to refuse sex, he raped her. Decl. at \_\_. As the years of forced sex continued, Ms. Ramirez grew more assertive in her refusals, including attempting to physically stop Mr. AlarconMr. Alarcon. Decl. at \_\_. Mr. AlarconMr. Alarcon responded to her increased physical and vocal resistance with more violent rapes – pinning her down, punching her, and threatening to kill her while raping her. Decl. at \_\_.

Mr. AlarconMr. Alarcon was suspicious of Ms. Ramirez’s participation in her church’s women group, and often beat and yelled at her for her attendance. Decl. at \_\_. He rejected Ms. Ramirez’s feminist political opinions and made statements such as, “who is in charge, he is the man and not the woman.” Decl. at \_\_. When she asserted herself and told him she had rights, he replied: “[w]hat do you want to do, I wear a skirt and you wear the pants? Why are you listening to other people, I am in charge.” Decl. at \_\_. When Ms. Ramirez articulated her feminist opinions through words and actions, he beat and raped her more severely.

### 2. Ms. Ramirez was persecuted on account of political opinion in opposition to the early termination of pregnancies.

Ms. Ramirez also maintains a sincerely held pro-life political opinion, disagreeing with abortions and intentional miscarriages. Decl. at \_\_. This political opinion was rooted in her faith, and she expressed it by celebrating her two pregnancies. Ms. Ramirez refused to terminate the pregnancy because it conflicted with her deeply held religious belief and political opinion that pregnancies should carry through to their natural end. Decl. at \_\_. In response, Mr. AlarconMr. Alarcon raped her and beat her so severely that she miscarried the pregnancy. Decl. at \_\_.

In summary, Ms. Ramirez holds and has expressed – overtly and symbolically – political opinions in favor of women’s rights and autonomy and against the intentional termination of pregnancies. Those beliefs formed a central motivation for Mr. AlarconMr. Alarcon’s persecution of her.

## E. Ms. Ramirez was persecuted on account of her religion.

Persecution on account of one’s religion is a recognized, enumerated statutory ground for asylum. 8 U.S.C. § 1158(b)(1)(B)(i). In the Universal Declaration of Human Rights (“UDHR”), the United Nations declared that “freedom of [… ] belief” is considered “the highest aspiration of the common people.” G.A. Res. 217 A (III), Preamble (Dec. 10, 1948). The UNHCR Guidelines for religion-based refugee claims also recognize that “the right to freedom of religion includes the freedom to manifest one’s religion or belief, either individually, or in community with others and in public or private worship, observance, practice and teaching.” UNHCR Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees (HCR/GIP/04/06, 28 April 2004). Family violence can constitute religious persecution when the abuser is motivated to harm because of religious beliefs. *See Matter of S-A-*, 22 I&N Dec. at 1335; *see also Kossov v. I.N.S.*, 132 F.3d 405, 409 (7th Cir. 1998) (finding past persecution where a woman applicant was beaten and taunted because of her religious beliefs and eventually suffered a miscarriage); *Fisher*, 79 F.3d at 970 (holding that dress and conduct rules pertaining to women may amount to persecution if a woman’s refusal to comply is on account of her religious or political views); *Matter of Chen*, 20 I&N Dec. 16, 19–20 (granting relief to the son of a Christian minister who was subjected to persecution on account of religion); *Mezvrishvili v. U.S. Att’y Gen.,* 467 F.3d 1292 (11th Cir. 2006) (remanding case due to BIA’s insufficient consideration of applicant’s claim that he was persecuted on account of being a Jehovah’s Witness).

Here, Ms. Ramirez’s religious beliefs were a central motivation for Mr. AlarconMr. Alarcon’s persecution. Ms. Ramirez is a member of a progressive Roman Catholic Church with roots in the liberation theology movement. Decl. at \_\_. She attended Mass and a women’s group at the church. Ms. Ramirez adheres to the principles she learned from her faith. Decl. at \_\_. Through her participation in the church, the orthodox Catholic views imparted upon her by her parents ceded to a more liberal interpretation of Catholic doctrine, focused on liberation from social, political, and economic oppression. Decl. at \_\_. She was taught as a child that a woman must always support her husband and should never leave her children without a father. Decl. at \_\_. While she retained the fundamental Catholic belief in the sacrament of marriage and the unity of the family, she grew to believe that men and women, though different, were equals in God’s eyes and should be free from oppression and violence. Decl. at \_\_. Though Ms. Ramirez and Mr. AlarconMr. Alarcon were not married, she had hopes of a religious wedding when she and heMr. Alarcon moved in together, but Mr. Alarcon Mr. Alarconrefused to marry her in the Church. Decl. at \_\_. Mr. Alarcon Mr. Alarcon did not respect her interpretation of Catholic doctrine and generally was suspicious of the Catholic Church; in fact, he mocked her religion and called her and her fellow female parishioners “vile whores.” Decl. at \_\_. He was particularly enraged by Ms. Ramirez’s participation in a church woman’s fellowship group. He beat her when she returned from church, so severely on one occasion that she was unable to walk afterwards. Decl. at \_\_. In another instance, Mr. AlarconMr. Alarcon, knowing well Ms. Ramirez’s strong adherence to Catholic doctrine on the protection of life beginning at conception, was enraged at a second pregnancy that would result in another girl, telling Ms. Ramirez he didn’t want another “fucking girl,” that she didn’t “deserve to have his child” and that he would “beat the child out of her,” upon which he attacked her so brutally she miscarried. Decl. at \_\_. Mr. Alarcon thus sought – and succeeded – in causing the intentional termination of a pregnancy, contravening one of Ms. Ramirez’s most deeply held religious beliefs.

Therefore, at least one central motivation for Mr. AlarconMr. Alarcon’s persecution was Ms. Ramirez’s religious beliefs.

## F. The Guatemalan government is unable and unwilling to protect Ms. Ramirez from her persecutor.

The Guatemalan government’s refusal to protect women, mothers, and women in domestic relationships exceeds mere ineffectiveness. Its utter and tangible refusal to dedicate minimally adequate resources or implement the structural mandates of its own 2008 Law constitute an unwillingness and an inability to prevent the beating, rape, and murder of Guatemalan women and mothers, particularly those in domestic relationships and who refuse to be subservient or otherwise conform to societal expectations of women.

