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**in memoriam*

April __, 2018

U.S. Citizenship & Immigration Services
Newark Asylum Office
1200 Wall Street West, Fourth Floor
Lyndhurst, NJ 07071

RE: Catherine Client (A# 000-000-000)
Application for Asylum

MEMORANDUM IN SUPPORT OF ASYLUM APPLICATION

Catherine Client[1] (hereinafter "Catherine") is eligible for and deserving of a grant of asylum because she suffered past persecution and fears future persecution in Saudi Arabia on account of her religion, political opinion, and membership in the particular social groups comprised of (1) Saudi Arabian Muslim women; (2) Saudi Arabian women who are unable to leave a domestic relationship;[2] and (3) female children of the Client family.[3]

Throughout her childhood in Saudi Arabia, Catherine suffered significant trauma, as she was severely abused by her father, mother, and male siblings. While still a child, Catherine was forced to marry her first cousin, and then faced a brutal period of alternating physical abuse and rape by her husband and abuse by her male family members whenever she attempted to leave her husband. Neither the Saudi Arabian government nor any adult in her life protected Catherine from this extreme abuse. If she

[1] Catherine was formerly known as "Jane Doe," but legally changed her name in New York in 2017 to prevent her family from locating her. Ex. __, Name Change Order.
2 In the alternative, we propose the particular social group of "Saudi Arabian women treated as property."
[3] In the alternative, we propose the particular social group of "biological children of Abusive Father," "Saudi Arabian daughters in domestic relationships who are unable to leave," and "Saudi Arabian daughters who are viewed as property by virtue of their position in a domestic relationship."

were forced to return to Saudi Arabia, it is very likely that her father, brothers, or her husband will find and kill her. Catherine's husband threatened to kill her if she reported him to the police, and Catherine's family threatened to kill her for dishonoring the family by leaving her husband.

Catherine is not subject to any statutory bars to asylum. For these reasons, Catherine respectfully requests that the United States grant her asylum.

I. Summary of Facts

Catherine is a 27 year old citizen of Saudi Arabia. Ex __, Affidavit of Catherine Client, hereinafter "Catherine Aff." ¶ 1. Catherine was raised a Muslim, but renounced her religion during the last few years she lived with her husband, because she couldn't identify herself with a religion that had no respect for women. *Id.* at ¶ 35. Born into the large and powerful "Network" family in Jeddah, Saudi Arabia, Catherine endured substantial abuse at the hands of her family until she escaped. *Id.* at ¶ 3.

As a young child, Catherine's mother subjected her to female genital mutilation ("FGM"), cutting her genitals with a pair of scissors and rubbing coffee grounds in the wound to stop the bleeding. *Id.* at ¶ 6. Catherine's mother had also subjected her other female siblings to the practice. *Id.*

Catherine's mother, father and older male siblings would beat Catherine for disobeying or questioning their authority. *Id.* at ¶¶ 8-12. She was beaten by her brothers for refusing to wear a hijab inside the house or having books or magazines. *Id.* at ¶ 9. She was forced to serve her brothers. She was beaten by her mother and father for not listening to her brothers. *Id.* at ¶¶ 11-12. Her father would beat her with anything he could find nearby. *Id.* at ¶ 12. Catherine believes that her family did this because they believe women are worth nothing, need to be controlled, and should be treated like slaves, but Catherine did not share these views. *Id.* at ¶ 3. Catherine believes women should be independent, be able to marry who they choose, have their rights respected, and be treated equally.

When Catherine was about seventeen, her parents told her she had to marry her first cousin Abusive Husband. *Id.* at ¶¶ 13-14. When she tried to break off the engagement directly with Abusive Husband, her brother found out and beat her with a curtain rod. *Id.* at ¶16. When she turned to an uncle for help and advice, he sexually molested her. *Id.* at ¶¶ 17-20. When her siblings and parents found out, her father through a glass object at her head and beat her until he was too tired to continue. *Id.* Soon after, her brother held a knife to her throat and threatened to kill her if she did not tell the truth, and beat her. *Id.* at ¶23. Her brother took her to the doctor to confirm her

virginity, but the doctor did nothing to treat the bruises and cuts all over her body. *Id.* at ¶24. That same evening, another brother beat her with a thick cable. *Id.* at ¶25. After this brutality, Catherine knew there was no way for her to escape the marriage. *Id.* at ¶26.

