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Al-Ghorbani v. Holder, 585 F.3d 980 (6th Cir. 2009)

Avendano-Hernandez v. Lynch, 800 F.3d 1072 (9th Cir. 2015)

Bah v. Mukasey, 529 F.3d 99 (2d Cir. 2008)

Bi Xia Qu v. Holder, 618 F.3d 602 (6th Cir. 2010)

Cece v. Holder, 733 F.3d 662 (7th Cir. 2013)

Chang v. INS, 119 F.3d 1055 (3d Cir. 1997)

Chun Gao v. Gonzales, 424 F.3d 122 (2d Cir. 2005)

Cole v. Holder, 659 F.3d 762 (9th Cir. 2011)

Diallo v. INS, 232 F.3d 279 (2d Cir. 2000)

Fatin v. INS, 12 F.3d 1233 (3d Cir. 1993)

Garcia-Martinez v. Ashcroft, 371 F.3d 1066 (9th Cir. 2004)

Gashi v. Holder, 702 F.3d 130 (2d Cir. 2012)

Gomez-Zuluaga v. Att’y Gen*.*, 527 F.3d 330, 351 (3d Cir. 2008)

Guan Shan Liao v. US Dep’t of Justice, 293 F.3d 61 (2d Cir. 2002)

Hernandez-Chacon v. Barr, 17-3903-ag (2d Cir. 2020)

Ivanishvili v. U.S. Dep’t of Justice, 433 F.3d 332 (2d Cir. 2006)

Janjua v. Lynch, 13-113 NAC, 620 Fed. App’x 21, 24 (2d Cir. 2015)

Jorge-Tzoc v. Gonzalez, 435 F.3d 146 (2d. Cir. 2006)

Khouzam v. Ashcroft, 361 F. 3d 161 (2d Cir. 2004)

Kone v. Holder, 596 F.3d 141 (2d Cir. 2010)

Kulmatov v. Whitaker, 741 F. App’x 841 (2d Cir. 2018)

Li v. Attorney General, 633 F.3d 136 (3d Cir. 2011)

Matter of Mogharrabi, 19 I. & N. Dec. 439 (BIA 1987)

Mei Fun Wong v. Holder, 633 F.3d 64 (2d Cir. 2011)

Ngengwe v. Mukasey, 543 F.3d 1029 (8th Cir. 2009);

Omaro Jalloh v. Gonzales, 498 F.3d 148 (2d Cir. 2007)

Paloka v. Holder, 762 F.3d 191 (2d Cir. 2014)

Poradisova v. Gonzales, 420 F. 3d 70 (2d Cir. 2005)

Ramsameachire v. Ashcroft, 357 F. 3d 169 (2d Cir. 2004)

Rizal v. Gonzales, 442 F.3d 84 (2d Cir. 2006)

Sarhan v. Holder, 658 F.3d 649 (7th Cir. 2011)

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In re Kasinga, 21 I&N Dec. 357 (B.I.A. 1996)

Matter of A-B-, 28 I&N Dec. 199 (A.G. 2021)

Matter of A-B-, 27 I&N Dec. 316 (A.G. 2018)

Matter of Acosta, 19 I&N Dec. 211 (B.I.A. 1985)

Matter of A-K-, 24 I&N Dec. 275 (B.I.A. 2007)

Matter of A-M-E & J-G-U, 24 I&N Dec. 69 (BIA 2007)

Matter of A-R-C-G-, 26 I&N Dec. 395 (BIA 2014)

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Matter of C-A-, 23 I&N Dec. 951 (BIA 2006)

Matter of Chen, 20 I&N Dec. 16 (BIA 1989)

Matter of M-E-V-G-, 26 I. & N. 227 (BIA 2014).

Matter of M-F-W and L-G-, 24 I&N Dec. 633 (BIA 2008)

Matter of L-S-, 25 I. & N. Dec. 705 (BIA 2012).

Matter of O-Z- & I-Z-, 22 I&N Dec. 23 (B.I.A. 1998).

Matter of R-A-, 22 I & N Dec. 906 (BIA 1999).

Matter of S-A-K- and H-A-H-, 24 I&N Dec. 464 (BIA 2008)

Matter of S-P-, 21 I&N Dec. 486 (B.I.A. 1996)

Matter of T-Z-, 24 I&N Dec. 163 (B.I.A. 2007)

Matter of W-G-R-, 26 I&N Dec. 208 (BIA 2014)

**Immigration Judge Decisions**

Decision of Immigration Judge Howard Hom, U.S. Department of Justice Executive Office for Immigration Review U.S. Immigration Court, New York, New York (Redacted, 2019)

Decision of Immigration Judge Paul Gagnon, U.S. Department of Justice Executive Office for Immigration Review U.S. Immigration Court, Boston, Massachusetts (June 18, 2019)

Decision of Immigration Judge Charles M. Honeyman, U.S. Department of Justice Executive Office for Immigration Review U.S. Immigration Court, Philadelphia, Pennsylvania (August 8, 2019)

Decision of Immigration Judge Quynh V. Bain, U.S. Department of Justice Executive Office for Immigration Review U.S. Immigration Court, Arlington, Virginia (July 29, 2019)

**Statutes**

8 U.S.C. 1158(b)(1)(B)(iii).

8 U.S.C. § 1231(b)(3).

**Regulations**

8 C.F.R. § 1208.13(b)(1).

8 C.F.R. § 1208.13(b)(1)(i).

8 C.F.R. [§ 1208.13(b)(1)(iii)(A)](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=8CFRS1208.13&originatingDoc=I4d585cb45d3211e196ddf76f9be2cc49&refType=RB&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)#co_pp_101700009c331)

8 C.F.R. [§ 1208.13(b)(1)(iii)(B)](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=8CFRS1208.13&originatingDoc=I4d585cb45d3211e196ddf76f9be2cc49&refType=RB&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)#co_pp_1bbc00007e7c3)

8 C.F.R. § 1208.16(b)(1)(f)

8 C.F.R. § 1208.16(b)(1)(i).

8 C.F.R. § 1208.16(c).

8 C.F.R. § 1208.16(c)(3).

8 C.F.R. § 1208.18(a)(1).

8 C.F.R. § 1208.18(a)(1).

1. **PRELIMINARY STATEMENT**

Ms. Bianca Stern is a [AGE]-year-old citizen of Colombia who has been the victim of severe verbal, physical, and sexual violence at the hands of her former intimate partner, Mateo Cruz. Ms. Stern is eligible for asylum because she suffered past persecution, in the form of severe physical, sexual, and emotional violence and threats to her life, on account of: her membership in the particular social groups comprised of (1) Colombian women,[[1]](#footnote-1) and (2) Colombian women who are in a domestic relationship, and her political opinion that Colombian women deserve to enjoy full and equal human rights and to live safely and be protected from gender-based harm. This past persecution creates a presumption of future persecution that cannot be rebutted in this case.

If Ms. Stern were forced to return to Colombia, it is very likely that her former partner, Mateo, will find her and kill her or severely harm her. Mateo has threatened to maim her with acid and to kill her for separating from him, and he has threatened to use his military school friends now working for police, the military, and the government to help him track her down and harm or kill her with impunity.

As the enclosed country conditions evidence demonstrates, the government of Colombia is not able or willing to protect Ms. Stern from the persecution that she fears, as it was unwilling or unable to protect her from the past persecution that she suffered when she was in Colombia. In addition, Ms. Stern cannot reasonably relocate within Colombia to find safety. Finally, Ms. Stern is eligible for humanitarian asylum based on the severity of past persecution she has suffered. Mr. Stern merits asylum and the Court should grant her application.

1. **PERSONAL HISTORY OF BIANCA STERN**

Ms. Stern is a [AGE]-year-old citizen of Colombia.[[2]](#footnote-2) Around [DATE], Mateo Cruz intensely pursued a romantic relationship with her.[[3]](#footnote-3) After several months of dating, around [DATE], Mateo attacked Ms. Stern for the first time in a fit of jealousy.[[4]](#footnote-4) The couple moved in together about [X] months after dating, formalizing the relationship for them, and also in the eyes of their community and family. Shortly thereafter, Mateo increased his abuse over Ms. Stern; Mateo began viciously beating her,[[5]](#footnote-5) forcing her to have sexual intercourse with him,[[6]](#footnote-6) forcing her to labor around the house for him,[[7]](#footnote-7) extorting money from her,[[8]](#footnote-8) socially isolating her,[[9]](#footnote-9) and monitoring and controlling virtually every aspect of her daily life including her schedule, style of dress, and personal relationships.[[10]](#footnote-10)

Mateo required, under threat of his ruthless violence, that Ms. Stern turn over all earnings from her [EMPLOYMENT] position to support him and his financial needs, in addition to also working in their home to provide for his food, cleaning, and other domestic needs.[[11]](#footnote-11) Mateo repeatedly told Ms. Stern that she was subordinate to him and had to obey his commands, or else face threatened or actual violence or even death. While Ms. Stern stood up to Mateo for her belief that she was “free” and had been raised as such by her own parents, Mateo forced her to become what he perceived to be a “correct woman,”[[12]](#footnote-12) that is a woman who belongs home and tends to his every need. He stated that Ms. Stern was to blame when he pushed her to the ground—causing her injuries to her head—because, he said, she had chosen to dance with someone else.[[13]](#footnote-13) He beat her and screamed at her for telling him that she had the right to dress how she wanted,[[14]](#footnote-14) for failing to obey the schedule and curfews he gave her,[[15]](#footnote-15) for challenging his demands for money to pay for his expenses,[[16]](#footnote-16) and for cooking food that wasn’t to his liking.[[17]](#footnote-17) He referred to her using names like “bitch” and “slut” during his regular rages and attacks.[[18]](#footnote-18) When they heard a highly publicized story about a woman whose partner maimed her with acid, Mateo stated that the woman was a bitch, like all women are, and must have done something to deserve being maimed.[[19]](#footnote-19) Ms. Stern was terrified by this statement, believing that Mateo was fully capable of doing the same thing to her.

Mateo did all of this while prohibiting Ms. Stern from maintaining important personal relationships she had prior to living with Mateo—relationships with family, friends, and colleagues.[[20]](#footnote-20)

Ms. Stern attempted to separate from Mateo in around [DATE], after a particularly brutal attack during which she confessed to Mateo that he might as well kill her because she could not withstand his abuse any longer. Her plea—a departure from her usual begging for mercy—surprised Mateo and he suddenly stopped beating her. Seizing on the brief respite from violence, Ms. Stern fled to her mother’s house.[[21]](#footnote-21) Subsequently, Mateo continued to harass her: he contacted her regularly, begged for her to come back to him, vowed that he would never let her go. She refused to return to him. Shortly after, she lost her job of several years without reason, and found the car she had financed for Mateo abandoned in front of her mother’s house in a severely damaged state.[[22]](#footnote-22) Mateo contacted her by phone and stated that he had begun his revenge.