In *Matter of A-B-,* 27 I&N Dec. at 317, the Attorney General’s introductory commentary states that claims involving non-state actors need to show that “government protection from such harm is so lacking that their persecutors’ actions can be attributed to the government,” although no citation is provided for this assertion. This statement is dicta and should not be interpreted to establish new law. *See supra* n.5. Indeed, later in the same decision, the Attorney General’s opinion reverts to the prevailing language of “unable or unwilling,” despite including additional descriptors of the failure of state protection, such as “condon[ing]” or “utter helplessness” that should not be construed as detracting from the clear and well-settled standard. *Matter of A-B-,* 27 I&N Dec.at 337. *See also* *Hernandez-Avalos v. Lynch*, 784 F.3d 944 (4th Cir. 2015); *Hor v. Gonzales*, 421 F.3d 497 (7th Cir. 2005); *Tesfamichael v. Gonzales*, 469 F.3d 109, 113 (5th Cir. 2006); *Malu v. U.S. Att’y Gen*., 764 F.3d 1282, 1291 (11th Cir. 2014); *Baghdasaryan v. Holder*, 592 F.3d 1018, 1291 (9th Cir. 2010).[[38]](#footnote-38) In *Grace v. Whitaker*, the Court held that “[i]t was clear at the time that the [Refugee] Act was passed by Congress that the ‘unwilling or unable’ standard did not require a showing that the government ‘condoned’ persecution or was ‘completely helpless’ to prevent it.” Grace v. Whitaker, No. 1:18:CV-01853-EGS, at 62 (D.C. D.C. Dec. 19, 2018).

The Attorney General’s discussion of the government’s failure to intervene in the protection of subjugated and abused women further asserts a misguided characterization of violence against women as merely a collection of isolated, independent private criminal acts. In asserting that “[t]he fact that the local police have not acted on a particular report of an individual crime does not necessarily mean that the government is unwilling or unable to control crime, any more than it would in the United States,” the Attorney General fails to consider the government’s decision-making that rendered it unwilling and/or unable to prevent the persecution. *Matter of A-B-*, 27 I&N Dec. at 337.

A comparison of the governmental responses to violence against women in Guatemala and the United States is illustrative that even where domestic violence is pervasive and not universally punished, there are dramatic differences in funding, policy decisions, and legal and governmental infrastructure. Those differences highlight the stark contrast between the United States government, which actively seeks to address violence against women, and Guatemala, which actively flouts its responsibility to implement its own law protecting women from femicide, domestic abuse, and sexual assault.

Indeed, in the United States, not all acts of domestic abuse are prosecuted. However, since the enactment of the Violence Against Women Act of 1994, codified in part at 42 U.S.C. §§ 13701–14040, and its subsequent reauthorizations, the U.S. government created the Office of Violence Against Women (“OVW”) and Congress has earmarked millions of dollars annually for disbursement by OVW to victim advocates, shelters, specially-trained law enforcement officers and prosecutors in all 50 states, the District of Columbia, and U.S. territories.[[39]](#footnote-39) This investment of resources, training, and infrastructure demonstrates a *willingness* to systemically address violence against women. Further, the U.S. government’s investment in combatting violence against women – beyond mere criminal codification – is *effective*. From 2014 to 2016, OVW grant-funded law enforcement agencies and law enforcement officers in agencies receiving just one grant program funding responded to 229,619 calls for assistance, made more than 66,095 arrests (29 percent of calls), investigated 169,546 cases (74 percent of calls), and referred 76,146 cases (33 percent) to prosecutors.[[40]](#footnote-40) During the same period, 74 percent of the cases referred by law enforcement were accepted for prosecution, and more than half of domestic violence and sexual assault cases disposed in courts resulted in convictions.[[41]](#footnote-41)

By contrast, the Guatemalan government has made scant efforts to implement its 2008 Law that is purported to address violence against women, protect victims, and hold perpetrators like Mr. AlarconMr. Alarcon accountable. In 2013, only 983 of 51,525 complaints received under the 2008 Law – or 1.9 percent – resulted in a conviction.[[42]](#footnote-42) Whereas the number of complaints received rose an average of 31 percent from 2011 to 2013, the rate of sentences imposed increased only by 1.22 percent.[[43]](#footnote-43)Even where there is a marginal increase in prosecution, “impunity still prevails.”[[44]](#footnote-44) This rate of impunity demonstrates a clear and objective inability and helplessness of the Guatemalan government to protect women like Ms. Ramirez.

Further, the Guatemalan government has failed to meaningfully implement the structures mandated by the 2008 Law, which “called for specialized criminal courts, specialized units and services at Prosecutor’s Offices and the police, expanded legal services from the government, and government-supported shelters and other centers for integral support for victims of gender-based violence.”[[45]](#footnote-45) As of 2014, half of Guatemala’s departments lack the specialized courts mandated under the 2008 Law.[[46]](#footnote-46) Only seven departments and nine municipalities in the entire country have established mandated specialized victim advocacy units (Model of Integral Attention) in their Public Ministries, and severe governmental budgetary cuts have dramatically hindered the ability of the only seven Centers of Integral Assistance to Women Victims of Violence to provide critical psychological, legal, medical, and social support.[[47]](#footnote-47)

This fundamental unwillingness of the government to meaningfully implement laws intended to protect women like Ms. Ramirez reflects a clear unwillingness and inability to protect her.

This systemic inability and unwillingness to prevent non-state actors like Mr. AlarconMr. Alarcon from persecuting women like Ms. Ramirez played out in Ms. Ramirez’s direct experience. Despite her fears and threats from Mr. AlarconMr. Alarcon, she called the police during an incident in which Mr. AlarconMr. Alarcon threatened her with a machete. Decl. at \_\_. An officer responded, but said there was no evidence a crime had occurred and asked no further questions about past abuse, evidencing his lack of training on domestic violence lethality risks. Decl. at \_\_. There was no follow up, no meaningful way for Ms. Ramirez to pursue protection, and no services, victim advocates, or specialized courts or prosecutors to turn to in her community. Decl. at \_\_.

## G. Ms. Ramirez is entitled to a presumption of future persecution which cannot be rebutted by changed circumstances or internal relocation.

Ms. Ramirez has established past persecution on account of a statutorily protected ground and is therefore presumed to have a well-founded fear of future persecution. *See* 8 C.F.R. § 1208.13(b)(1). To rebut this presumption, the Government must prove, by a preponderance of the evidence, that: (1) the conditions have changed such that Ms. Ramirez no longer has a well-founded fear of future persecution if she were to return; or (2) Ms. Ramirez could avoid future persecution by relocating, and under all the circumstances, it would be reasonable to expect her to do so. *Id*.