Catherine's husband began abusing her immediately after their wedding. The day after the wedding, he raped her, and continued to do so regularly throughout their marriage. *Id.* at ¶28. He was extremely controlling of her. He beat her for the first time about a month into their marriage, with his hand and a cord. *Id.* at ¶30. After this, the physical abuse became regular. *Id.* at ¶30. Often, after her husband would beat her, Catherine would return home to her family, seeking refuge. *Id.* While sometimes they let her stay for a few days, they would always force her to return to her husband, beating her if she refused. *Id.* On one such occasion, after her husband hit her violently breaking her two front teeth, Catherine returned home. *Id.* at ¶36. But after her husband came to get her, her father and brother insisted she return. When she refused, her brother hit her on the leg, in the same place she had been previously injured, causing horrific pain. *Id.* at ¶38. When she went to the hospital, she learned that her leg had previously broken in that spot, and an abscess had formed around the break, requiring surgery to repair it. *Id.* After the surgery, her brother again demanded that she return, beating her and breaking her finger, then calling her husband to come pick her up. *Id.* at ¶40.

Catherine attempted to seek help three times following her marriage. First she planned to flee, and confided in someone on the internet who offered to help her obtain a passport to leave the country. *Id.* at ¶33. But instead of helping her, he began to blackmail her, threatening to tell her story if she didn't pay him money. *Id.* Catherine's sister also confided in the doctor who worked on her leg, disclosing the abuse and asking that he file a report, but the doctor told her that he didn't want to be involved and that Catherine's family knew what was best for her. *Id.* at ¶39. Finally, Catherine went to the police station for help when her husband was at work. *Id.* at ¶41. She showed them her bruises and her broken finger. *Id.* But instead of helping, the officer tried to talk her out of reporting, saying "what kind of girl would want to put her own father and brother in jail." *Id.* He then called her father or husband to pick her up. *Id.* When her father arrived at the station, he beat her in the car. *Id.* He then dropped her off at home, and her husband beat her when he returned from work. *Id.*

In 2016, Catherine's husband brought her on vacation to Orlando, Florida. *Id.* at ¶¶43-44. After she told him she wanted a divorce, he pulled her hair and pushed her face into a pillow, pushing down so that she couldn't breathe. *Id.* at ¶45. Not long after, he raped her, and held her hostage in the hotel room without food or water. *Id.* at ¶¶46-47. He raped her again the next day,

and when she threatened to call the police, he told her that if she did that he would kill her. *Id.* at ¶48. Catherine worked up the courage to flee when he left the room and took a taxi to Tampa, and called the police. *Id.* at ¶¶48-50; Orlando Police Report dated July 15, 2016, Exhibit __. Her father called her, and told her that if she didn't return to her husband they would find her and kill her. Catherine Aff. at ¶50. Catherine has heard from a cousin that her husband is looking for her.

The chronic physical and sexual abuse that Catherine endured at the hands of her family and husband has severely affected her. In May of 2016, Catherine met with Dr. Ottenheimer due to absent menses and weight loss, which Dr. Ottenheimer concluded was the result of "extreme emotional stress." Ex. __, Affidavit of Dr. Deborah Ottenheimer. Dr. Ottenheimer also noted that Catherine's clitoris and clitoral hood were absent, consistent with FGM. *Id.* Further, in a subsequent medical examination, Dr. Ottenheimer documented a number of scars consistent with the abuse described by Catherine, and diagnosed Catherine with anxiety, depression, and PTSD. *Id.* Jennifer McQuaid, a licensed clinical psychologist, similarly diagnosed Catherine with post-traumatic stress disorder, severe and chronic, with dissociative symptoms and major depressive disorder with a history of suicidal ideation. Ex. __, Affidavit of Dr. Jennifer McQuaid. Dr. McQuaid conclude that in her "clinical opinion, Catherine's symptoms … are clearly and directly linked to her experience of severe emotional, physical, and sexual abuse at the hands of her family, uncle and husband." *Id.* at ¶__.

II. Applicable Law

Under Section 208(b)(1) of the Immigration and Nationality Act ("INA"), the Attorney General is authorized to grant asylum to any refugee who is unable or unwilling to return to her country because of "persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1101(a)(42)(A) (2012). Catherine overwhelmingly satisfies the definition of "refugee," and her case warrants an exercise of discretion in favor of asylum.

To establish eligibility for asylum on the basis of past persecution, an applicant must show: an incident or incidents that rise to the level of persecution; perpetrated on account of one of the statutorily protected grounds (race, religion, nationality, membership in a particular social group, or political opinion); and committed by the government or forces the government is either unable or unwilling to control. *See Gao v. Ashcroft*, 299 F.3d 266, 271–72 (3d Cir. 2002) (citing *Navas v. INS*, 217 F.3d 646, 655–56 (9th Cir. 2000)), *superseded by statute on other grounds*, 8 U.S.C. § 1158(b)(1)(B)(iii). If the applicant can show past persecution on account of one of the five

enumerated grounds, there is a rebuttable presumption of a well-founded fear of future persecution. *See* 8 C.F.R. § 208.13(b)(1) (2012); *Matter of Chen*, 20 I&N Dec. 16, 18 (BIA 1989). Moreover, where past persecution is particularly severe, asylum can be granted on humanitarian grounds. *See* 8 C.F.R. § 208.13(b)(1)(iii); *Matter of Chen*, 20 I&N Dec. at 19.