Ms. Stern desperately hoped that her short trip to the United States with her family over the [DATE] holiday season would allow Mateo time to begin accepting that she was leaving him and moving on from her and their relationship.[[23]](#footnote-23) However, soon after she returned to Colombia around [DATE], Mateo called her and vowed to not leave her in peace until she reunited with him.[[24]](#footnote-24) In the period that followed, when Ms. Stern wasn’t searching for a job, she was hiding at home in fear of Mateo’s revenge. Meanwhile, Mateo continued to call her regularly and let her know that he was surveilling her—describing with chilling accuracy the clothes she was wearing and where she had been. Ms. Stern begged Mateo to leave her alone. In response, Mateo threatened to kill her and her family if she was ever with another man.[[25]](#footnote-25)

In around [DATE], after Mateo tracked her down to her new place of employment, he waited for her there, grabbed her, and threatened that he would maim her with acid and kill her if she did not return to him within the month. Seeing the hatred in his face as he made these threats against her—seeing him “transformed into a monster” as he spoke—escalated her fear and belief that Mateo would truly follow through with his threats to maim her with acid and to murder her and her family if she did not return to him within the month.[[26]](#footnote-26)

Ms. Stern was petrified for her life, but that she knew she could not seek protection from the Colombian government.[[27]](#footnote-27) Ms. Stern had experienced first-hand the Colombian government’s failure and indifference with regard to protecting women from sexual and domestic violence. A few years prior to meeting Mateo, she had been raped, and reported the rape the police, identifying the man who raped her.[[28]](#footnote-28) However, the police’s refusal to take her or her complaint seriously, together with the prosecutor and defense attorneys’ attempts to negotiate a paid settlement with her in exchange for withdrawing her complaint, proved to her that Colombian police and government officials do not believe violence against women is something deserving of their intervention and protection.[[29]](#footnote-29) Ms. Stern also feared Mateo’s lifelong friends from military school, many of whom were now working with the police, military, and government. Mateo had told her many times that these friends could help him track her down, maim her, and even kill her and her family with no consequence.[[30]](#footnote-30) Ms. Stern also has friends, and had heard stories about other women in Colombia, who sought government protection against their abusive partners, only to find that the government took no action, or barely punishes their attacker, or that their attacker comes back to harm the women even worse than before for having made a complaint.[[31]](#footnote-31) Ms. Stern states that these experiences solidified her fear that the Colombian government will not protect her from Mateo’s threats to use his military school connections in the police, military, and government, to find her, maim her, and kill her.[[32]](#footnote-32) Ms. Stern had no choice but to flee to the United States before the end of Mateo’s ultimatum.

Since Ms. Stern fled to the United States, Mateo and what appears to be his friends or people Mateo sent to harass her and her family have continued calling Ms. Stern’s mother in Colombia to inquire about Ms. Stern’s whereabouts and the reason she doesn’t answer her phone, and to make threats and instruct her mother not to hide her.[[33]](#footnote-33) Ms. Stern is terrified to return to Colombia because she is afraid that, and believes it is very likely that, Mateo or his military school friends working in the police, military, and government will maim or kill her for leaving Mateo, for disobeying Mateo’s ultimatum, and for exerting her independence from Mateo.[[34]](#footnote-34)

1. **LEGAL ARGUMENT**
2. **The Applicable Standard for Asylum**

A non-citizen seeking to establish eligibility for asylum must show that she is a “refugee” as defined by 8 U.S.C. § 1101(a)(42); that she suffered past persecution or has a well-founded fear of future persecution “on account of race, religion, nationality, membership in a particular social group, or political opinion.” Past persecution and a well-founded fear of future persecution are separate and distinct bases for asylum. SeeGuan Shan Liao v. US Dep’t of Justice, 293 F.3d 61, 66 (2d Cir. 2002).

1. **Ms. Stern is Eligible for Asylum Because She has Suffered Past Persecution on Account of Her Membership in the Particular Social Groups of Colombian Women and Colombian Women in Domestic Relationships, and Her Political Opinion**

To establish eligibility for asylum premised on past persecution, the non-citizen must show: (1) the incident rises to the level of persecution; (2) the persecution is on account of one of the five protected grounds; and (3) the persecution is committed by the government in the country of origin or by forces whom the government is unable or unwilling to control.[[35]](#footnote-35)

1. **Ms. Stern Suffered Past Harms That Rise to the Level of Persecution**

The harms that Ms. Stern suffered are serious enough to rise to the level of persecution. 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.[[36]](#footnote-36) All harm must be considered cumulatively to determine whether it constitutes persecution.[[37]](#footnote-37) Furthermore, “[p]rivate acts” may constitute persecution where the government “is unable or unwilling to control” the actor. 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.[[38]](#footnote-38)

As [PSYCHOLOGIST], Ph.D stated in her psychological evaluation of Ms. Stern, the latter reported experiencing a “pattern of increasingly severe coercive and controlling behavior” from her domestic partner, Mateo.[[39]](#footnote-39) He abused her physically, sexually, emotionally, and psychologically “consistent with recognized dynamics of domestic violence” that include threats and intimidation, physical abuse, isolation, economic abuse, sexual abuse, emotional abuse, micro-regulation, surveillance and humiliation.[[40]](#footnote-40) Mateo’s routine violence included punches, severe bruising, kicks, hair-pulling, rape,[[41]](#footnote-41) pushing, forced labor, social isolation, extortion, choking, and threats to maim her and kill her and her family.[[42]](#footnote-42) Ms. Stern has provided photographic evidence of the severe bruising she experienced as a result of Mateo’s vicious assaults.[[43]](#footnote-43) Mateo threatened to kill Ms. Stern and pointedly explained how he would do it (by maiming her with acid and then killing her). He further threatened that his military connections, built during his lifelong education in military school, would help him torture Ms. Stern and kill her with impunity, increasing her terror.[[44]](#footnote-44) As a direct result of Mateo’s abuse, Ms. Stern is suffering from [REDACTED].[[45]](#footnote-45) Considered cumulatively, all of the abuse described above and experienced by Ms. Stern rises to the level of persecution.

1. **Ms. Stern Is a Member of the Particular Social Groups of Colombian Women and Colombian Women in Domestic Relationships and Has a Feminist Political Opinion** 
   1. **Ms. Stern Is a Member of the Particular Social Groups of Colombian Women and Colombian Women in Domestic Relationships**

An applicant seeking asylum based on membership in a particular social group must establish that the group is: (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.”[[46]](#footnote-46)

In Matter of A-R-C-G[[47]](#footnote-47), the Board ruled that “married women in Guatemala who are unable to leave their relationship” are a “cognizable particular social group that forms the basis for a claim for asylum or withholding.”[[48]](#footnote-48) While the particular social groups proffered by Ms. Stern are slightly different from the particular social group in A-R-C-G, the analysis provided by the Board can be applied to Ms. Stern’s case and the legal arguments and country condition evidence the Board relied on in determining the immutability, social distinctness, and particularity of Ms. A-R-C-G’s social group mirrors the evidence submitted on behalf of Ms. Stern to establish the parameters of her particular social groups.

* + 1. ***The particular social groups of Colombian Women and Colombian Women in Domestic Relationships are immutable***

The defining characteristics of Ms. Stern’s social groups – gender, nationality, and relationship status – are unchangeable and therefore immutable.[[49]](#footnote-49) Particular social groups defined by gender and nationality—such as similarly situated “Guatemalan Women”[[50]](#footnote-50) —have been found cognizable by various immigration judges across the country, including New York City judges.[[51]](#footnote-51) Further, Ms. Stern’s status in a domestic relationship with Mateo is also immutable. In Colombia, a pervasive *machismo* culture engrained in every layer of society makes it nearly impossible for women to leave their partners without risking their lives. In this case specifically, Mateo kept Ms. Stern in the relationship even after she tried to leave him, demonstrating her inability to leave her domestic relationship. Mateo called her persistently and from different phone numbers, insulted and threatened revenge, got her terminated from her long-standing job at a bank, tracked her moves and whereabouts, stalked her when she found another job, and ultimately threatened to maim and kill her by first throwing acid on her face if she did not return to him within one month.[[52]](#footnote-52) Ms. Stern was so terrified for her life that she fled to the United States as soon as she could, within weeks after Mateo’s ultimatum. Colombian society’s acceptance of domestic violence and discriminatory views of women reinforce this exact form of control by male partners. The prevalence of “*machismo*” culture in Colombia endorses the belief that women do not have the right to end a relationship due to their subservient status.[[53]](#footnote-53)

Additionally, from the perspective of domestic violence, the panoply of violence and cruelty to which Mateo subjected Ms. Stern – physical and sexual abuse, intimidation, threats of death, and other harm – is highly consistent with the categories of abusive behaviors identified in the National Center on Domestic and Sexual Violence “Power and Control Wheel.”[[54]](#footnote-54) Research shows that batterers commonly employ vicious tactics to establish and maintain control over their partners as they treat them like property, and which prevent those partners from exiting abusive relationships.[[55]](#footnote-55) Mateo’s threats to disfigure Ms. Stern with chemical agents is consistent with an alarming rise in acid attacks against women in Colombia. In fact, Colombia now has the world’s highest rate of attacks with chemical agents against women, “an inexpensive way to devastate a woman’s life”[[56]](#footnote-56) and a “barbaric form of human right violation.”[[57]](#footnote-57) “Many [in Colombia] feel that acid attacks are an extension of the culture’s traditional violence against women and the belief that woman are property.”[[58]](#footnote-58) Acid attacks against women are viewed by the perpetrators as a “show of power that men in hypermacho societies feel they possess over women.”[[59]](#footnote-59) The perpetrators are known to their victims: “they dated them, lived with them, married them. Then they left them, an offense for which the exes punished them for life.”[[60]](#footnote-60)

* + 1. ***The particular social groups of Colombian Women and Colombian Women in Domestic Relationships are defined with sufficient particularity***

The particularity requirement primarily addresses the question of “delineation” of a particular social group.[[61]](#footnote-61) The analysis focuses on whether a group is “defined by characteristics that provide a clear benchmark for determining who falls within the group,” which may be established if the “terms used to describe the group have commonly accepted definitions in the society.”[[62]](#footnote-62) Here, the terms “women” and “in a domestic relationship” are “informed by societal expectations about gender and subordination…”[[63]](#footnote-63) and a contextual evaluation of a country’s social and cultural restraints may be necessary.[[64]](#footnote-64) The Board consistently relies on various country conditions documents submitted on behalf of respondents, including the U.S. Department of State Human Rights Report, similar to the country conditions submitted on behalf of Ms. Stern.[[65]](#footnote-65) The terms that define Ms. Stern’s groups are clear and precise, as gender, nationality, and relationship status have commonly understood meanings that are unlikely to change when defined by different persons.[[66]](#footnote-66) Although these groups are large, the size of a group does not preclude a particularity finding.[[67]](#footnote-67) Ms. Stern’s groups are not amorphous because the defining terms – gender, nationality, and relationship status – provide adequate benchmarks for determining group memberships.[[68]](#footnote-68) The boundaries are identifiable: Colombian women and Colombian women in domestic relationships are members, while men are not.