### 1. Conditions in Guatemala have not changed.

Since Ms. Ramirez has fled, conditions in Guatemala have not improved. In 2014, the year Ms. Ramirez fled Guatemala, the number of women who were victims of femicide increased by 10 percent and the number of domestic violence complaints increased by over 4,000 complaints from 2013.[[48]](#footnote-48) From January to September 2016, the killings of 565 women were reported, resulting in only 56 convictions, while NGOs in Guatemala expressed concern that sentences were lenient.[[49]](#footnote-49) Guatemala has the third highest rate of femicide in the world, and the highest rate of femicide in the Latin American region.[[50]](#footnote-50) Since its passage, the 2008 Law has made “scant difference in the escalating numbers of women who are killed because of their gender.”[[51]](#footnote-51) The Guatemalan National Police Force is understaffed, lacks training on how to deal with domestic violence victims, and is systematically corrupt.[[52]](#footnote-52) Victim blaming and shaming is very prevalent among law enforcement and battered women have nowhere to turn to for safety.[[53]](#footnote-53) Despite the implemented legislation, domestic violence is commonly dismissed as a private matter, police are slow to respond to calls for assistance and judges routinely dismiss cases.[[54]](#footnote-54)

### 2. Ms. Ramirez cannot avoid future persecution by relocating internally within Guatemala.

An applicant who can relocate safely within her home country cannot qualify for asylum. *I.N.S. v. Ventura*, 537 U.S. 12, 18 (2002); 8 C.F.R. § 208.13(b)(1)(i)(B). An asylum application will be denied if the applicant can: (1) avoid future persecution by relocating to another part of the applicant’s country of nationality and (2) it would be “reasonable to expect the applicant to do so.” *Matter of M-Z-M-R-*, 26 I&N Dec. 28, 32 (BIA 2012) (quoting 8 C.F.R. § 208.13(b)(1)(i)(B)); *see also Essohou v. Gonzales,* 471 F.3d 518 (4th Cir. 2006) (living in hiding is not a “reasonably available internal relocation alternative that rebuts the presumption of future persecution.”

Relocation within Guatemala would not allow Ms. Ramirez to avoid the persecution she fears. Guatemala is a very small country, measuring only 4,2042 square miles and smaller than the state of Tennessee, giving Ms. Ramirez nowhere safe to turn.[[55]](#footnote-55) On countless occasions, Mr. AlarconMr. Alarcon told Ms. Ramirez that he would look for her no matter where she went. He told her that if she ever left, he would always look for her and when he found her, he would kill her in the street. Mr. AlarconMr. Alarcon’s past actions demonstrate that he is willing and capable to carry out his threats. Ms. Ramirez attempted to flee within Guatemala at least five times and was found and dragged back each time. Decl. at \_\_. Whenever Mr. Alarcon found Ms. Ramirez, he severely beat her for leaving. Decl. at \_\_. On one occasion, Ms. Ramirez fled an hour and a half away from El Progreso. Decl. at \_\_. Mr. AlarconMr. Alarcon showed up at her job, pulled her in the street and beat her in front of everyone, physically forced her to a car, and thereupon raped Ms. Ramirez while telling her that distance was no obstacle for him to find her. Decl. at \_\_. No matter how many times Ms. Ramirez attempted to escape, Mr. AlarconMr. Alarcon always found her and therefore, internal relocation will not provide her the safety she deserves.

### 3. Requiring Ms. Ramirez to relocate within Guatemala would be unreasonable.

Even if Ms. Ramirez could relocate, ordering her to relocate within the country would not be reasonable under the totality of the circumstances. 8 C.F.R. § 208.13(b)(1)(i)(B). In determining reasonableness of relocation, adjudicators may consider, but are not limited to: whether the applicant would face other serious harm in the place of suggested relocation, geographic limitations, and social and cultural constraints. 8 C.F.R. § 208.13(b)(3). Here, it is neither safe nor reasonable for Ms. Ramirez to relocate in any region within Guatemala.

Due to the cultural acceptance of domestic violence, Mr. AlarconMr. Alarcon’s connections and the corruption of Guatemalan law enforcement, Ms. Ramirez would have no safe place to which to turn. Conditions in Guatemala have enabled the violence and abuse that Ms. Ramirez has suffered and relocation to a different part of Guatemala would not realistically protect Ms. Ramirez from Mr. Alarcon. In addition to his threats and actions, Mr. Alarcon’s connections to the Guatemalan authorities give him additional resources to find Ms. Ramirez. Mr. Alarcon flaunted his friendships with officers from the police department and mayor’s office. Decl. at \_\_. He made it clear to Ms. Ramirez that he would pay off whoever he needed to in order to get what he wanted. Decl. at \_\_. Given his threats against Ms. Ramirez, there is little doubt that he would use whatever means necessary to find her no matter where she were to go. Since the time Ms. Ramirez left Guatemala, Mr. AlarconMr. Alarcon continues to harass her family and friends, demanding to know about her whereabouts and making threats against her life. Decl. at \_\_. He has often told Milagro that he is never going to stop looking for her mother and upon her return, she will not escape his machete. Decl. at \_\_. Ms. Ramirez cannot safely relocate to another region in Guatemala. Furthermore, Ms. Ramirez has only three years of education and was prohibited from pursuing a career during her ten-year relationship with Mr. AlarconMr. Alarcon. Decl. at \_\_. She lacks friends or family in other regions of Guatemala who could support her or help her find adequate employment. Decl. at \_\_.

It is therefore impossible for Ms. Ramirez to relocate within Guatemala and avoid persecution; it is furthermore unreasonable to require her do so under the prevailing circumstances. The presumption of a well-founded fear of future persecution therefore cannot be overcome by suggesting Ms. Ramirez relocate. Therefore, Ms. Ramirez possesses a well-founded fear of future persecution and meets the statutory requirements for asylum in the United States.

## H. Absent a presumption, Ms. Ramirez has a subjectively and objectively well-founded fear of future persecution

Even if the government were to rebut the presumption of future persecution to which Ms. Ramirez is entitled, she has an independently well-founded objective and subjective fear of future persecution. *See Gandziani-Mickhou v. Gonzales*, 445 F.3d 351, 353 (4th Cir. 2006) (requiring both “specific, concrete facts that a reasonable person in like circumstances would fear persecution” and “candid, credible, and sincere testimony demonstrating a genuine fear of persecution”). Ms. Ramirez fears future persecution in the form of beatings, rapes, and ultimately, death at the hands of Mr. AlarconMr. Alarcon. Decl. at \_\_\_. She endured ten years of escalating beatings, rapes, and death threats, for which the government of Guatemala has not held Mr. AlarconMr. Alarcon to account. Mr. AlarconMr. Alarcon’s acts of persecution were more severe when she attempted to leave the relationship in the past, and heMr. Alarcon has told Milagro and other friends and family of Ms. Ramirez that he will not stop looking for her and intends to kill her if he finds her. Decl. at \_\_\_. Aff. of Milagro Alarcon at \_\_. These threats are not hollow – Mr. AlarconMr. Alarcon beat Ms. Ramirez to unconsciousness, beat her to the point of miscarriage, and repeatedly threatened to kill her with a machete. Ms. Ramirez exhibits significant trauma and experiences intrusive thoughts about Mr. AlarconMr. Alarcon, flashbacks, and acute anxiety for her safety should she encounter him. Psych. Eval. at \_\_\_. Ms. Ramirez’s fear is thus subjectively well-founded.