Persecution "encompasses a variety of forms of adverse treatment, including non-life[-] threatening violence and physical abuse, or non-physical forms of harm such as the deliberate imposition of a substantial economic disadvantage." *Ivanishvili v. U.S. Dep't of Justice*, 433 F.3d 332, 342 (2d Cir. 2006). Persecution may include psychological or emotional harm. *See Ouk v. Gonzales*, 464 F.3d 108, 111 (1st Cir. 2006); *Mashiri v. Ashcroft*, 383 F.3d 1112, 1120 (9th Cir. 2004). All harm must be considered cumulatively to determine whether it constitutes persecution. Furthermore, "[p]rivate acts" may constitute persecution where the government "is unable or unwilling to control" them. *Pan v. Holder*, 777 F.3d 540, 543-44 (2d Cir. 2015).

At least "one central reason" for the persecution must be one of the protected grounds. INA § 208(b)(1)(B)(i); *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 211(BIA 2007). An applicant who has established past persecution on account of one of the protected grounds is entitled to a presumption that she has a well-founded fear of persecution on the same basis. 8 CFR § 208.13(b)(1). This presumption may be rebutted by the government only if it establishes changed circumstances or establishes that the alien may safely relocate. *See* 8 CFR § 208.13(b)(1).

III. Legal Analysis: Catherine's Eligibility for Asylum

A. Catherine Suffered Past Persecution

The egregious harm that Catherine endured rises to the level of persecution. Catherine suffered various harms at the hands of the members of her family and her husband, including, but not limited to the following:

- **FGM:** FGM is a harm that rises to the level of persecution. *Matter of Kasinga*, 21 I&N Dec. 357, 365 (BIA 1996). When Catherine was about six, her mother held her down and cut her genitals with scissors, and then rubbed coffee grinds in the wound to stop the bleeding. Catherine Aff. ¶6.

- **Physical Abuse:** Evidence of physical abuse provides "significant support" for a finding of past persecution. *Rizal v. Gonzales*, 442 F.3d 84, 92 (2d Cir. 2006).[4] Catherine suffered repeated physical abuse at the hands of her mother, father, and male siblings throughout her childhood. For example, Catherine's mother would hit her or burn her with a hot spoon for disobeying her brothers. Catherine Aff. ¶ 11. Catherine's father beat her with his hands of whatever he could find. *Id.* at ¶12. He once threw a glass object at her face, cutting her forehead. *Id.* at ¶23. Catherine's brothers also beat her with their hands and objects, including a curtain rod and a thick cable. *Id.* at ¶¶9, 16, 23, 25. Following their marriage, Catherine's husband was extremely physically abusive, hitting her with his hands, a cord, and trying to smother her with a pillow. *Id.* at ¶¶30, 36, 45.
- **Rape:** "[R]ape is sufficiently serious to constitute persecution." *Mei Fun Wong v. Holder*, 633 F.3d 64, 76 (2d Cir. 2011) (internal quotations omitted); *see also Matter of A-R-C-G-*, 26 I & N Dec. 388, 389 (BIA 2014). When Catherine turned to her uncle for advice on how to prevent her forced marriage, her uncle drugged and sexually assaulted her. Catherine Aff. ¶ 19. Throughout her marriage, Catherine's husband repeatedly raped her. *Id.* at ¶¶28, 30, 46, 47.
- **Death Threats:** When combined with other persecutory behavior, death threats may rise to the level of past persecution. *See, e.g.*, *Gashi v. Holder*, 702 F.3d 130, 138 (2d Cir. 2012) (an applicant suffered past persecution when he was "repeatedly warned, threatened with death, and attacked with deadly weapons including a knife and a metal knob").[5] In the present case, Catherine's husband threatened to kill her if she reported her to the police. Catherine Aff. at ¶ 48. After Catherine escaped from her husband, her father told her that if she didn't return to him the family would kill her. *Id.* at ¶ 50.

This abuse has gravely affected Catherine. As noted by Dr. Ottenheimer, Catherine has several scars from the injuries described above. Dr. Ottenheimer Aff. ¶ 29. Dr. McQuaid concluded that Catherine currently suffers from posttraumatic stress disorder (PTSD), Severe and Chronic, with dissociative symptoms and Major Depression with a history of suicidal ideation —

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[4] *See also Pjanjua v. Lynch*, 13-113 NAC, 620 Fed. App'x 21, 24 (2d Cir. July 1, 2015) (adjudicators must "be keenly sensitive to the fact that a 'minor beating' or, for that matter, any physical degradation designed to cause pain, humiliation, or other suffering my rise to the level of persecution").