* + 1. ***The particular social groups of Colombian Women and Colombian Women in Domestic Relationships are socially distinct***

To establish social distinction, there must be “evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group.”[[69]](#footnote-69) This must be an individualized inquiry and to determine if the social group has distinction, it “must be considered in the context of the country of concern and the persecution feared.”[[70]](#footnote-70) The Board has held that women tend to be viewed as a group by society.[[71]](#footnote-71) In Matter of A-R-C-G, the Board relied on country condition reports on Guatemala that highlighted *machismo*, family violence, spousal rape, and other significant facts faced by married women in Guatemala.[[72]](#footnote-72) The decision cited to U.S. Department of State reports and other reporting to confirm that domestic violence is a serious problem in Guatemala and there is a consistent lack of police or governmental protection and acknowledges the need to protect women.[[73]](#footnote-73)

Just like in Matter of A-R-C-G, and as seen in the country conditions submitted herewith, Ms. Stern presents abundant evidence describing how Colombian women and Colombian women in domestic relationships are treated as a group based on their gender, nationality, and relationship status. The evidence demonstrates that in Colombia women as a group are subjected to persecution, and women in relationships are victims of domestic violence at the hands of their partners and receive no protection from the government; women are “murdered at the hands of their husbands, boyfriends, and relatives in and around their homes.”[[74]](#footnote-74)

The Colombian government has, in response, enacted laws to address the various forms of violence against women, including specific laws against the murder of women,[[75]](#footnote-75) or “femicide.” The Colombian government also established a legal structure to deal with gender-based violence, the “Family Commissioner Office (Comisarías de Familia).”[[76]](#footnote-76) However, the laws that purport to protect women in Colombia from their abusers do not undermine this particular group classification, but rather emphasize that Colombian society views women as a group. The existence of such laws and programs demonstrate not only the pervasiveness of this societal problem in Colombia but also makes clear that the Colombian government has identified “Colombian Women” and “Colombian Women in Domestic Relationships” as a distinct group in Colombia which is in special need of protection, even as the Colombian government has failed to actually provide that protection. As our expert, Prof. Lirio Gutierrez Rivera explains, “[o]n the one hand, [domestic violence] is underreported. Many women do not seek assistance. On the other hand, the state or society is sufficiently sensitive to seeing domestic violence as a serious problem or part of the pandemic of violence against women.”[[77]](#footnote-77) The country conditions reports establish that this “high prevalence of violence against women, explicitly domestic violence,” has continued despite Colombia’s legal framework aimed at addressing domestic violence[[78]](#footnote-78) and that impunity for the perpetrators of acts of domestic violence against women continued to be a problem.[[79]](#footnote-79) Thus, although the Colombian government has failed to effectively protect Colombian women and enforce its domestic laws, the enactment of laws and programs to protect women from intimate partner violence shows that the Colombian government has recognized that Colombian Women, and Colombian Women in Domestic Relationships are distinct social groups in need of protection.

* 1. **Ms. Stern Has a Political Opinion**

Ms. Stern holds the political opinion that women, including Colombian women like herself, have the right to live their lives freely and independently. For an opinion to qualify as “political,” it need not pertain to a particular political group and may be expressed through actions or words.[[80]](#footnote-80) The applicant need not consider herself an activist or dissident, or “couch [her] resistance in terms of a particular ideology.”[[81]](#footnote-81) 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.”[[82]](#footnote-82) “The persecution may also be on account of an opinion imputed to the applicant by the persecutor, regardless of whether or not this imputation is accurate.”[[83]](#footnote-83)

Courts have recognized that a woman’s resistance to male domination and oppression—or feminism—can constitute an expression of political opinion.[[84]](#footnote-84) The Second Circuit has specifically found that “opposition to the male-dominated social norms in El Salvador and [the applicant’s] taking a stance against a culture that perpetuates female subordination and the brutal treatment of women” presented a cognizable claim for asylum based on political opinion. Hernandez-Chacon v. Barr, 17-3903-ag (2d Cir. 2020). The circuit court reversed a decision by the Board of Immigration Appeals (“the Board” or “BIA”) for not having “adequately considered whether the Respondent’s refusal to acquiesce was—or could be seen as—an expression of political opinion, given the political context of gang violence and the treatment of women in El Salvador.”[[85]](#footnote-85) In Hernandez-Chacon, the court emphasized that “the analysis of what constitutes political expression for these purposes involves a ‘complex and contextual factual inquiry’ into the nature of the asylum applicant’s activities in relation to the political context in which the dispute took place.”[[86]](#footnote-86)

Like the respondent in Hernandez-Chacon, Ms. Stern possesses the political opinion, stemming from her youth, that women should have the right to live independently and in safety, receive an education, earn their own living, and to make their own choices regarding their own bodies and sexual relationships.

Throughout the course of her relationship with Mateo, Ms. Stern continued to assert her independence as a feminist woman—even when doing so violated Colombian *machismo* norms.[[87]](#footnote-87) For example, Ms. Stern told Mateo that she had been educated by her parents to have friendships, an education and a job. She stood up to him by telling him that she was “free” even though this directly conflicted with Mateo’s view of what a “correct woman” should be, that is a woman who stays at home and tends to his every need.[[88]](#footnote-88) She believed that she had the right to dance with other men if she chose, including Mateo’s friends, even if looked down upon by Colombian culture and if it meant that Mateo would beat her up for doing so.[[89]](#footnote-89) When Mateo began dominating every aspect of her life, Ms. Stern continued to assert her right to work as a [POSITION], a position she held for many years. Despite Mateo’s telling Ms. Stern that women belonged in the home, she continued to go to work and maintain her full time position. When Mateo prohibited her from coming home late or walking alone in the street, Ms. Stern continued to prioritize her professional career, and worked the hours needed, commuting home only after finishing her work. In response to and in an effort to punish her for many acts of “disobedience,” Mateo beat her more severely. When Ms. Stern refused his advances for sex, he raped her. Ms. Stern’s resistance to Mateo’s *machismo* culminated in Ms. Stern asserting her right to live freely and safely by leaving Mateo and moving out of their shared home. This conflicted with Mateo’s societal views that woman are inferior to men and cannot leave men. For this, she was given an ultimatum, threatened by torture and death and was left with no other option but to immediately flee her country to save her life.

Thus, Ms. Stern made clear through these and other actions that she believed that women should not be required to live subordinate to and under the control of a partner, or any man. Motivated by her profound belief in the value of women’s lives, as equal to those of men, she refused to comply with her culture’s prevailing misogyny, *machismo* and gender stereotypes. For this defiant political expression, she was punished severely by her partner, Mateo.[[90]](#footnote-90)

Since her arrival in the United States and ability to express her belief system, she has not begun another relationship as she does not feel the same pressure to be in a relationship with a man as she did in Colombia. She enjoys her life freely and independently without a domestic partner and she works to support herself financially and manages her own income.

1. **Ms. Stern Was Persecuted On Account of Her Membership in these Particular Social Groups and Her Political Opinion**

The element of nexus examines the causal link between the persecution suffered and feared and a protected ground or, in other words, whether persecution is “on account of” protected group membership.[[91]](#footnote-91) The controlling standard for nexus requires that the applicant establish that the protected ground “was or will be at least one central reason for persecuting the applicant.”[[92]](#footnote-92) A persecutor’s actions or statements, such as comments made by the persecutor about the victim’s status as a woman or inability to leave the relationship, constitute direct evidence of nexus. Such evidence clearly appears throughout the record.

As explained *supra*, Ms. Stern suffered barbaric domestic violence at the hands of Mateo and the direct and circumstantial evidence establish that Ms. Stern was persecuted by Mateo because she is a Colombian woman and a Colombian woman in a domestic relationship with him, and because of the expression of her feminist views in the form of resistance to Colombia’s prevailing view of women.

First, Mateo’s statements and actions demonstrate his intention to harm her based on her membership in these groups and her feminist opinion. Mateo sought to exert his dominance and power over Ms. Stern as his woman and property. The timing of Mateo’s abuse is also illustrative: the physical, sexual, and emotional abuse began after Ms. Stern had a sexual relationship with him, and moved in with him, which crystalized their relationship. Some of the most serious beatings, rapes, and death threats came after she otherwise sought to assert her rights in the relationship, for example, when she refused to have sex with him; maintained her employment in a [WORKPLACE], earned a higher income than him, and went on business trips with her colleagues; told him that she was leaving him; and otherwise refused to allow herself to be considered his property. The escalating abuse following Ms. Stern’s attempts to defy the commands of the relationship provides additional evidence that Mateo persecuted her because of his perceived ownership of her. Ms. Stern’s affidavit details examples of Mateo raping her after she refused sex with him. While raping her, he would insult her and hit her body as a means to seal his dominance over her.[[93]](#footnote-93) When Ms. Stern told Mateo that she was leaving him, he threatened her with violence, telling her if she ever left him, he would find her, maim her with acid and kill her and her family.