Her fear of returning is objectively reasonable because “a reasonable person in [her] circumstances would fear persecution.” *See Matter of Mogharrabi*, 19 I&N Dec. 439, 445 (BIA 1987). A reasonable person who had endured a decade of beatings, rapes, and death threats, along with continued death threats, would fear persecution. Ms. Ramirez’s fears are also objectively reasonable because they are supported by country conditions. As discussed *supra* Section III.G.1, Guatemala has the third highest femicide rate in the world and the highest rate in Latin America.[[56]](#footnote-56) Violence against women is pervasive and only a fraction of incidents of physical and sexual assault against women are investigated or prosecuted. *See supra* Section III.F. A lethality assessment determined Ms. Ramirez is at high risk for being killed by Mr. AlarconMr. Alarcon, based on the severity of his past abuse. Domestic Violence Expert Report at \_\_. Ms. Ramirez’s objective fears draw from her awareness of these conditions and the knowledge that her abuser will continue to target her.

In their totality, these circumstances demonstrate that a “reasonable possibility” exists that Ms. Ramirez would be persecuted if she returned. *See Crespin-Valladares*, 632 F.3d at 126 (“[A]n alien need only show that his removal would create a ‘reasonable possibility’ – as low as ten percent chance – of persecution.”). Ms. Ramirez’s history of past persecution, the evidence of unchanged country conditions, the futility of relocation, and the persecutor’s ability to operate with impunity in Guatemala establish a subjective and objective well-founded fear of future persecution if Ms. Ramirez were returned.

## I. Ms. Ramirez has no bars to asylum and merits a favorable exercise of discretion.

Ms. Ramirez is not barred from seeking asylum by any of the exceptions listed in INA § 208(b)(1). Asylum can be denied if the applicant: (1) has been convicted of serious crime in the United States and constitutes a danger to the community; (2) has been firmly resettled; (3) is a danger to the security of the United States; (4) has been convicted of an aggravated felony; or (5) participated in persecution. *See* 8 C.F.R. 208.13(c). Ms. Ramirez has never participated in persecution, been convicted of a serious crime or committed a serious nonpolitical crime outside the United States, or supported terrorist activity. *See* Ms. Ramirez’s I-589 Application for Asylum. Nor did Ms. Ramirez attain firm resettlement in a country outside of the United States. Decl. at \_\_. “An alien is considered firmly resettled only if, prior to arrival in the United States, he or she entered into another nation with, or while in that nation received, an offer of permanent residence status, citizenship, or some other type of permanent resettlement.” 8 C.F.R. § 208.15. Ms. Ramirez spent a matter of days traveling through Mexico, and did not establish any ties to Mexico or obtain an offer of permanent resettlement from Mexico. Therefore, Ms. Ramirez did not attain firm resettlement in any country before arriving in the United States.

Ms. Ramirez is eligible for asylum and merits a favorable exercise of discretion. Since arriving in the United States, she has sought mental health services to support her healing from the persecution she endured. Decl. at \_\_. Upon receiving work authorization, she has begun to work at Acme, Inc. Decl. at \_\_. She has filed her taxes each year that she has been authorized to work. Decl. at \_\_. She has not been arrested or had any adverse interactions with law enforcement in the United States. Decl. at \_\_. She regularly attends Mass at St. Juan Diego Catholic Church in Falls Church, Virginia, and has started English classes offered through her church. Decl. at \_\_.

## J. Absent a finding of well-founded fear of future persecution, Ms. Ramirez qualifies for a grant of humanitarian asylum

Ms. Ramirez has demonstrated both severe past persecution and a well-founded fear offuture persecution. Even if the Court finds that she has not demonstrated a well-founded fear of future persecution, her circumstances compel a grant based on humanitarian asylum. An applicant who has suffered past persecution may be granted humanitarian asylum if she has demonstrated (1) “compelling reasons for being unwilling or unable to return to that country arising out the severity of the past persecution,” or (2) “that there is a reasonable possibility [. . .] she may suffer other serious harm upon removal to that country.” *See* 8 C.F.R. §208.13(b)(1)(iii).

### 1. Respondent has suffered atrocious past persecution and warrants humanitarian asylum under *Matter of Chen.*

In *Matter of Chen,* 20 I&N Dec. at 19–21, the Board recognized that a man who suffered severe past persecution that rendered him “physically debilitated,” “always anxious and fearful,” and “often suicidal,” having “testified that he would kill himself if he were forced to return to China,” was entitled to humanitarian asylum relief. Rape and sexual assault are also such “atrocious forms of persecution” that they justify granting asylum even when there is little fear of future persecution. *Garcia-Martinez,* 371 F.3d at 1072.

Ms. Ramirez has suffered atrocious past persecution in the form of multiple rapes and severe beatings by Mr. AlarconMr. Alarcon. Decl. at \_\_. Ms. Ramirez also suffered death threats by Mr. AlarconMr. Alarcon, in which he brandished a machete. Decl. at \_\_. Ms. Ramirez suffers from “several symptoms associated with trauma, such as nightmares and flashbacks of the abuse, hypervigilance, inability to sleep and to stay asleep, feeling anxious, difficulty with concentrating and with memory, change of appetite, intense crying, lack of energy, and intense psychological distress.” Psych. Eval. at \_\_. The psychologist who evaluated Ms. Ramirez states, “It was clear that Ms. Ms. Ramirez is still dealing with the physical and psychological aftermath of the abuse that she endured, and struggles with feelings of shame and low self-worth.” *Id.* Ms. Ramirez merits humanitarian asylum because it would be “inhumane” to deport her given the sexually violent persecution she experienced in Guatemala and its dramatic effects on her. *See Garcia-Martinez*, 371 F.3d at 1072.