[5] *See also N.L.A. v. Holder*, 744 F.3d 425, 431 (7th Cir. 2014) ("[C]redible threats of imminent death or grave physical harm can indeed be sufficient to amount to past persecution, provided they are credible, imminent and severe"); *Lim v. I.N.S.*, 224 F.3d 929, 936 (9th Cir. 2000) ("[R]epeated and especially menacing death threats" may constitute past persecution, "particularly where those threats are combined with confrontation or other mistreatment.").

thoughts of suicide without a direct plan to end her life — and one actual suicide attempt. McQuaid Aff. ¶ __.

Considered cumulatively, Catherine's past persecution is manifest. *See Matter of A-R-C-G-*, 26 I & N Dec. at 388.

Furthermore, the Saudi Arabian government was unable to control Catherine's family. When Catherine sought assistance from the police, they reprimanded her for reporting her family and husband's abuse, refused to take a report, and called her abusive husband or father to pick her up from the station, resulting in further beatings from both her father and husband. Catherine Aff. ¶ 41. This response is not at all surprising, as Saudi Arabian law "does not provide for the same legal status and rights for women as it does for men.[6] Instead, Saudi Arabian law does not recognize spousal rape as a crime.[7] "Inequality between men and women is deeply entrenched in Saudi marriage practices and creates an environment in which women are susceptible to family violence.[8] The 2016 State Department Report notes that the government "did not clearly define domestic violence" and that activists reported that "authorities did not investigate or prosecute cases involving domestic violence, instead encouraging victims and perpetrators to reconcile in order to keep families intact regardless of reported abuse. Indeed, just like Catherine's experience, there are "reports of police or judges returning women directly to the abusers, most of whom were the women's legal guardians."[9] Accordingly, it is clear that the Saudi Arabian government was unwilling to protect Catherine from the persecution she endured at the hands of her family and husband.

B. One Central Reason Catherine was Persecuted By Her Family Was Her Membership in the Particular Social Group of Muslim Women of Saudi Arabia

A "particular social group" under the INA consists of a group of people who share "common characteristics that members of the group cannot change, or should not be required to change because such characteristics are fundamental to their individual identities." *Matter of Acosta*, 19 I&N Dec. 211, 233 (BIA 1985) overruled on other grounds by *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987). Membership in a particular social group must have well-defined boundaries. *See Ucelo-Gomez v. Mukasey*, 509 F.3d 70 (2d Cir. 2007) (citing *Matter of C-A-*, 23

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[6] State Department Saudi Arabia Country Report on Human Rights Practices for 2016, https://www.state.gov/documents/organization/265730.pdf.
[7] *Id.*
[8] "Boxed In: Women and Saudi Arabia's Male Guardianship System," July 2016, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf, p.47.
[9] State Department Saudi Arabia Country Report on Human Rights Practices for 2016, https://www.state.gov/documents/organization/265730.pdf.

I&N Dec. 951 (BIA 2006)); *Matter of A-M-E-*, 24 I&N Dec. 69 (BIA 2007). Catherine belongs to the particular social group consisting of Islamic women of Saudi Arabian national origin. The members of this social group share the common characteristics of being Saudi Arabian women who are also Muslim. *See Bah v. Mukasey*, 529 F.3d 99, 112 (2d Cir. 2008) (holding that gender, together with ethnicity, nationality, or tribal membership, satisfies the social group requirement); *Mohammed v. Gonzales*, 400 F.3d 785, 797 (9th Cir. 2005) (finding that a social group can consist of Somali females where FGM in Somalia was widespread and not limited to a specific clan); *Matter of Acosta*, 19 I. & N. Dec. 211, 233-34 (B.I.A. 1985) ("sex" and "kinship" may constitute a social group). These characteristics are immutable because members of the group are unable to change their sex (women) or nationality (Saudi Arabian).

The persecution that Catherine suffered was on account of her membership in the particular social group of Islamic Saudi Arabian women. One central reason that Catherine's FGM was inflicted upon her because of her mother's beliefs about the necessity of FGM for Muslim women and girls of Saudi Arabia, and specifically in their family, such as herself and her female siblings. While there are no current reliable estimates of the incident of FGM within Saudi Arabia because of government interdiction, FGM remains legal in Saudi Arabia.[10] The most common type of FGM in Saudi Arabia is believed to be "Sunna" or Type I, the removal of the clitoris and clitoral hood. Dr. Ottenheimer's evaluation confirmed that Catherine was subjected to Type I. Ottenheimer Evaluation at ¶[__]. Prior to her circumcision, Catherine recalls her mother repeatedly checking her genitals and asking if a man was touching her. *Id.* This suggests that one central motivating factor of the FGM was to prevent promiscuity, a common rationale for the practice of FGM around the world.