Further, Mateo’s acts of violence and repression against Ms. Stern cannot be attributed simply to “personal disputes.” As country conditions demonstrate *infra*, Ms. Stern suffered this horrific treatment and threats to her life in the context of widely-held norms in Colombia that impose behavioral obligations on women and permit their male partners to enforce these norms in a violent manner.[[94]](#footnote-94) Mateo went as far as to describe to Ms. Stern what he viewed was the “correct woman,”[[95]](#footnote-95) in other words a docile woman who never leaves the home and tends to the man’s every desire. The man is also justified in his abuse against her by blaming the woman for failing to abide to this description. Even if Mateo did have personal motivations in the sense that he was angry that Ms. Stern disobeyed his wishes by not cooking dinner or engaging in a sexual relationship, the reason he attacked her and threatened her life is because such attacks are deemed permissible by Colombian society. In Colombia, “a woman might be attacked because of sheer rage over her independence… Mostly, though a jilted boyfriend or a husband intoxicated with jealousy is behind the attack.”[[96]](#footnote-96)

As the expert Prof. Lirio Gutierrez Rivera clearly summarizes, “it is apparent that Mateo subscribes to *machismo* culture viewing Ms. Stern inferior to him and as his property. Mateo has demonstrated this in his repeated use of violence against Ms. Stern.”[[97]](#footnote-97) Mateo expected her to behave as if she were his property in every aspect of her life. He controlled and dominated every aspect of her life: her schedule, her whereabouts, her clothes, her privacy, her faith, her friendships, her family, her work, her finances, and her sexuality. If she danced with another person, he hit her and blamed her for his mistreatment because she disobeyed him. He did not leave any corner of her life unturned with his rules deeply anchored in *machismo* culture. It should be stressed that this is not the first time that Ms. Stern has been a victim of gender-based violence, corroborating the pervasiveness of this pandemic in Colombia. Before her horrific experience with Mateo, Ms. Stern was raped by her then-partner’s roommate because he viewed her a woman in Colombia and because he knew he could do so with impunity.[[98]](#footnote-98)

Courts have long recognized that persecution and the reasons for it cannot be considered “in a vacuum,” but must be understood in the socio-cultural, legal, and political context in which it takes place.[[99]](#footnote-99) Such circumstantial evidence of nexus takes many forms, including evidence of patterns of violence against group members and the lack of accountability for perpetrators of these acts.[[100]](#footnote-100) The Board has explicitly held that societal context is critical for evaluating nexus in cases of domestic violence.[[101]](#footnote-101) The testimony of Prof. Gutierrez Rivera and significant country conditions evidence in the record documents that violence against women is fully accepted and considered normal in Colombian society. Alarmingly, “the majority of Colombia’s government officials believe that spousal abuse ‘should be solved in privacy’ rather than by judicial authorities, highlighting “the discrepancy between the public officials’ opinion and the laws they are obligated to enforce.”[[102]](#footnote-102) According to a 2017 report for the United Nations Universal Periodic Review, “[s]ocietal norms and stereotypes associated with patriarchal roles and machismo remain dominant.”[[103]](#footnote-103) Research has shown that, “among certain social groups in Colombia . . . IPV [“Intimate Partner Violence”] is integral to the social norms that govern relationships among sexual partners.”[[104]](#footnote-104) This “macho culture condones violence, blames women for abuse inflicted on them and perpetuates traditional roles that expect women to stay home and raise children.”[[105]](#footnote-105) As a result, evidence “indicates that women who work outside of the home actually have a higher probability of experiencing intimate partner violence,” as “refusing to allow women to work for pay and resorting to violence are mechanisms men employ when perceiving their role and status threatened as breadwinners and household heads.”[[106]](#footnote-106)

Prof. Gutierrez Rivera explains this clearly in her expert report:

*[…]. State agents contribute to violence against women. For instance, the police and civil servants at the Public Prosecutor Office do not prioritize cases that involve violence against women. Many police officers subscribe to machismo values, including the perception of women as property and as inferior to men. As a result, many male officers do not treat domestic violence as an important or urgent issue. The police have demonstrated widespread ineptitude in performing investigations into domestic violence. In my research, women who have been victims of violence such as domestic violence prefer not to call the police or the emergency line 123 as they do not show up or they arrive very late.*

Prof. Gutierrez Rivera described the example of Rosa Elvira Cely in 2012 to illustrate the neglect of Colombian authorities towards cases of violence against women. Rosa Elvira Cely had been raped, impaled, beaten, tortured and left to die by her perpetuator, a man with whom she had gone out on a date in Bogotá. Barely conscious, she called the police and the emergency number 123 twice. The police arrived nearly three hours later; she was unconscious, brutally bruised, stabbed in the back, and impaled with a tree branch. Deprived of urgent and necessary life-saving treatment, Rosa Cely died a few hours later. Worse, Bogotá’s city government initially blamed Ms. Cely herself for provoking the homicide.[[107]](#footnote-107) Because *machismo* culture reinforces the notion that men are entitled to physically and sexually abuse and torture their family members, domestic violence often leads to feminicide. Research has shown that domestic violence involves repeated use of violence such as beatings, rape, and even torture (e.g. cigarette burns, dismembering) which ends in the assassination of the female. The attempts to leave the male partner escalate the violence. As discussed *supra*, men feel justified attacking their partners if they decide to leave them, including with chemical agents, and their goal is total destruction because “if a woman isn’t for him, she doesn’t deserve to be for anyone.”[[108]](#footnote-108)

Ms. Stern has clearly provided both direct and circumstantial evidence showing that her particular social groups and political opinion are at least one central reason for the persecution inflicted upon her by Mateo, as required by A-B-III (Attorney General Garland confirmed that the nexus element of an asylum claim is when the protected ground is “at least one central reason” for the persecution).[[109]](#footnote-109) The virtual impunity that prevails for crimes of violence against women – a result of deeply entrenched sexism towards women, ineffective law enforcement, and government corruption – sends a strong message to abusers like Mateo that Colombian society, including the government, tolerates and even encourages such abhorrent acts. This circumstantial evidence further demonstrates that Ms. Stern’s persecution was on account of her actual or imputed political opinion and group memberships and that Mateo abused her because he knew that, as a man and as a man in a domestic relationship with her, he could act without repercussion.

1. **The Colombia Government was Unwilling or Unable to Protect Ms. Stern**

“[P]ersecution can certainly be found when the government, although not conducting the persecution, is unable or unwilling to control it.”[[110]](#footnote-110) The Second Circuit has never held that direct governmental action is required to make out a claim of persecution. On the contrary, “it is well established that private acts may be persecution if the government has proved unwilling to control such actions.”[[111]](#footnote-111) Due to *machismo* and sexist cultural norms, the government of Colombia has been unable or unwilling to protect women in Ms. Stern’s particular social group and political opinion from persecution, including physical beatings, rape, and death threats.

Consistent with Matter of A-R-C-G, this Court should look at whether the Colombian Government was “unwilling or unable” to protect Ms. Stern.[[112]](#footnote-112) There is no doubt that the Colombian government’s refusal to protect women exceeds mere ineffectiveness.[[113]](#footnote-113) As detailed extensively in the annotated table of contents referencing multiple country conditions reports and our expert report, voluminous evidence establishes a fundamental inability and unwillingness of the Colombian government to meaningfully implement laws to prevent the beating, rape, and murder of Colombian women, particularly those in domestic relationships and who refuse to be subservient or otherwise conform to societal expectations of women.[[114]](#footnote-114) The fact that there may or may not be laws to protect women from feminicide, rape, and other forms of violence, does not mean that violations of these laws are upheld, investigated, and prosecuted. A very high rate of gender-based violence – psychological, physical, and sexual – persists in Colombia in spite of such laws and indicates that this form of violence is a serious, growing, and pervasive problem.[[115]](#footnote-115) This year has seen a sharp increase in femicides compared to the same period last year.[[116]](#footnote-116)

Not only is gender-based violence widespread in Colombia, “lack of training and poor implementation of treatment protocols impede timely access to medical services and create obstacles for women and girls seeking post-violence care.”[[117]](#footnote-117) Women additionally underreport incidents of violence against them in large part because of “the struggle […] to have their case taken seriously, documented and investigated by the police. They are usually not given the required support not are they directed to the appropriate medical and health services.”[[118]](#footnote-118)

Ms. Stern’s personal and direct experience with Colombian law enforcement serves as a clear example of the government’s lack of willingness to protect women from sexual and domestic violence. Several years ago, Ms. Stern was raped by her then-partner’s roommate,[[119]](#footnote-119) and she reported this sexual assault to the police, only to have the police “sabotage” the investigation.[[120]](#footnote-120) The investigation carried on for years before reaching the prosecutor’s office where, ultimately, she was pressured to withdraw her complaint in exchange for money from the abuser. Both her own experience and the numerous reports in the media shows that there is no protection from the authorities for victims of domestic violence. It is therefore unsurprising that “[b]ecause both the police and the Public Prosecutor’s Office have been unwilling or unresponsive to intervene in family violence, women generally do not report violence or abuse, as they do not feel the state will protect them from the abuser.”

The lack of protection provided to Ms. Stern is consistent with the extensive country conditions submitted in support of this case. Though not dispositive, “State Department reports are usually the result of estimable expertise and earnestness of purpose, and they often provide a useful and informative overview of conditions in the applicant’s home country.”[[121]](#footnote-121) Here, the most recent State Department Report confirms that rape and domestic violence, police corruption, and police impunity continue to be common and serious problems in Colombia. The Report confirms that Colombia’s judicial system faced many challenges: “Much of the judicial system was overburdened and inefficient, and subordination, corruption, and intimidation of judges, prosecutors, and witnesses hindered judicial functioning.”[[122]](#footnote-122) The United Nations similarly confirms that “access to justice remained a challenge, perpetuating cycles of impunity and violence.”[[123]](#footnote-123)

According to recent studies discussed *supra*, the government’s response to sexual and gender-based violence remains insufficient.[[124]](#footnote-124) These results “indicate how law enforcement officials are compromised to curb the violent excesses of Colombia’s deep-rooted macho culture.”[[125]](#footnote-125) The laws in place have failed to change societal norms and have been “an ineffective tool for dealing with gender-based violence and harassment.”[[126]](#footnote-126) For example,a 2018 article in which judges and prosecutors were interviewed explains that “Colombia’s femicide law has done little to change perceptions that often condone the crime, such as ‘she provoked him,’ ‘he loved her too much’ or male jealousy.”[[127]](#footnote-127)According to some women, “in Colombia reporting an abuser is far more dangerous than abusing a woman.”[[128]](#footnote-128) This is because “Colombia, like many countries, has laws to protect women, but they tend to exist on paper only.”[[129]](#footnote-129) Further, although the Colombian Government has enacted some laws intended to protect victims of domestic violence, it “has done little to implement the laws and prosecute those responsible.”[[130]](#footnote-130) The legal structure in place to deal with gender-based violence in Colombia “is highly dependent upon the institution of the Family Commissioner Office (Comisarías de Familia), which is overburdened, underfunded, and so flawed in its institutional design that it cannot possibly adequately fulfill its critical role to provide domestic violence victims access to justice, protection, and services.”[[131]](#footnote-131) According to interviews conducted with employees of these offices, “‘the system is broken.’”[[132]](#footnote-132) Enforcement is further undermined because “the entities charged with the law’s implementation assume a family-oriented policy that understand women only in the family context and invalidates their individual rights. Women are subject to the institutional patriarchal practices and, consequently, are subordinate to the preservation of the family order.”[[133]](#footnote-133) According to a 2018 report to the UN, “the failure of the State Party to take action in preventing gender-based violence amounts to ‘tacit permission or encouragement to perpetrate’ acts of gender-based violence against women. Such failures or omission, therefore, constitute human rights violations.”[[134]](#footnote-134) Recent events call into question the willingness of the government as a whole to protect women from violence. But even if (though counsel does not concede) enactment of legislation to address domestic violence and adoption of some measures to implement those laws demonstrate some willingness on the part of some actors in the government, the record undoubtedly demonstrates the inability of the government to protect women, including Ms. Stern*.*

1. **Ms. Stern Has a Well-Founded Fear of Future Persecution**
2. **Ms. Stern’s Past Persecution Creates a Presumption of Future Persecution**

There is no question that Ms. Stern’s fear of future persecution is well-founded. As an initial matter, because Ms. Stern has established that she suffered past persecution, she is entitled to a *presumption* of well-founded fear of future persecution.[[135]](#footnote-135) This presumption can be rebutted only if the government shows by a preponderance of the evidence that: (1) there is a fundamental change in circumstances such that Ms. Stern no longer has a well-founded fear of persecution; or (2) Ms. Stern could avoid future persecution by relocating within Colombia, and that it is reasonable under all circumstances to expect her to do so.[[136]](#footnote-136) The government cannot establish either of these conditions.