### 2. Respondent would face other serious harm if forced to return to Guatemala.

Ms. Ramirez is also eligible for humanitarian asylum on the basis that she faces “a reasonable possibility that . . . she may suffer other serious harm upon removal.” 8 C.F.R.§ 1208.13(b)(1)(iii)(B). Other serious harm could include (1) “serious human rights abuses and ongoing violence that left women ‘particularly vulnerable,’” *Mohammed*, 400 F.3d at 801; (2) the unavailability of necessary medical care, *Pllumi v. U.S. Att’y Gen.*, 642 F.3d 155, 162–63 (3d Cir. 2011); and (3) the possibility or probability of being murdered, *Sheriff v. U.S. Att’y Gen.*, 587 F.3d 584, 596 (3d Cir. 2009). The harm she faces upon removal must rise to the level of persecution but need not be on account of a protected ground. *See Matter of L-S-*, 25 I&N Dec. 705, 714 (BIA 2012).

Ms. Ramirez would be at grave risk of suffering harm rising to the severity of persecution or death at the hands of Mr. AlarconMr. Alarcon if she returns to Guatemala. *See supra* Section H. Furthermore, violence against women is rampant in Guatemala and committed with impunity.[[57]](#footnote-57) Respondent has suffered physical and sexual abuse over the course of a decade by a man who remains in her hometown of El Progreso. The many harms awaiting Ms. Ramirez in Guatemala warrant a grant of humanitarian asylum.

## K. Ms. Ramirez is eligible for withholding of removal under the Immigration and Nationality Act.

In lieu of asylum, an applicant is eligible for withholding of removal if any one of five statutory grounds are met and if the applicant’s life or freedom would be threatened in the proposed country of removal because of her race, religion, nationality, membership in a particular social group, or political opinion. *See* INA § 241(b)(3)(B); 8 C.F.R. § 1208 (b)(3)(B). The applicant must also show that it is “more likely than not” that the applicant’s life or freedom would be in jeopardy because of one of the five statutory grounds if the applicant were removed to the proposed country. *See I.N.S. v. Stevic*, 467 U.S. 407, 429 (1984). As previously established, Ms. Ramirez belongs to nine social groups articulated *supra* Section III.C., holds political opinions in favor of women’s rights and autonomy and against early termination of pregnancies, and is a member of the progressive Catholic faith. She is threatened on account of these protected grounds. Given the harm that she has already suffered, Ms. Ramirez’s life and freedom would more likely than not be threatened if she were removed. As discussed *supra* Section III.H., the severity, frequency, intensity, and escalation of violence perpetrated by Mr. AlarconMr. Alarcon render Ms. Ramirez highly vulnerable to femicide or domestic violence homicide by himMr. Alarcon should she return to Guatemala. Paired with the substantial evidence on the record of the prevalence of violence against women[[58]](#footnote-58) and the high rate of impunity for femicide and violence against women,[[59]](#footnote-59) Ms. Ramirez confronts a more-likely-than-not prospect of persecution in the form of beatings, rape, and/or killing at the hands of Mr. AlarconMr. Alarcon should she return to Guatemala. Therefore, she qualifies for withholding of removal under the INA.

## L. Ms. Ramirez is eligible for withholding of removal under the Convention Against Torture.

A person is eligible for relief under CAT when she shows that it is “more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 208.16(c)(2). Torture is defined as

[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as . . . intimidating or coercing him or her . . . or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in official capacity.

8 C.F.R. § 208.18(a)(1); *see also* 8 C.F.R. § 208.16(c)(3)(i) (“[A]ll evidence relevant to the possibility of future torture shall be considered, including . . . [e]vidence of past torture”). The motivation for the infliction of said torture is irrelevant. *See Lizama v. Holder,* 629 F.3d 440, 449 (4th Cir. 2011). The specific acts that constitute torture are varied, and include beatings, *Bromfield v. Mukasey*, 543 F.3d 1071, 1079 (9th Cir. 2008), as well as “prolonged mental pain or suffering [that] either is purposefully inflicted or is the foreseeable consequence of a deliberate act.” *Habtemicael v. Ashcroft*, 370 F.3d 774, 782 (8th Cir. 2004). Courts have recognized that rape can constitute torture because it is “a form of aggression constituting an egregious violation of humanity.” *Zubeda*, 333 F.3d at 472.Evidence of country conditions is “extremely important.” *See* *Tamang v. Holder*, 598 F.3d 1083, 1095 (9th Cir. 2010).

The government does not need to be the direct torturer; it only needs to acquiesce to torture in order for Ms. Ramirez to qualify. *See* *Reyes-Reyes v. Ashcroft*, 384 F.3d 782, 787 (9th Cir. 2004). Here, Guatemala has acquiesced, as the country conditions reports demonstrate, it does not protect victims of domestic violence such as Ms. Ramirez. Therefore, as Ms. Ramirez would likely be tortured if she returned, and the government acquiesces to this kind of torture in domestic situations, she is eligible for relief under the Convention Against Torture. Numerous circuit courts have concluded that willful blindness by public officials suffices to prove acquiescence, which is sufficient state action.[[60]](#footnote-60)

Ms. Ramirez’s persecution constitutes torture based on the chronic, violent beatings and rapes that she endured at the hands of Mr. AlarconMr. Alarcon. She is likely to endure similar future torture by Mr. Alarcon if she returns to Guatemala because the country conditions have not changed. Further, the Guatemalan government has demonstrated its acquiescence to Ms. Ramirez’s abuse by refusing to intervene when she sought assistance from law enforcement. Specifically, Ms. Ramirez called the police after Mr. Alarcon beat her and threatened her with a machete and was told there had been no evidence of a crime. This willful blindness to the torture Ms. Ramirez suffered is sufficient to establish government acquiescence. Accordingly, Ms. Ramirez is entitled to relief under the Convention Against Torture.

# IV. CONCLUSION

For the above reasons, Ms. Ramirez’s application for asylum is credible and compelling. Thus, Ms. Ramirez’s case warrants asylum, though she is also entitled to withholding of removal or relief pursuant to the Convention Against Torture.