Similarly, one central reason Catherine was abused by her family and forced to marry her husband is her status as an Islamic Saudi Arabian woman. As discussed above, discrimination against females is rampant in Saudi Arabia, and women are not given equal rights and status as men.[11] It is this framework and cultural discrimination that led Catherine's family to abuse her for failure to obey her brothers, who were seen as superior in society. Throughout her childhood, Catherine's family severely abused her for failure to obey her brothers and her failure to submit to the subservient role of a female. Catherine Aff. ¶¶ 8-12. Child abuse against female children is

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[10] Orchid Project, *Country: Saudi Arabia*, available at http://orchidproject.org/wp-content/uploads/2015/06/Saudi-Arabia-Final.pdf (last accessed 3/1/2018).

[11] U.S. Department of State, Saudi Arabia 2016 Human Rights Report, *available at https://www.state.gov/documents/organization/265730.pdf*.

common in Saudi Arabia.[12] Saudi Arabian law does not specify a minimum age for marriage.[13] Families sometimes arranged child marriages to settle family debts without the consent of the child. The United States government views forced marriage as a human rights violation, and in the case of child marriage, a form of child abuse.[14] Catherine's family forced her to marry her first cousin when she was still a child, just seventeen. Catherine Aff. ¶¶ 14-27. When Catherine refused, she was beaten repeatedly by her father and brothers. *Id.* She had no choice but to submit. *Id.* Accordingly, one central reason that Catherine was physically abused by her family a child and forced to marry her cousin was her family and society's beliefs about the role of Islamic Saudi Arabian women in society and the necessity of such marriages for Saudi Arabian women.

Finally, Catherine's husband's severe persecution against her, in the form of physical abuse, rape, and death threats occurred on account of her membership in the social group of Islamic Saudi Arabian women. The abuse began at the very start of their marriage and continued for over 7 years, until she was able to escape. In Saudi Arabia, there is a guardianship system in place requiring every women have a spouse or close male relative act as a guardian, and forbidding women from doing certain things, including obtaining documents, travelling abroad, and working, without their guardian's permission.[15] Within this framework, researchers believe that domestic violence is widespread in Saudi Arabia and severely underreported. Sharia law and civil law does not recognize spousal rape as a crime. [16] Catherine's husband persecuted her because he believes, like so many other Saudi Arabians, that Saudi Arabian women are the property of their male guardians and must submit to the demands of their husband's and male relatives. Accordingly, this persecution was on account of Catherine's membership in the social group of Islamic Saudi Arabian women.

C. One Central Reason Catherine Was Persecuted By Her Family Was Her Membership In The Particular Social Group Comprised Of Daughters Of Client Family[17]

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[12] U.S. Department of State, Saudi Arabia 2016 Human Rights Report, *available at https://www.state.gov/documents/organization/265730.pdf*.
[13] *Id.*
[14] U.S. Department of State, Bureau of Consular Affairs, Forced Marriage https://travel.state.gov/content/passports/en/emergencies/forced.html
[15] U.S. Department of State, Saudi Arabia 2016 Human Rights Report, *available at https://www.state.gov/documents/organization/265730.pdf*.
[16] *Id.*
[17] In the alternative, we propose the particular social groups of "biological female children of abusive father," "Saudi Arabian female children in domestic relationships who are unable to leave," and "Saudi Arabian female children who are viewed as property by virtue of their position in a domestic relationship." *See Ming Li Hui v. Holder*, 769 F.3d 984 (8th Cir. 2014) (recognizing Chinese daughters viewed as property by virtue of their position in a domestic relationship" as a valid particular social group).

Another central reason for Catherine's persecution was her membership in the particular social group comprised of female children of the Client family. It has long been established that family is a valid particular social group for the purposes of establishing a claim for asylum. *See Matter of L-E-A-* , 27 I&N Dec. 40, 42 (BIA 2017); *see also Matter of Acosta,* 19 I&N Dec. 211, 233 (BIA 1985); *Matter of W-G-R-*, 26 I& N Dec. 208, 216 (BIA 2014); *Matter of C-A-*, 23 I&N Dec. 951, 959 (BIA 2006); *Matter of A-R-C-G-*, 26 I&N Dec. 388, 392 (BIA 2014); *Matter of M-E-V-G-*, 26 I&N Dec. 227, 240 (BIA 2014).

Here, Catherine was subjected to FGM, like her sister's before her, because of her status as a female child of the Client family and her mother's belief that this practice was necessary for all her female children. Catherine was targeted by her parents and her brothers for severe physical abuse because as a female child of the Client family, she was expected to be subservient to her brothers and submit to her family's wishes. Catherine's family forced her to marry her first cousin, as they had done to her sister's before her, because of her status as a female child of the Client family, treated as property to be bought and sold. As a female child, Catherine was an easy target for her parents and male siblings because she did not have the same rights as males in society and was unable to protect herself. Accordingly, Catherine's family persecuted her precisely because she was a female child of the Client family.