* 1. **The Government Cannot Demonstrate a Fundamental Change in Circumstances in Colombia**

The government cannot demonstrate a fundamental change in the circumstances in Colombia. As discussed *supra,* the Colombia Women, Colombian Women in Domestic Relationships, and Colombian women who believe that Colombian women should have the right to live their lives independently and safely continue to face domestic violence, femicide, spousal rape, and discrimination and persecution with regards to economic discrimination, food scarcity, employment discrimination, access to medication and treatment, and housing. Thus, Ms. Stern is not any safer than the day she left Colombia.

Having suffered past persecution on account of a protected ground, Ms. Stern is entitled to a presumption that she has a well-founded fear of future persecution on the same basis. 8 CFR § 208.13(b)(1). The government cannot rebut this presumption, because there has not been a fundamental change in circumstances in Colombia, nor is there a reasonable internal flight alternative. 8 CFR § 208.13(b)(1)(i).

To the contrary, country conditions evidence indicates that persecution against women is entrenched in Colombia.[[137]](#footnote-137) Recent news reports indicate that Ms. Stern would continue to face extreme danger should she return to Colombia, in the form of being maimed with acid or being harmed or killed. The *New York Times* reported in 2018, that “Colombia, believed to have one of the highest rates [of acid attacks against women] per capita, remains the only country in South America where such assaults happen routinely. More than 100 attacks are reported each year, nearly two a week. But many more go unreported, advocates say, because the victims fear reprisals.”[[138]](#footnote-138) The *New York Times* article further states: “But most victims know who stole their faces. They had dated them, lived with them, and/or married them. Then they had left them, an offense for which the exes punished them for life. A splash of acid and their faces and future were changed forever.”[[139]](#footnote-139) The *Bogota Post*, an English-language newspaper, reported that femicide continues to be a pervasive problem and that “prejudices and stereotypes that exist within institutions,” “sitgmatised victim-blaming,” and “the lack of specialised training” prevent implementation.[[140]](#footnote-140)

* 1. **Ms. Stern Cannot Reasonably Internally Relocate**

For individuals like Ms. Stern persecuted by non-governmental actors, relocation alternatives must be both safe *and* reasonable in light of all circumstances.[[141]](#footnote-141) In determining whether an applicant could relocate, the Court or asylum office should consider ongoing civil strife, strength or weakness of government infrastructures, geographical limitations, and social or cultural constraints. 8 CFR §208.13(b) (3).

Internal relocation for Ms. Stern would be neither safe nor reasonable. Mr. Stern attempted to pursue her life without Mateo by fleeing to her mother’s house, but Mateo found her and continued his pattern of intimidation, control, and abuse. As our expert Prof. Gutierrez Rivera stated, “Ms. Stern escaped her home as a form of protection. She attempted to continue her life without Mateo, and yet he tracked her down, called her repeatedly on her cell phone, demanded [to know] where she was.”[[142]](#footnote-142) Mateo has also intimidated Ms. Stern’s family because she did not want to return to him. The record makes clear that Ms. Stern could not safely escape Mateo were she to relocate in Colombia. Mateo has not relented in his threats to use his status as a military school graduate and his school friends working with police, the military, and the government to find her, to harm her, to maim her, and to kill her.[[143]](#footnote-143) He surveilled Ms. Stern after she separated from him, took steps to complete his threats, and has continued to surveil and threatened Ms. Stern’s family in Colombia since she fled for her life. Especially given Mateo’s powerful connections in government, he will be able to find her wherever she would attempt to relocate internally. It would also not be reasonable to expect her to live a life of hiding elsewhere in Colombia, as she states that as soon as she gets a job, opens an account, or rents an apartment Mateo will be able to track her down and harm or kill her. [[144]](#footnote-144) Ms. Stern has indeed testified that in her work, she has become aware of the kinds of personal knowledge that Colombian institutions collect and store about people, and how easily that information can enter the hands of the government or the wrong people.[[145]](#footnote-145)

Ms. Stern’s fears that Mateo will track her down are all supported by expert evidence and country conditions evidence, since Colombia’s government infrastructures are very weak in this post-war period, and since civil strife is ongoing.[[146]](#footnote-146) The United States Department of State reports that top anticorruption officials in Colombia are themselves committing corruption, and that military officers are known to profit from illegal subcontracting for the purposes of private security and extrajudicial execution. The extreme prevalence of military and police perpetrators of violence against women, in particular, leaves women like Ms. Stern completely vulnerable to broader government corruption and to Mateo’s promises that he will always track her down with totally impunity. She believes his threats, as even up until now he continued to call and surveil Ms. Stern mother’s house in Colombia, asking where she is and instructing her mother not to hide her.

Additionally, Colombian state authorities are “unwilling to protect women who are victims of violence” and this unwillingness to protect women victims of violence “is one of the factors of high levels of feminicide in the country.”[[147]](#footnote-147) Moreover, “the police and the Public Prosecutor’s Office, institutions aimed at protecting Colombian women, do not enforce the laws to protect women.”[[148]](#footnote-148) Our expert concludes that as a result “Mateo will continue to have free access to Ms. Stern and the ability to repeatedly harm her.”[[149]](#footnote-149)

Even if Ms. Stern would be safe from her abuser somewhere else in Colombia (which counsel does not concede), this would not be reasonable when considered in light of the factors set forth in the controlling regulation and case law.[[150]](#footnote-150) Expert testimony establishes that it is extremely difficult, if not impossible, for Colombian women to relocate to an area without family support and employment.[[151]](#footnote-151) “Relocating to another part of the country is not viable because Ms. Stern would need to have a job to support herself,”[[152]](#footnote-152) which she does not have. “Moreover, relocation is not viable as the government does not have relocation programs for women victims of violence.”[[153]](#footnote-153) Moreover, the current situation in Colombia under the pandemic of Covid-19 has deteriorated considerably for women who are victims of violence due to the government lockdowns which have forced women to remain at home with their abuser. Not only has domestic violence increased, protections are unavailable for female victims of violence. Femicides have increased in the country, especially under the Covid-19 pandemic.[[154]](#footnote-154)

Taken together, because there have been no fundamental changes in conditions in Colombia (arguably only a worsening of the conditions) and internal relocation is neither safe nor reasonable, the government cannot rebut the presumption of Ms. Stern’s well-founded fear of future persecution.

1. **Ms. Stern Has a Well-Founded Fear of Future Persecution**

Even without the presumption, Ms. Stern has a well-founded fear of future persecution if returned to Colombia. A well-founded fear of persecution includes a subjective element (*i.e.*, the fear is genuine) and an objective element (*i.e.*, the fear is reasonable).[[155]](#footnote-155) The applicant’s credible testimony is enough to satisfy the subjective component as long as it is consistent and sufficiently detailed to provide a plausible and coherent account of the basis for her fear.[[156]](#footnote-156) Once the subjective fear of persecution is established, the applicant need only show that such fear is grounded in reality to meet the objective element of the test; that is, she must present credible, specific and detailed evidence that a reasonable person in her position would fear persecution.[[157]](#footnote-157) Even a 10% chance of persecution on a protected ground is enough to meet this burden.[[158]](#footnote-158) Should Ms. Stern return to Colombia, her fear of future persecution is well-founded – she has more than the requisite 10% chance of persecution.[[159]](#footnote-159)

1. **Ms. Stern’s Fear is Subjectively Genuine**

Ms. Stern has a genuine fear of persecution if she is forced to return to Colombia. She is terrified that Mateo will subject her to further physical and sexual violence, and will kill her if she returns. She is even more fearful that he might harm her in those ways now that she has fled the country against his demands, which Mateo would view as a challenge to his masculinity and patriarchal authority. As Prof. Gutierrez Rivera stated, “[Ms. Stern]’s fears of being killed if she returns to Colombia appear to be justified. The abuse that she suffered, including violent rape, and choking, threats to maim and kill, and relentless and chronic stalking, have been identified as risk factors for an increased probability of murder.”[[160]](#footnote-160) She knows what he is capable of, and her fear that he will follow through is very real. He has made threats to kill her in the past if she ever leaves him and she believes he would have no qualms about killing a “disobedient” woman.

1. **Ms. Stern’s Fear is Objectively Reasonable**

Her fear is objectively reasonable. Women in Colombia are threatened, beaten, raped, and killed with impunity. As described in much detail *supra*, year after year, the United States Department of State Human Rights Report concludes that “[v]iolence against women, as well as impunity for perpetrators continued to be a problem” and “spousal rape remained a serious problem.”[[161]](#footnote-161) A recent Amnesty International report indicated that, “[d]ue to weak protection mechanisms, there was a heightened risk of gender-based violence, particularly domestic violence against women, in the context of the transition towards peace.”[[162]](#footnote-162) Studies have shown that “Colombia has one of the highest physical IPV [“Intimate Partner Violence”] prevalence rates in the world.”[[163]](#footnote-163) Ms. Stern’s fear of return to Colombia is “grounded in reality.” The extensive documentation in support of her asylum claim and her own testimony, as well as the sworn statements of her supporting witnesses are “credible, specific and detailed evidence that a reasonable person in her position would fear persecution.”[[164]](#footnote-164)

In short, Colombia is a country that is dangerous for women, merely because they are women and their homes have “become one of the most dangerous places.”[[165]](#footnote-165) Accordingly, because Ms. Stern has demonstrated she fled Colombia both because of her past persecution and because of her well-founded fear of future persecution, she meets this criterion for asylum.