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|  |  | *Counsel for Ms. Ramirez* |

1. Ley contra el Femicidio y otras Formas de Violencia contra la Mujer [Law against Femicide and Other Forms of Violence against Women], Decreto Ley N° 22 [Decree-Law No. 22] (2008) (“2008 Law”). [↑](#footnote-ref-1)
2. Femicide is “generally understood to involve intentional murder of women because they are women, but broader definitions include any killings of women or girls.” C. Garcia-Moreno et al., *Understanding and addressing violence against women*, World Health Organization , RHR 12.38 (2012), available at http://apps.who.int/iris/bitstream/handle/10665/77421/WHO\_RHR\_12.38\_eng.pdf;jsessionid=4F88C55DF51D161CDD763F1E50A0F072?sequence=1 (last visited \_\_\_\_). [↑](#footnote-ref-2)
3. The Attorney General in *Matter of A-B-* articulates a definition of “persecution” that conflates three distinct elements of asylum eligibility into his definition of “persecution” – the severity of the harm, nexus, and the government’s inability or unwillingness to protect an applicant from persecution and cites no basis for his assertion that such a definition is well-established. *Matter of A-B-*, 27 I&N Dec. 316, 337. The AG later cites to multiple Board cases to cobble together this three-piece definition. *Id.* To the extent that these cases support his claim, it is only in passing where the term “persecution” appears to be used as a shorthand for the full asylum definition. *See, e.g., Matter of T-Z-*, 24 I&N Dec. 163, 171 (BIA 2007). The cases cited still discuss nexus, severity of harm, and government inability or unwillingness to protect as discrete elements. [↑](#footnote-ref-3)
4. *Matter of A-B-*, 27 I&N Dec. at 320. [↑](#footnote-ref-4)
5. “The courts of the land have many times defined the terms ‘obiter dicta’ and ‘dicta’ as ‘language unnecessary to a decision,’ ‘ruling on an issue not raised,’ or ‘opinion of a judge which does not embody the resolution or determination of the court, and made without argument or full consideration of the point.’” *Lawson v. U.S*., 176 F.2d 49, 51 (D.C. Cir. 1949) (internal citations omitted); *see also Kirtsaeng v. John Wiley & Sons, Inc.*, 568 U.S. 519, 548 (2013) (“Is the Court having once written dicta calling a tomato a vegetable bound to deny that it is a fruit forever after? To the contrary, we have written that we are not necessarily bound by dicta should more complete argument demonstrate that the dicta is not correct.”). “Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by non‐governmental actors will not qualify for asylum.” A‐B‐, 27 I. & N. Dec. at 320. If indeed, he intended to tell adjudicators what to do, then he’s done “precisely what the regulations forbid him to do: dictating the Board’s decision.” *United States ex. rel. Accardi v. Shaugnessy*, 347 U.S. 260, 267 (1954). For a more detailed discussion of the Accardi principle see p.9, fn 8. Of National Immigrant Justice Center’s Asylum Practice Advisory: Applying for Asylum After Matter of A-B-, available: https://www.immigrantjustice.org/sites/default/files/content-type/resource/documents/2018-06/Matter%20of%20A-B-%20Practice%20Advisory%20-%20Final%20-%206.21.18.pdf (June 2018). [↑](#footnote-ref-5)
6. “[T]here is no legal basis for an effective categorical ban on domestic violence and gang-related claims,” and requests for asylum “must be resolved based on the particular facts and circumstances of each case.” *Grace v. Whitaker*, No. 1:18:CV-01853-EGS, at 56 (D.C. D.C. Dec. 19, 2018). [↑](#footnote-ref-6)
7. Where courts have accepted social groups defined by the combination of gender and nationality, they have necessarily considered country conditions evidence. DHS Br., *Matter of L-R-*; *see, e.g., Bi Xia Qu v. Holder*, 618 F.3d 602 (6th Cir. 2010) (considering gender and Chinese country conditions); *Perdomo v. Holder*, 611 F.3d 662 (9th Cir. 2010) (Guatemalan women); *Ngengwe v. Mukasey*, 543 F.3d 1029 (8th Cir. 2008) (Cameroonian widows); *Bah v. Mukasey*, 529 F.3d 99 (2d Cir. 2008) (female members of the Guinean Fulani ethnic group); *Hassan v. Gonzales*, 484 F.3d 513 (11th Cir. 2007) (Somali women); *Mohammed v. Gonzales*, 400 F.3d 785 (9th Cir. 2005) (Somalian females); *Niang v. Gonzales*, 422 F.3d 1187 (10th Cir. 2005) (female members of the Tukulor Fulani tribe); *Fatin v. INS*, 12 F.3d 1233 (3d Cir. 1993) (Iranian women). [↑](#footnote-ref-7)
8. *Mother*, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/mother (last visited June 27, 2018). [↑](#footnote-ref-8)
9. See *infra* Sections III.C.1.b, III.F, and III.G.1 for a discussion of prevailing societal norms in Guatemala regarding the role of women. [↑](#footnote-ref-9)
10. Najera Decl. at ¶¶ 46–57; *see also* Ley contra el Femicidio y otras Formas de Violencia contra la Mujer [Law against Femicide and Other Forms of Violence against Women], Decreto Ley N° 22 [Decree-Law No. 22] (2008) (“2008 Law”). [↑](#footnote-ref-10)
11. Najera Decl. at ¶ 65. The Department of State 2016 Human Rights Report on Guatemala reported eight government-operated domestic violence shelters, but noted that “due to continual budget uncertainties, the shelters’ operations were erratic.” U.S. Dep’t of State, Bureau of Democracy, H.R. and Lab., Guatemala 2016 Human Rights Report 19 (2016). The 2017 Report makes no mention of whether Guatemala operates domestic violence shelters. *See generally* U.S. Dep’t of State, Bureau of Democracy, H.R. and Lab., Guatemala 2017 Human Rights Report (2017). [↑](#footnote-ref-11)
12. M*atter of A-B-*, 27 I&N Dec. at 335. The Attorney General’s stated rejection of the particularity finding in *A-R-C-G-* rested on the fact that “[t]he Board’s scant analysis did not engage with these requirements or show that [Ms.] A-R-C-G-’s proposed group was ‘defined by characteristics that provide a clear benchmark for determining who falls within the group.’” *Id*. (quoting *Matter of M-E-V-G-*, 26 I&N Dec. at 239). This was a case-specific analysis based on the BIA’s acceptance of DHS’s concession of the particular social group in that case. [↑](#footnote-ref-12)