D. One central reason Catherine was persecuted by her family and husband was on account of her membership in the Particular Social Group of Saudi Arabian Women who are Unable to Leave Their Domestic Relationship[18]

A central reason for Catherine's family and husband's past persecution of Catherine, and the future persecution she fears, is her membership in the particular social group of Saudi Arabian women who are unable to leave their domestic relationships. In *Matter of A-R-C-G,* the Board of Immigration Appeals held that "married women in Guatemala who are unable to leave their relationship" constitute a cognizable social group. 26 I&N Dec. 338, 393 (BIA 2014). The BIA further clarified that the requisite characteristics of social groups related to domestic violence can be determined by referencing both the personal experience of the asylum seeker and the country conditions of her nation of origin. *Id*; *see also Matter of M-E-V-G-,* 26 I&N Dec. 227, 244 (BIA 2014).

Catherine's father and brothers forced her to enter a marriage with her first cousin. During that marriage, Catherine was persecuted by her father, brothers, and husband, and was punished

[18] In the alternative, we propose the particular social group of "Guatemalan women regarded as property and who are unable to leave a domestic relationship."

severely whenever she tried to flee. For over seven years, Catherine was persecuted by her male family members for attempting to leave her marriage. When Catherine tried to go the police to report the abuse, the police officers asked her what kind of daughter reports her own father, brothers, and husband and called her husband or her father to collect her from the station. When she was finally able to escape from her husband in Florida, Catherine's father threatened to kill her if she did not return to her husband.

As discussed above, "[i]nequality between men and women is deeply entrenched in Saudi marriage practices and creates an environment in which women are susceptible to family violence."[19] "Independent estimates supported by officials working at the Ministry of Social Affairs indicated that the incidence of female spousal abuse ranged widely, from 16 to 50 percent of all wives."[20] The government is unable to protect young married women from this type of abuse, as there are reports of police officers who are unwilling to enter the home without male permission and courts and police encouraging women to stay with their abusers and keep their families together.[21] Saudi Arabia ranks 141st out of 144 countries for gender equality. Accordingly, Catherine's male family members, including her husband, persecuted her on account of their shared belief that women are subservient to men, and Catherine's membership in the group of Saudi Arabian women who are unable to leave their relationships. It is also likely, based on Catherine's credible testimony and the country conditions, that Catherine's father, brothers, and husband would continue to persecute her should she be returned to Saudi Arabia and that such persecution would continue on account of her membership in this particular social group.

E. Another Central Reason Catherine was persecuted by her family and her husband was on account of her Religion.

Catherine was also persecuted on account of her religion, and fears future persecution on the same ground. Persecution on account of religion is a basis for granting asylum under Section 208(b)(1) of the INA.[22] According to the UNHCR, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights provide for the right to freedom of "thought, conscience, and religion," including the right to change one's religion and to practice or

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[19] "Boxed In: Women and Saudi Arabia's Male Guardianship System," July 2016, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf, p.47.
[20] United States Department of State, Saudi Arabia Country Report on Human Rights Practices for 2013, https://www.state.gov/documents/organization/220586.pdf.
[21] United States Department of State, Saudi Arabia 2016 Human Rights Report, *available at https://www.state.gov/documents/organization/265730.pdf*.
[22] 8 U.S.C. § 1101(a)(42)(A).

demonstrate one's religion in public or private, through teaching, worship, and observance.[23] Prohibition of worship, forced conversion, and discrimination for failure to adopt a certain religion are all forms of religious persecution.[24]

Catherine was raised in a very religious Islamic family. During her marriage, however, Catherine, stopped believing in Islam and identifying as Muslim. Catherine Aff. at ¶35. She did not agree with the teachings and disapproved of the way that Islam treated women and slaves. *Id.* Catherine's husband persecuted her on account of her departure from the Muslim religion. When Catherine stopped praying, her husband noticed. *Id.* When he accused her of not praying, she lied and said she was praying, but he didn't believe her. He repeatedly beat her, saying "you will go to hell for forsaking Islam." *Id.* Accordingly, Catherine's husband persecuted her on the basis of her religion and her resistance to continue practicing Islam, by beating and threatening her. If Catherine were forced to return to Saudi Arabia, she is positive that her husband would continue to persecute her for leaving Islam.