1. **Ms. Stern Qualifies for Humanitarian Asylum**

An applicant who has already shown past persecution may still be eligible for humanitarian asylum, even if the presumption of a well-founded fear of future persecution has been rebutted, if the applicant establishes either: (1) that she has “compelling reasons,” arising out of the severity of the past persecution, for being unable or unwilling to return to her country. 8 C.F.R. [§ 1208.13(b)(1)(iii)(A)](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000547&cite=8CFRS1208.13&originatingDoc=I4d585cb45d3211e196ddf76f9be2cc49&refType=RB&originationContext=document&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)#co_pp_101700009c331); *or* (2) that there is a “reasonable possibility” that she may suffer “other serious harm” upon removal to her country.[[166]](#footnote-166)

1. **Ms. Stern is eligible for humanitarian asylum based on the severity of the past harm**

Under this first form of humanitarian asylum, to establish that “compelling reasons” arise out of past persecution, reasons that are sufficiently severe, an applicant must demonstrate “long-lasting physical or mental effects of his persecution.”[[167]](#footnote-167) Certainly being repeatedly raped and beaten qualifies as “more than the usual amount of ill-treatment.”[[168]](#footnote-168) Taking into consideration relevant factors, such as the violence of the abuse, and the resulting psychological harm, the standard for humanitarian asylum based on the severity of past persecution is met here.[[169]](#footnote-169)

1. **Ms. Stern is eligible for humanitarian asylum based on “other serious harms” that she will suffer**

There is also a reasonable possibility that Ms. Stern will suffer “other serious harm” if she is forced to return to Colombia. Other serious harm is a “specific, additional, and separate avenue for relief.”[[170]](#footnote-170) No nexus between the “other serious harm” and an asylum ground protected under the Act need be shown.[[171]](#footnote-171) Country conditions, including “serious ongoing human rights abuses,” which, as discussed above, are prevalent in Colombia, are possible harms warranting humanitarian asylum.[[172]](#footnote-172)

If returned to Colombia, expert testimony presented in this case establishes that Ms. Stern will be at heightened risk for violence, including physical violence, rape, or sexual exploitation, because Ms. Stern defied Mateo’s instructions to return to him within one month of leaving him.[[173]](#footnote-173) In addition, returning to Colombia will exacerbate Ms. Stern’s fragile psychological state, and she will not have the care available to her as she would have here. The record thus shows that Ms. Stern will face a significant risk of other serious physical or psychological harms—which rise to the level of persecution—if returned.

1. **No Bar to Asylum Applies in This Case**

Pursuant to 8 U.S.C. § 1158(b)(1)(A), relief may be “granted to an alien who has applied for asylum in accordance with the requirements and procedures . . . [and it is] determine[d] that such alien is a refugee.”[[174]](#footnote-174) Ms. Stern has never committed, been charged with, or convicted of a crime, in the United States or elsewhere in the world. Ms. Stern timely filed this application for asylum within one year of her date of entry into the United States. A favorable exercise of discretion is warranted in Ms. Stern’s case.[[175]](#footnote-175) Ms. Stern has demonstrated past persecution and the inability and unwillingness of the Colombian government to protect her. There are no negative factors in this case that should be balanced against a grant of asylum. Ms. Stern meets all of the requirements for asylum and the Court should exercise its discretion favorably, granting her application in this matter.

1. **Ms. Stern Qualifies for Withholding of Removal**

To establish eligibility for withholding of removal, the non-citizen must show a clear probability that her “life or freedom would be threatened in [a] country because of” one of the protected grounds.[[176]](#footnote-176) The Second Circuit applies a “clear probability” standard to withholding of removal where “the applicant must meet the requirements of asylum eligibility and establish that it is more likely than not that were he or she to be deported his or her life or freedom would be threatened on account of one of the five bases for asylum” with “more likely than not” meaning “greater than a fifty percent chance.” Chun Gao v. Gonzales, 424 F.3d 122, 129 (2d Cir. 2005).

Ms. Stern is entitled to the presumption that she is eligible for withholding of removal because she has suffered past persecution on account of her membership in particular social group “Colombian Women in Domestic Relations,” which the government cannot rebut by a preponderance of the evidence.13 8 C.F.R. § 1208.16(b)(1)(i). The testimony of Ms. Stern along with the expert opinion of Prof. Gutierrez Rivera and extensive and credible country conditions evidence, together meet the higher threshold for the likelihood of future harm that will befall Ms. Stern if returned. Accordingly, Ms. Stern is entitled to withholding of removal.

1. **Ms. Stern Qualifies for Relief Under the Convention Against Torture**

To establish eligibility for relief under the Convention Against Torture (“CAT”), an applicant must show that it is more likely than not that she will suffer torture if she is forced to return to her country of origin. 8 C.F.R. § 1208.16(c). If the person inflicting the torture is not a governmental actor, the applicant must show that the government acquiesced to the torture.[[177]](#footnote-177) The harm Ms. Stern fears if returned to Colombia meets the definition of torture.[[178]](#footnote-178) Rapes, beatings, and mental suffering like that Ms. Stern has already experienced and that she fears will be her fate if returned have been recognized as forms of torture.[[179]](#footnote-179)

The likelihood that Ms. Stern will face these acts of torture if removed to Colombia surpasses the “more likely than not” threshold. The record contains substantial evidence of Ms. Stern’s past torture, expert testimony on her risk of future torture, as well as relevant country conditions information, all of which must be considered in assessing the likelihood of future torture.[[180]](#footnote-180) The record evidence describes her partner’s repeated vows to find and kill her if she attempted to escape him and his willingness to act on his threats. The evidence documenting widespread abuse and murder of women in Colombia reinforces the likelihood she will be tortured upon return. The Colombian government will consent or acquiesce in Ms. Stern’s partner’s likely torture. 8 C.F.R. § 1208.18(a)(1). As discussed at length above, Colombian authorities consistently refuse to offer any meaningful protection to women like Ms. Stern. The ineffectiveness of legal protections for women in Colombia manifests in more than individual injustices. Rather, the record definitively shows that it serves as *de facto* encouragement for the violence.[[181]](#footnote-181) Under Second Circuit law, this is tantamount to acquiescence under the CAT.[[182]](#footnote-182) Based on the foregoing, Ms. Stern has established her entitlement to CAT relief.

1. **CONCLUSION**

Ms. Stern should be granted asylum. She has suffered past persecution and is eligible for asylum based on her well-founded fear of future persecution. As established above, she is a target for that persecution because of her feminist political opinion and her membership in the particular social groups defined as Colombian women and Colombian women in domestic relationships. There are no bars to asylum or other factors that should prevent a grant of asylum in her case. The mistreatment and torture that Ms. Stern is likely to face if she is forced to return to Colombia also qualify her for withholding of removal under INA § 241(b)(3) and protection under the UN Convention Against Torture.

Date: November [X], 2021

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Pro Bono Counsel

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**IMMIGRATION COURT**

**970 BROAD STREET**

**NEWARK, NEW JERSEY 07102**

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In the Matter of: )

)

**Bianca Stern**  ) **File No. [REDACTED]**

)

Respondent )

In Removal Proceedings )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

**Immigration Judge: Riefkohl, Alberto J Next Hearing: [REDACTED]**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November \_\_, 2021, I, Ludivine Van der Heyden, delivered by e-service a copy of the attached foregoing Volume One in the above-referenced motion on:

U.S. Department of Homeland Security

ICE Office of the Chief Counsel

970 Broad St, 11th Floor

Newark, NJ 07102

Date: November \_\_, 2021 By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ludivine Van der Heyden