13. Registro Nacional de las Personas [Guatemala National Registry of Persons], ¿Qué es el DPI? [What is the DPI (Personal Identification Document)?], available at <https://www.renap.gob.gt/servicios/que-es-el-dpi> (last viewed \_\_\_\_\_\_\_). [↑](#footnote-ref-13)
14. *See* Morales Trujillo Decl. ¶¶ 9-12,15,34,37 . [↑](#footnote-ref-14)
15. *Matter of M-E-V-G-*, 26 I&N Dec. at 244. [↑](#footnote-ref-15)
16. Najera Decl. ¶¶ 23,25-27; Paz y Paz Bailey Decl. ¶6-7,13. [↑](#footnote-ref-16)
17. Jonathan Byrd, *Who is a Traditional Catholic?*, Traditional Catholic Priest (Jan. 31, 2016), <http://www.traditionalcatholicpriest.com/2016/01/31/traditional-catholic> (last viewed \_\_\_\_\_\_). [↑](#footnote-ref-17)
18. Kira Dault, *What is liberation theology?*, U.S. Catholic, Vol. 79, No. 10 (Oct. 2014) at 46. [↑](#footnote-ref-18)
19. Menjivar Decl. ¶11. [↑](#footnote-ref-19)
20. *Id.* ¶24. [↑](#footnote-ref-20)
21. Articles 6(b) and 7(b) of the 2008 Law codify the application of the criminal provisions to perpetrators committing crimes of violence against their victims with whom they have “family, marriage, cohabitation [or] intimate … relations[.]” Immigration and Refugee Board of Canada, *Guatemala: Domestic violence, including legislation, state protection, and services available to victims*, GTM104067.E (May 14, 2012), available at <https://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/GTM104067.E.pdf> (last viewed \_\_\_\_). [↑](#footnote-ref-21)
22. Counsel notes that the Attorney General’s opinion in *Matter of A-B-, 2*7 I&N Dec. 316 at 336, takes issue with the Board, in *Matter of A-R-C-G-,* providing “no explanation for why it believed that that evidence established that Guatemalan society perceives, considers, or recognizes ‘married women in Guatemala who are unable to leave their relationship’ to be a distinct social group.” This court should not construe this statement to preclude wholesale evidence of whether the society recognizes the need to offer protection to women domestic violence victims when considering the social distinction of the articulated social groups. [↑](#footnote-ref-22)
23. *See generally* Paz y Paz Bailey Decl., Menjivar Decl., Najera Decl., Morales Trujillo Decl. [↑](#footnote-ref-23)
24. *Id.* [↑](#footnote-ref-24)
25. *See generally*, Najera Decl. [↑](#footnote-ref-25)
26. *See* Paz y Paz Bailey Decl. ¶ 7 (noting that “abusive relationships . . . includes formal marriages as well as a range of other domestic relationships covered under our laws”). [↑](#footnote-ref-26)
27. The Fifth Circuit disagreed, finding that a similar social group, “Honduran women who are unable to leave their relationship,” is impermissibly circular, in that it is “defined by, and does not exist independently of, the harm – *i.e.,* the inability to leave.” *Gonzales-Veliz v. Barr*, No. 18-60174, 2019 U.S. App. LEXIS 27294, at \*25-26 (5th Cir. Sep. 10, 2019) [↑](#footnote-ref-27)
28. Menjivar Decl. at 3. [↑](#footnote-ref-28)
29. *Id.* ¶ 12. [↑](#footnote-ref-29)
30. Indeed, the Attorney General instead cites to language in the vacated decision in *Matter of R-A-*, and from that vacated decision language, draws sweeping and overbroad conclusions that domestic violence-related persecution is motivated by a personal relationship, rather than the victim’s status as a woman in a domestic relationship who is unable to leave the relationship. *Matter of A-B-*, 27 I&N Dec. at 339. [↑](#footnote-ref-30)
31. *See Rodriguez-Roman v. I.N.S.*, 98 F.3d 416, 419 (9th Cir. 1996). [↑](#footnote-ref-31)
32. *See Gomez-Saballos v. I.N.S.*, 79 F.3d 912, 917 (9th Cir. 1996). (noting “[a]s the Ninth Circuit reiterated in *Meza-Menay v. I.N.S.*, 139 F.3d 759, 763 (9th Cir. 1998), ‘[A]n asylum petitioner may hold a political opinion within the meaning of the INA even if the petitioner did not participate in organized political activities.’”) [↑](#footnote-ref-32)
33. Guidelines from International Protection from the UNHCR note that “political opinion should be understood in the broad sense, to incorporate any opinion on any matter in which the machinery of the State, government, society, or policy may be engaged. This may include opinions about gender roles. It would also include nonconformist behavior which leads the persecutors to impute a political opinion on him or her.” U.N. Doc. HCR/GIP/02/01 (2002). [↑](#footnote-ref-33)
34. *See Antonyan v. Holder,* 642 F.3d 1250, 1254 (9th Cir. 2011). [↑](#footnote-ref-34)
35. See *Musabelliu v. Gonzales*, 442 F.3d 991, 995 (7th Cir. 2006); *see also Yueqing Zhang*, 426 F.3d 540, 547–48 (2d Cir. 2005) (concluding that “opposition to endemic corruption . . . may have a political dimension when it transcends mere self-protection and represents a challenge to the legitimacy or authority of the ruling regime”). [↑](#footnote-ref-35)
36. *See Garcia-Ramos v. I.N.S.,* 775 F.2d 1370, 1373 (9th Cir. 1985). [↑](#footnote-ref-36)
37. *See Escobar v. Holder*, 717 F.3d 724, 729 (9th Cir. 2012) (finding opposition to a political party’s violent activities may amount to opposition to the party itself, if the violence is integral to the party and inextricably linked to its political activities). [↑](#footnote-ref-37)