In addition to abuse from her husband, Catherine is also afraid that she will face further persecution in Saudi Arabia should he be forced to return. She reasonably believes that her family will abuse her when they learn she is no longer practicing Islam. Previously, her brother beat her for refusing to wear a hijab inside of the house. Catherine Aff. ¶9. Catherine also fears that the Saudi Arabian government or its devout citizens will put her to death under Sharia law for abandoning the Muslim faith. Catherine's fears are very reasonable, in light of the extreme religious persecution documented recently in Saudi Arabia. According to the 2016 State Department Report on Religious Freedom in Saudi Arabia, the official religion of Saudi Arabia is Islam.[25] The legal system incorporates Sharia Law and criminalizes "the promotion of atheistic ideologies in any form," "any attempt to cast doubt on the fundamentals of Islam," publications that "contradict the provisions of Islamic law," and other acts deemed contrary to sharia, including non-Islamic public worship, public display of non-Islamic religious symbols, conversion by a Muslim to another religion, and proselytizing by a non-Muslim.[26] Under Saudi Arabian law, all citizens are required to be Muslim. Conversion from Islam to another religion is grounds for the charge of

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[23] UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 convention and the 1967 Protocol relating to the Status of Refugees at ¶71.
[24] *Id.* at ¶¶ 71-72; UNHCR, UNHCR's Guidelines on International Protection No. 6: Religion-Based Refugee under Article 1(A)(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees, HCR/GIP/04/06 (2004) at ¶ 12.
[25] United States Department of State, Saudi Arabia 2016 International Religious Freedom Report, *available at https://www.state.gov/documents/organization/269156.pdf*.
[26] *Id.*

apostasy, while criticizing the Muslim religion constitutes blasphemy, and both of these crimes are legally punishable by death.[27] In recent times, the government has convicted and imprisoned individuals on both of these charges. Non-governmental actors, including religious fanatics and vigilantes, sometimes harass citizens and foreigners for failure to comply with their religious beliefs.[28] Accordingly, it is very likely that Catherine would be persecuted for renouncing her religion should she be forced to return to Saudi Arabia, either by the Saudi Arabian government or by private actors such as her family or religious fanatics that the government would be unable or unwilling to control.

F. Another Central Catherine was persecuted by her family and her husband was on account of her Political Opinion.

Another central reason for Catherine's past persecution and fear of future persecution is her actual or imputed political opinion. Specifically, Catherine possesses a political opinion that Saudi Arabian women have rights and deserve to be protected from harm and live in safety.

For an opinion to qualify as "political," it need not pertain to a particular political group, and may be expressed through actions or words. *See Chang v. INS*, 119 F.3d 1055, 1093 (3d Cir. 1997), superseded by statute on other grounds as stated in *Li v. Attorney General*, 633 F.3d 136 (3d Cir. 2011). The applicant need not consider herself an activist or dissident, or "couch [her] resistance in terms of a particular ideology." *Id.* at 1063. The applicant must demonstrate, "through some evidence, either direct or circumstantial, that the persecutor knew of the applicant's political opinion and has or likely will persecute the applicant because of it." *Id.* For example, courts have recognized that a woman's resistance to male domination and oppression can constitute an expression of political opinion. *See, e.g.*, *Lazo-Majano v. INS*, 813 F.2d 1432, 1435 (9th Cir. 1987) (granting asylum to woman who asserted her political opinion by failing to accept without rebellion her persecutor's belief that a man has the right to dominate), overruled on other grounds, *Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996).

Here, there is repeated evidence of Catherine's family persecuting her after she attempted to assert her rights to be independent as a women. For example, her brother beat her for refusing to wear a hijab in the house, and her family members repeatedly tortured her for asserting her right to make her own decision in who to marry and refusing to marry, and later attempting to leave, her husband. Catherine Aff. ¶¶9-10, 13-27, 38-42. Catherine's husband also persecuted her repeatedly for disobeying his orders and attempting to leave. *Id.* at ¶¶28-42. Both her husband and her family

[27] *Id.*
[28] *Id.*

persecuted her on account of her expression of her political opinion, independence for women, through acts of defiance against the traditional expectations of subservient women. Should Catherine return, she is certain that this persecution would continue, and even worsen, should she continue to express her beliefs that women should have independent rights and be respected, contrary to the way of life in Saudi Arabia.

G. Presumption of a Well-Founded Fear of Future Persecution

Having suffered past persecution on account of multiple protected grounds, Catherine is entitled to the regulatory presumption that she has a well-founded fear of future persecution on the same basis as her original claim. *See* 8 CFR § 208.13(b)(1). There has been no fundamental change in circumstances in Saudi Arabia such that she no longer has a well-founded fear of persecution. To the contrary, as discussed above, country conditions evidence indicates that domestic violence, persecution against women, and religious persecution are endemic in Saudi Arabia. Accordingly, Catherine continues to face significant danger there.