1. In the alternative, we propose the particular social group comprised of “Colombian women in a domestic relationship with military-educated men,” or “Colombian women who are viewed as being under the authority of their male partners or relatives” or “Colombian women who are unable to leave their relationship.” [↑](#footnote-ref-1)
2. Exhibit A, Affidavit of Bianca Stern, ¶ 1. [↑](#footnote-ref-2)
3. Id. at 4. [↑](#footnote-ref-3)
4. Id. at 8-9. [↑](#footnote-ref-4)
5. Id. at 11-25. [↑](#footnote-ref-5)
6. Id. at 21. [↑](#footnote-ref-6)
7. Id. at 20. [↑](#footnote-ref-7)
8. Id. at 17. [↑](#footnote-ref-8)
9. Id. at 16-17. [↑](#footnote-ref-9)
10. Id. at 16-21. [↑](#footnote-ref-10)
11. Id. at 13. [↑](#footnote-ref-11)
12. Id. at 17. [↑](#footnote-ref-12)
13. Id. at 9. [↑](#footnote-ref-13)
14. Id. at 13. [↑](#footnote-ref-14)
15. Id. at 16-17. [↑](#footnote-ref-15)
16. Id. at 19. [↑](#footnote-ref-16)
17. Id. at 20. [↑](#footnote-ref-17)
18. Id. at 12. [↑](#footnote-ref-18)
19. Id. at 18. [↑](#footnote-ref-19)
20. Id. at 17. Mateo similarly forbade her from going to the church she had regularly attended, and where she practiced her Christian faith and participated in the Christian professional women’s group. Id. at 15. [↑](#footnote-ref-20)
21. Id. at 33. [↑](#footnote-ref-21)
22. Id. at 29. [↑](#footnote-ref-22)
23. Id. at 30. [↑](#footnote-ref-23)
24. Id. at 31. [↑](#footnote-ref-24)
25. Id. at 31. [↑](#footnote-ref-25)
26. Id. at 32. [↑](#footnote-ref-26)
27. Id. at 34. [↑](#footnote-ref-27)
28. Id. at 35; *see also* Exhibit L, Copies of documents pertaining to Ms. Stern’s prior case. [↑](#footnote-ref-28)
29. Ex. A, Ms. Stern Aff. ¶¶ 37-38; see alsoExhibit L, Copies of documents pertaining to her prior case. [↑](#footnote-ref-29)
30. Id. at 35; see alsoExhibit. I, Declaration of X; see alsoExhibit J Affidavit of Y; see also Exhibits. J-K, Documents pertaining to Mateo Cruz including a certified copy of his military school ID. [↑](#footnote-ref-30)
31. Ex. A, Ms. Stern Aff., ¶ 38. [↑](#footnote-ref-31)
32. Ibid. [↑](#footnote-ref-32)
33. Ex. A, Ms. Stern Aff. ¶ 39. [↑](#footnote-ref-33)
34. Id. at 42. [↑](#footnote-ref-34)
35. 8 U.S.C. 1158(b)(1)(B)(iii). [↑](#footnote-ref-35)
36. See Ouk v. Gonzales, 464 F.3d 108, 111 (1st Cir. 2006); Mashiri v. Ashcroft, 383 F.3d 1112, 1120 (9th Cir. 2004) [↑](#footnote-ref-36)
37. See, e.g*.,* Korablina v. INS, 158 F.3d 1038, 1044 (9th Cir. 1998). [↑](#footnote-ref-37)
38. INA § 208(b)(1)(B)(i); Matter of J-B-N- & S-M-, 24 I&N Dec. 208, 211 (BIA 2007). [↑](#footnote-ref-38)
39. Exhibit E, Psychological Evaluation of Dr. XX, PhD, at 10. [↑](#footnote-ref-39)
40. See Ex. E, Psychological Evaluation. [↑](#footnote-ref-40)
41. “Sexual violence is one of the main forms of torture against women and girls in Colombia.” Vol. II, Exhibit PP, The Colombian Coalition Against Torture, Executive Summary of the Shadow Report Presented to the UN Committee Against Torture: Torture and cruel, inhuman or degrading treatment or punishment in Colombia 2009-2014 (March 2015), p. 5. [↑](#footnote-ref-41)
42. See, e.g.*,* Ex. A, Ms. Stern Aff.; Ex. E, Psychological Evaluation at 11. [↑](#footnote-ref-42)
43. Exhibit B, Affidavit of Ms. Stern explaining certain photos. [↑](#footnote-ref-43)
44. Ex. E, Psychological Evaluation at 12; Ex. A, Ms. Stern Aff. at 38. [↑](#footnote-ref-44)
45. Ex. E, Psychological Evaluation at 16-17. [↑](#footnote-ref-45)
46. Matter of Acosta. 19 I&N Dec. 211 (BIA 1985). [↑](#footnote-ref-46)
47. Matter of A-R-C-G, 26 I&N Dec. 388 (BIA 2014). [↑](#footnote-ref-47)
48. Matter of A-R-C-G, 26 I&N Dec. 388, 388 (BIA 2014). [↑](#footnote-ref-48)
49. From the landmark Acosta decision in 1985—recognizing that “sex” could be the immutable characteristic that binds social group members—the Board followed with a long line of decisions that recognized other gender-based particular social groups. In 1993, then-Judge Alito confirmed that an Iranian woman who argued that she “would be persecuted in Iran simply because she is a woman” was a member of a cognizable social group defined by her gender. SeeFatin v. INS, 12 F.3d 1233, 1240 (3rd Cir. 1993). Courts have repeatedly recognized various forms of gender-based violence to be persecution on account of membership in a particular social group, including honor killings, sex trafficking, forced marriage, femicide, and the imposition of restrictive cultural norms. See, e.g., Cece v. Holder, 733 F.3d 662 (7th Cir. 2013)(en banc); Sarhan v. Holder, 658 F.3d 649 (7th Cir. 2011); Ngengwe v. Mukasey, 543 F.3d 1029 (8th Cir. 2009); Bi Xia Qu v. Holder, 618 F.3d 602 (6th Cir. 2010); Perdomo v. Holder, 611 F.3d 662 (9th Cir. 2010); Yadegar Sargis v. INS, 297 F.3d 596 (7th Cir. 2002). [↑](#footnote-ref-49)
50. SeeVol. II, Exhibit. S, Decision of Immigration Howard Hom, U.S. Department of Justice Executive Office for Immigration Review, U.S. Immigration Court, New York, New York (Redacted 2019). [↑](#footnote-ref-50)
51. While the decisions are not precedential, the reasoning in those decisions is persuasive and are helpful in the adjudication of Ms. Stern’s case. [↑](#footnote-ref-51)
52. Ex. A, Ms. Stern Aff.at 32-33. [↑](#footnote-ref-52)
53. See, e.g*.*, Exhibit F, Prof. Lirio Gutierrez Rivera Expert Report, ¶ 12 13 (“*Machismo*, the subordination of women to men, is one of the main reasons of violence against women. Machismo culture is strong in Colombia, making it a male-dominated society. In conjunction with gender inequality, it contributes to violence against women in the country. The *machismo* culture promotes the belief that women, in particular a man’s partner or spouse, are the man’s property. Being left by a woman is considered to be a humiliating experience for men because of their *machismo* values. In many cases, men that have been left by their partner or spouse seek retaliation and revenge to prove their masculinity and power. Domestic violence tends to escalate when women try to leave their partner or spouse. If she leaves, it is customary for her spouse or partner to look for her and force her back home. The male spouse or partner tends to punish with violence which, in some cases, leads to feminicide. Domestic violence is one of the primary causes of feminicides.”). [↑](#footnote-ref-53)
54. National Center on Domestic and Sexual Violence, “Power and Control Wheel,” available at: http://www.ncdsv.org/images/powercontrolwheelnoshading.pdf. [↑](#footnote-ref-54)
55. Id. [↑](#footnote-ref-55)
56. Vol. II, Exhibit KKK, Arbiter News, “Acid Attacks Show the Face of Machismo in Colombia”(March 31, 2014). [↑](#footnote-ref-56)
57. Vol. II, Exhibit CCC, OZY, “This Doc Fights For Women In Colombia's Acid Attack Epidemic”(March 6. 2018). [↑](#footnote-ref-57)
58. Vol. II, Ex. KKK. [↑](#footnote-ref-58)
59. Vol. II, Ex. CCC. [↑](#footnote-ref-59)
60. Vol. II, Exhibit BBB, New York Times, “Capturing the Strength of Women Who Survived Acid Attacks in Colombia”(May 24, 2018). [↑](#footnote-ref-60)
61. Matter of W-G-R-, 26 I&N Dec. 208,214 (BIA 2014). [↑](#footnote-ref-61)
62. Matter of M-E-V-G-, 26 I&N Dec. 277, 239 (BIA 2014). [↑](#footnote-ref-62)
63. Matter of A-R-C-G, 26 I&N Dec. 388, 393. [↑](#footnote-ref-63)
64. Id. (citing Matter of W-G-R-, 26 I&N Dec. at 214). [↑](#footnote-ref-64)
65. Id. at 393. [↑](#footnote-ref-65)
66. SeeMatter of A-M-E & J-G-U, 24 I&N Dec. 69, 76 (BIA 2007) (finding that the particular social group defined by “affluent Guatemalans” was not particular because “affluence is simply too subjective, inchoate, and variable.” [↑](#footnote-ref-66)
67. INA §101(a) (42); See Matter of H-, 21 I&N Dec. 337 (BIA 1996), in which the Board found that Somali clans constitute a particular social group, despite the fact that some number in the millions. [↑](#footnote-ref-67)
68. Id. [↑](#footnote-ref-68)
69. Matter of W-G-R-, 26 I&N Dec. 208, 217 (BIA 2014). [↑](#footnote-ref-69)
70. Matter of W-G-R-, 26 I&N Dec. at 586-587. [↑](#footnote-ref-70)
71. Matter of M-E-V-G, 26 I&N Dec. at 246 (“Social groups based on innate characteristics such as sex…are generally easily recognizable and understood by others to constitute social groups.” (quoting Matter of C-A-, 23 I&N Dec. 951, 959 (BIA 2006)). [↑](#footnote-ref-71)
72. Matter of A-R-C-G, 26 I&N Dec. at 393. [↑](#footnote-ref-72)
73. Id. at 394. [↑](#footnote-ref-73)
74. Vol. II, Exhibit EEE, Reuters, “To end violence against Colombian women, ‘look inside homes’: government,” (February 1, 2018). [↑](#footnote-ref-74)
75. See Ex. F, Expert Report. [↑](#footnote-ref-75)
76. Vol. II, Exhibit FF, Republic of Colombia Stakeholder Report for the United Nations Universal Periodic Review (October 4, 2017). [↑](#footnote-ref-76)
77. Ex. F, Expert Report, at 9. [↑](#footnote-ref-77)
78. Id. [↑](#footnote-ref-78)
79. Vol. II, Exhibit W, S. Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2020: Colombia (March 30, 2021). [↑](#footnote-ref-79)
80. SeeChang 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). [↑](#footnote-ref-80)
81. Id. at 1063. [↑](#footnote-ref-81)
82. Id. [↑](#footnote-ref-82)
83. Hernandez-Chacon v. Barr, 17-3903-ag (2d Cir. 2020) at 18; See Delgado v. Mukasey, 508 F.3d 702, 706 (2d Cir. 2007) (“[A]n imputed political opinion, whether correctly or incorrectly attributed, can constitute a ground for political persecution.” (internal quotation mark omitted) (quoting Chun Gao v. Gonzales, 424 F.3d 122, 129 (2d Cir. 2005)). [↑](#footnote-ref-83)
84. See*,* e.g.*,* Fatin v. INS, 12 F.3d 1233, 1242 (3d Cir. 1993) (“[W]e have little doubt that feminism qualifies as a political opinion within the meaning of the relevant statutes.”). [↑](#footnote-ref-84)
85. Hernandez-Chacon v. Barr, 17-3903-ag (2d Cir. 2020) at 22. [↑](#footnote-ref-85)
86. Castro v. Holder, 597 F.3d 93, 101 (2d Cir. 2010) (quoting Zhang v. Gonzales, 426 F.3d 540, 548 (2d. Cir. 2005)). [↑](#footnote-ref-86)
87. See Vol. II, Country Conditions and Annotated Index. [↑](#footnote-ref-87)
88. Ex. A, Ms. Stern Aff.at 17. [↑](#footnote-ref-88)
89. Ex. A, Ms. Stern Aff. at 8-10. [↑](#footnote-ref-89)