38. The Attorney General’s dicta would raise the standard beyond the “willful blindness” or “acquiescence” required by the Convention Against Torture (“CAT” or the “Act”), which clearly articulates a higher standard of government persecution or failure to intervene to protect than the Act’s asylum provisions or the Refugee Convention and related protocols. 8 C.F.R. § 208.18(a)(1); *see* *also Fuentes-Erazo v. Sessions*, 848 F.3d 847, 852 (8th Cir. 2017) (describing the “more onerous” CAT standard for government protection); *Khan v. Holder*, 766 F.3d 689, 698 (7th Cir. 2014) (noting that “unable or unwilling” is “not enough to establish that Khan is likely to be tortured by or with the acquiescence of the Pakistani government”); *Garcia v. Holder*, 746 F.3d 869, 874 (8th Cir. 2014) (“Without more, the inability of Guatemalan police to curtail MS-13 violence does not entitle Somoza to CAT relief.”); *Azanor v. Ashcroft*, 364 F.3d 1013, 1019 (9th Cir. 2004) (noting that while withholding of removal only requires “showing that public officials would be merely unable or unwilling to prevent torture by private parties, INS regulations unequivocally dictate that an alien has no right to withholding of removal under the Torture Convention absent evidence of public officials’ ‘consent or acquiescence’”) (internal citation omitted); *see also Mouawad v. Gonzales*, 485 F.3d 405, 413 (8th Cir. 2007) (noting that CAT imposes a higher standard than “powerlessness” for government protection). In fact, even the heightened CAT standard does not require a government to “condone” a non-state actor’s persecutio*n. See, e.g., Madrigal* *v. Holder*, 716 F.3d 499, 509 (9th Cir. 2013) (“Acquiescence . . . does not require that the public official approve of the torture, even implicitly. It is sufficient that the public official be aware that torture of the sort feared by the applicant occurs and remain willfully blind to it.”); *see also Ramirez-Mejia v.* Lynch, 794 F.3d 485 (5th Cir. 2015); *Karki v. Holder*, 715 F.3d 792 (10th Cir. 2013); *Suarez-Valenzeula v. Holder*, 714 F.3d 241 (4th Cir. 2013); *Khrystotodorov v. Mukasey*, 551 F.3d 775 (8th Cir. 2008); *Silva-Rengifo v. U.S. Att’y Gen.*, 473 F.3d 58 (3d Cir. 2007); *Amir v. Gonzales*, 467 F.3d 921 (6th Cir. 2006); *Khouzam v. Aschroft*, 361 F.3d 161 (2d Cir. 2004.). [↑](#footnote-ref-38)
39. Office on Violence Against Women, U.S. Dep’t of Justice, *FY 2016 OVW Grant Awards By State*, available at <https://www.justice.gov/ovw/awards/fy-2016-ovw-grant-awards-by-state> (last viewed \_\_\_\_\_). [↑](#footnote-ref-39)
40. Office on Violence Against Women, U.S. Dep’t of Justice, *The 2016 Biennial Report to Congress on the Effectiveness of Grant Programs Under the Violence Against Women Act*, at 22, available at <https://www.justice.gov/ovw/reports-congress#s1> (last viewed \_\_\_\_\_\_). [↑](#footnote-ref-40)
41. *Id*. at 24. [↑](#footnote-ref-41)
42. Hector Ruiz, *No Justice for Guatemalan Women: An Update Twenty Years After Guatemala’s First Violence Against Women Law*, 29 Hastings Women’s L.J. 101, 107 (2018). [↑](#footnote-ref-42)
43. *Id.* at 108 [↑](#footnote-ref-43)
44. *Najera Decl.* at ¶ 36 (From “April 2015 through the end of March 2016, 1,647 sentences were issued in cases of violence against women, less than 28% of the total number of cases during that period. It is important to mention that many of the resolved cases—in 2014, for example, 401 out of the 1,623 cases that reached a sentence—resulted in a not-guilty verdict, which often reflects the inadequate investigation and prosecution of the case. Moreover, even where there is a conviction, defendants are able to commute their jail time by the payment of money to the courts, generally a nominal amount.”). [↑](#footnote-ref-44)
45. Ruiz, *supra* note 75, at 109. [↑](#footnote-ref-45)
46. *Id.* at 110. [↑](#footnote-ref-46)
47. *Id.* at 111–112. [↑](#footnote-ref-47)
48. UN Women, *Background: Guatemala*, available at http://lac.unwomen.org/en/donde-estamos/guatemala (last viewed \_\_\_\_). (From 2012 to 2013 the femicide rate increase by 10 percent, averaging two deaths per day. The number of criminal complaints alleging violence against women similarly increased from 51,790 to 56,000). [↑](#footnote-ref-48)
49. U.S. Dep’t of State, Bureau of Democracy, H.R. and Lab., Guatemala 2016 Human Rights Report 19 (2016). The 2017 Report makes no reference to the rates of femicide reports or convictions. See generally U.S. Dep’t of State, Bureau of Democracy, H.R. and Lab., Guatemala 2017 Human Rights Report (2017). [↑](#footnote-ref-49)
50. Angelika Albaladejo, *Infographic: Violence Against Women in Guatemala* (March 5, 2015), available at <https://angelikaalbaladejo.com/2015/03/05/infographic-violence-against-women-in-guatemala/> (last viewed \_\_\_\_\_). [↑](#footnote-ref-50)
51. Deborah Hastings, *In Central America, women killed “with impunity” just because they’re women*, Daily News (January 10, 2014), available at <http://www.nydailynews.com/news/world/femicide-rise-central-america-article-1.1552233> (last viewed \_\_\_\_\_). [↑](#footnote-ref-51)
52. Guatemala Human Rights Commission USA, *Guatemala’s Femicide Law: Progress Against Impunity?*, at 6 (2009), available at<https://www.ghrc-usa.org/Publications/Femicide_Law_ProgressAgainstImpunity.pdf> (last viewed \_\_\_\_\_). [↑](#footnote-ref-52)
53. *Id.* [↑](#footnote-ref-53)
54. *Id.* (recounting “one incident in which police refused to enter a home where a husband was beating and threatening his wife so as not to interfere with *his* rights”) (emphasis in original). [↑](#footnote-ref-54)
55. UN Women, *supra* note 44. [↑](#footnote-ref-55)
56. *See supra* n. 38. [↑](#footnote-ref-56)
57. U.S. Dep’t of State, Bureau of Democracy, H.R. and Lab., Guatemala 2016 Human Rights Report 19 (2016), *supra* note 10, at 18; *see also* Najera Decl. at 28. [↑](#footnote-ref-57)
58. *See generally*, Najera Decl., Paz y Paz Decl., and Menjivar Decl. [↑](#footnote-ref-58)
59. Inter-American Commission of Human Rights, *Situation of Human Rights in Guatemala*, (December 31, 2017) at 58, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Guatemala2017-en%20%281%29.pdf>, (last viewed \_\_\_\_\_\_\_). [↑](#footnote-ref-59)
60. Willful blindness can meet the standard for acquiescence. *See Iruegas-Valdez v. Yates*, 846 F.3d 806, 812 (5th Cir. 2017); *Granada-Rubio v. Lynch*, 814 F.3d 35, 39 (1st Cir. 2016); *Suarez-Valenzuela v. Holder*, 714 F.3d 241, 246 (4th Cir. 2013); *Mouawad v. Gonzales*, 485 F.3d 405, 413 (8th Cir. 2007); *Silva-Rengifo v. Att’y Gen. U.S.*, 473 F.3d 58, 65 (3d Cir. 2007); *Tunis v. Gonzales*, 447 F.3d 547, 551 (7th Cir. 2006); *Zheng v. Ashcroft*, 332 F.3d 1186, 1194 (9th Cir. 2003). [↑](#footnote-ref-60)