Catherine cannot safely relocate within Saudi Arabia. *See* 8 CFR § 208.13(b)(2)(ii). Catherine faces persecution throughout the country by her well connected family and husband, who have vowed to find her, and by policies and practices instituted by the Saudi Arabian government, both regarding treatment of women and religious freedom. In Saudi Arabia, Catherine would not be able to obtain any official documentation, travel, or live on her own, due to the fact that her husband is recognized as her guardian and his consent is required. Further, Catherine would be forced to practice Islam, contrary to her religious beliefs, or face charges of apostasy or blasphemy, in any part of Saudi Arabia she resided.

Even if the government were able to rebut the presumption of past persecution, Catherine has clearly established a reasonable fear of future persecution on account of a number of protected grounds, including religion, and membership in the particular social groups of the Network family, and Saudi Arabian women who are unable to leave their domestic relationships.

H. Even if the Presumption of a Well-Founded Fear has Been Rebutted, Catherine is Entitled to a Discretionary Grant of Humanitarian Asylum

Even if the presumption that Catherine has a well-founded fear of persecution on the same basis as her original claim were rebutted, she warrants a discretionary grant of asylum. *See* 8 CFR § 208.13(b)(1)(iii). First, Catherine has demonstrated that she has compelling reasons for not wanting to return to Guatemala due to the severity of her past persecution. Catherine was abused for years by her parents and male siblings, suffering both physical and psychological harm. Child

abuse is persecution of an "atrocious" nature. *See Matter of S-A-K- & H-A-H-*, 24 I&N Dec. 464, 465-66 (BIA 2008). In addition to this, she was sexually abused by an uncle and repeatedly raped and physically abused by her husband. Considered cumulatively, the harm she suffered was sufficiently severe so as to warrant a discretionary grant of asylum even in the absence of a well-founded fear.

Second, Catherine would face a reasonable possibility of "other serious harm" if forced to return to her native country. 8 C.F.R. § 1208.13(b)(1)(iii)(B). "Other serious harm" is defined as harm that is not inflicted on account of a protected ground, "but is so serious that it equals the severity of persecution." *Krastev v. INS*, 292 F.3d 1268, 1271 (10th Cir. 2002).[29] While there are limited domestic violence shelters available in Saudi Arabia, under the male guardianship system, male guardians decide when women should be released from these shelters into their hands.[30] Further, because of the male guardianship system, Catherine would be unable to establish a life independent from her husband and male family members, and would be vulnerable to attack and questioning if she attempted to live on her own. If she returned to Saudi Arabia, she would have no job opportunities and would lack access to support services for victims of domestic violence, both of which equal the severity of persecution and rise to the level of "other serious harm." For the foregoing reasons, Catherine qualifies for humanitarian asylum.

I. Catherine is not Subject to any Statutory Bars to Asylum

Under INA § 208(a)(2), an applicant is barred from asylum if the Attorney General finds that the individual is removable under a safe third country agreement, if he files for asylum over one year after arrival to the United States, or if the applicant previously applied and was denied asylum. An applicant is also barred under INA § 208(b)(2) if he persecuted another person, was convicted of a serious crime, committed a serious nonpolitical crime outside the United States, is a danger to the security of the United States, has performed terrorist activity, or firmly resettled in a third country prior to entering the United States.

None of the statutory bars apply to Catherine's claim. Catherine has never been convicted of a serious crime, committed a serious nonpolitical crime outside of the United States, is not a danger to the security of the country, and has never performed a terrorist activity. Catherine has also

[29] *See e.g.* *Kholyavskiy v. Mukasey*, 540 F.3d 555, 577 (7th Cir. 2008) (Inability to obtain necessary medication and housing "appear to constitute serious harms for purposes of 8 C.F.R. § 1208.13(b)(1)(iii)(B).").
[30] Americans for Democracy, Saudi Arabia Fails to Address the Root of its Domestic Abuse Problem, *available at* https://www.adhrb.org/2016/07/saudi-arabia-fails-address-root-domestic-abuse-problem/.

never been firmly resettled in any other country, nor has he applied for asylum before. Accordingly, Catherine is not subject to any statutory bars to asylum.

IV. Conclusion

As discussed above, Catherine has demonstrated that she is statutorily eligible for asylum. She has presented detailed testimony and country conditions materials in support of her claim. She is not subject to any of the mandatory bars to asylum, and there are no adverse discretionary factors present in her case. She has demonstrated past persecution on account of several protected grounds, including religion and membership in the particular social groups of Islamic Saudi Arabian women, female children of the Network family, Saudi Arabian women unable to leave their relationships. In addition, Catherine has a political opinion that Saudi Arabian women have rights and deserve to be protected from harm and live in safety. Her family and husband wish to overcome this political opinion and, if given the opportunity, will continue to harm her. Catherine suffered significant trauma throughout her life in Saudi Arabia, and she has a well-founded fear of future persecution on the same bases. Therefore, it is respectfully requested that her application for asylum be approved.

Dated:

Respectfully submitted,

_____

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Pro Bono Counsel for Catherine Client