90. See also Vol. II, Ex. V, Decision of Immigration Judge Quynh V. Bain, U.S. Department of Justice Executive Office for Immigration Review, U.S. Immigration Court, Arlington, Virginia (July 29, 2019) – page 7: “Here, the Lead Respondent’s belief in women’s rights and equality constitutes a political opinion;” “The country conditions support the conclusion that when the Lead Respondent refused to submit to [abuser’s] threats, he interpreted this defiance as a challenge to his and the gang’s authority, which in the context of El Salvador constitutes an imputed political opinion.” [↑](#footnote-ref-90)
91. 8 U.S.C. § 1101(a)(42)(A). [↑](#footnote-ref-91)
92. 8 U.S.C. § 1158(b)(1)(B)(i). [↑](#footnote-ref-92)
93. Ex. A, Ms. Stern Aff. at 21. [↑](#footnote-ref-93)
94. See Sarhan v. Holder, 658 F.3d 649, 656 (7th Cir. 2011). In Sarhan v. Holder, the Ninth Circuit held that the applicant for asylum successfully established that she was a member of a group that included all Jordanian women who, in accordance with social and religious norms in Jordan, were accused of being immoral criminals and thus, faced the prospect of being killed without any protection from the Jordanian government. In arriving at its decision that the applicant would be persecuted on the basis of her membership in a particular social group, the Court paid close attention to the country conditions in Jordan and the social customs governing women who are alleged to have dishonored their families. [↑](#footnote-ref-94)
95. Ex. A, Ms. Stern Aff. at 17. [↑](#footnote-ref-95)
96. Vol. II, Exhibit LLL, Washington Post “Acid Attacks rising in Colombia” (August 3, 2012). [↑](#footnote-ref-96)
97. Ex. F, Expert Report at 32. [↑](#footnote-ref-97)
98. Ex. A, Ms. Stern Aff. at 35. [↑](#footnote-ref-98)
99. Garcia-Martinez v. Ashcroft, 371 F.3d 1066, 1075 (9th Cir. 2004); see alsoSarhan v. Holder, 658 F.3d 649, 656 (7th Cir. 2011); Al-Ghorbani v. Holder, 585 F.3d 980, 998 (6th Cir. 2009); Matter of S-P-, 21 I&N Dec. 486, 495-96 (B.I.A. 1996). [↑](#footnote-ref-99)
100. SeeU.S. Citizenship and Immigration Servs., Nexus and the Protected Groundsat 19 (2012); U.S. Citizenship and Immigration Servs., Asylum Officer Basic Training Course: Female Asylum Applicants and Gender-Related Claimsat 26 (2009) (hereafter “USCIS Gender Guidelines”); Asylum and Withholding Definitions, 65 Fed. Reg. 76588, 76595 (proposed Dec. 7, 2000) (to be codified at 8 C.F.R. pt. 208). [↑](#footnote-ref-100)
101. SeeBoard DV Asylum Decisions, Matter of D-M-R-(B.I.A. Dec. June 9, 2015) (finding that the woman’s “inability to leave the [domestic] relationship in the broader context of Salvadoran society supports a nexus determination”). [↑](#footnote-ref-101)
102. Vol. II, Exhibit III, Colombia Reports, “More than Half of Colombia officials think domestic violence ‘should be solved in privacy.’” (March 23, 2015). [↑](#footnote-ref-102)
103. Vol. II, Ex. FF. [↑](#footnote-ref-103)
104. Vol. II, Exhibit PPP, Greta Friedemann-Sánchez and Rodrigo Lovatón, “Intimate Partner Violence in Colombia: Who is at Risk?” (December 2012). Vol. II, Exhibit II. United Nations, Economic Commissions for Latin America and the Caribbean - ECLAC , Annual Report 2013-2014 - Confronting violence against women in Latin America and the Caribbean (2014) (…the percentage of women with basic education who are victims of violence is even greater than the percentage for women without education.” [↑](#footnote-ref-104)
105. Vol. II, Ex. EEE. [↑](#footnote-ref-105)
106. Vol. II, Ex. PPP. [↑](#footnote-ref-106)
107. Ex. F, Expert Report at 17-18. [↑](#footnote-ref-107)
108. Vol. II, Ex. CCC. [↑](#footnote-ref-108)
109. Matter of A-B-, 28 I&N Dec. 199 (A.G. 2021). [↑](#footnote-ref-109)
110. Zelaya de Ceron v. Lynch, 648 F. App’x 78, 79 (2d Cir. 2016); Pavlova v. INS, 441 F.3d 82, 91 (2d Cir. 2016); Aliyev v. Mukasey, 549 F.3d 111, 116 (2d Cir. 2008). [↑](#footnote-ref-110)
111. Ivanishvili v. US. Department of Justice, 433 F.3d at 342 (2d. Cir. 2006). [↑](#footnote-ref-111)
112. Matter of A-R-C-G 26 I&N Dec. 395 (BIA 2014). This Court need not contemplate the needlessly confusing and seemingly higher standard “complete helplessness” presented in A-B-I, which is no longer relevant. Matter of A-B-, 27 I&N Dec. at 337. [↑](#footnote-ref-112)
113. Vol. II, Country Conditions and Annotated Index. [↑](#footnote-ref-113)
114. Id. Gomez-Zuluaga v. U.S. Att’y Gen.*,* 527 F.3d 330, 351 (3d Cir. 2008) (finding that “Colombian authorities have been especially slow to end abuses against women or bring perpetrators to justice.”) [↑](#footnote-ref-114)
115. Vol. II, Ex. PPP. [↑](#footnote-ref-115)
116. Vol. II, Exhibit WW., Infobae, “Reports states that between January and July 2021, 535 women were murdered, 18.1% more than in 2020” (October 5, 2021). [↑](#footnote-ref-116)
117. Vol. II, Exhibit MM, Human Rights Watch, “Human Rights Watch World Report – Colombia” (2018). [↑](#footnote-ref-117)
118. Vol. II, Exhibit QQ, ABColombia, Corporación Sisma Mujer, and the U.S. Office on Colombia (USOC), Colombia: Women, Conflict Related Sexual Violence and the Peace Process (November 2013). [↑](#footnote-ref-118)
119. Ex. A, Ms. Stern Aff. at 35. [↑](#footnote-ref-119)
120. Ex. F, Expert Report at 35. [↑](#footnote-ref-120)
121. Tambadou v. Gonzales, 446 F.3d 298, 302 (2d Cir. 2006) (internal citations omitted). [↑](#footnote-ref-121)
122. Vol. II, Ex. W at 10. [↑](#footnote-ref-122)
123. Vol. II, Ex. X at 7. [↑](#footnote-ref-123)
124. Vol. II, Ex. CC; Vol. II, Ex. III. [↑](#footnote-ref-124)
125. Id. [↑](#footnote-ref-125)
126. Vol. II, Exhibit DDD, New York Times, “The Silence of Abused Women in Colombia,” (March 1, 2018). [↑](#footnote-ref-126)
127. Vol. II, Exhibit ZZ, VOA, “Colombia struggles to Convict Killers of Women, Experts Say,” (November 22, 2018). [↑](#footnote-ref-127)
128. Vol. II, Ex. DDD. [↑](#footnote-ref-128)
129. Id. [↑](#footnote-ref-129)
130. Vol. II, Exhibit DD, NGO Parallel Report on Colombia’s Ninth Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (23-27 July 2018) [↑](#footnote-ref-130)
131. Republic of Colombia Stakeholder Report for the United Nations Universal Periodic Review (October 4, 2017) [↑](#footnote-ref-131)
132. Id. [↑](#footnote-ref-132)
133. Vol. II, Ex. DD. [↑](#footnote-ref-133)
134. Vol. II, Ex. DD.. [↑](#footnote-ref-134)
135. SeeAliyev v. Mukasey, 549 F.3d 111, 118-19 (2d. Cir. 2008). [↑](#footnote-ref-135)
136. 8 C.F.R. § 1208.13(b)(1)(i). [↑](#footnote-ref-136)
137. SeeSections III.A. above; see also Vol. II, Country Conditions Reports and Annotated Index. “Colombia had the second highest rate of domestic violence against women in Latin America… and the country’s figures have been described as ‘massively’ underreported,” such that “violence against women both in and outside the home [post-war] has become dangerously normalized in Colombia. People have grown so accustomed to it that it borders on being considered a regular part of life.” [↑](#footnote-ref-137)
138. Vol.II, Country Conditions Reports and Annotated Index; Ex. A, Ms. Stern Aff. at 34-37. [↑](#footnote-ref-138)
139. Id*.* [↑](#footnote-ref-139)
140. Vol. II, Country Conditions Reports and Annotated Index. [↑](#footnote-ref-140)
141. See8 C.F.R. § 1208.13(b)(3); Matter of M-Z-M-R-, 26 I&N Dec. 28, 34-36 (B.I.A. 2012). [↑](#footnote-ref-141)
142. Ex. F, Expert Report at 34. [↑](#footnote-ref-142)
143. Ex. A, Ms. Stern Aff. ¶ 31. [↑](#footnote-ref-143)
144. Ex. A, Ms. Stern Aff. ¶ 32. [↑](#footnote-ref-144)
145. Ex. A, Ms. Stern Aff. ¶ 32. [↑](#footnote-ref-145)
146. Vol. II., Country Conditions Reports and Annotated Index. [↑](#footnote-ref-146)
147. Ex. F, Expert Report at 35. [↑](#footnote-ref-147)
148. Ex. F, Expert Report at 36. [↑](#footnote-ref-148)
149. Id. [↑](#footnote-ref-149)
150. See8 C.F.R. § 1208.13(b)(3); Mei Ya You v. Mukasey, 07-3879-ag NAC, 274 Fed. App’x 50, 52 (2d Cir. Apr. 22, 2008) (Living in hiding does not constitute safe relocation); Knezevic v. Ashcroft*,* 367 F.3d 1206, 1214 (9th Cir. 2004) (finding it not only unreasonable but also “exceptionally harsh” to expect asylum applicants to start their lives over in a new town with no property, family, or home, and with the prospect of great difficulty finding employment). [↑](#footnote-ref-150)
151. See*,* e.g*.*, Ex. F, Expert Report at 37 (explaining why it is not a viable option for women with no employment to move to another location in Colombia and survive independently). [↑](#footnote-ref-151)
152. Ex. F, Expert Report at 37. [↑](#footnote-ref-152)
153. Ex. F, Expert Report at 36. [↑](#footnote-ref-153)
154. Id. Vol. II, Exs. VV & WW. [↑](#footnote-ref-154)
155. See INS v. Cardoza-Fonseca, 480 U.S. 421 (1987); Ramsameachire v. Ashcroft, 357 F. 3d 169, 178 (2d Cir. 2004). [↑](#footnote-ref-155)
156. Id.; Matter of Mogharrabi, 19 I. & N. Dec. 439, 445 (BIA 1987). [↑](#footnote-ref-156)
157. Abankwah v. INS, 185 F.3d 18, 22 (2d Cir. 1999); Matter of Mogharrabi, 19 I. & N. Dec. 439, 445 (BIA 1987). [↑](#footnote-ref-157)
158. INS v. Cardozo-Fonseca, 480 U.S. 421, 439-40 (1987) (There is “simply no room in the United Nations definition for concluding that because an applicant only has a 10% chance of being shot, tortured, or otherwise persecuted, that he or she has no ‘well—founded’ fear of the event happening.”). [↑](#footnote-ref-158)
159. Diallo v. INS, 232 F.3d 279, 284 (2d Cir. 2000); see also Cardoza-Fonseca, 480 U.S. at 431. [↑](#footnote-ref-159)
160. Ex. F, Expert Report at 19. [↑](#footnote-ref-160)
161. Vol. II, Exs W-AA. [↑](#footnote-ref-161)
162. Vol. II, Exhibit LL, Amnesty International, Amnesty International Report 2017/2018: The State of the World’s Human Rights. [↑](#footnote-ref-162)
163. Vol. II, Ex. PPP. [↑](#footnote-ref-163)
164. Abankwah, 185 F.3d at 22; Mogharrabi, 19 I. & N. Dec. at 445. [↑](#footnote-ref-164)
165. Vol. II. Exhibit XX, The Guardian, “‘Nowhere is safe’: Colombia confronts alarming surge in femicides,” (January 25, 2021). [↑](#footnote-ref-165)
166. 8 C.F.R. § 1208.13(b)(1)(iii)(B). See alsoMatter of Chen, 20 I&N Dec. 16, 21 (BIA 1989); Matter of S-A-K- and H-A-H-, 24 I&N Dec. 464 (BIA 2008); Matter of L-S-, 25 I. & N. Dec. 705, 714 (BIA 2012). [↑](#footnote-ref-166)
167. Omaro Jalloh v. Gonzales, 498 F.3d 148, 152 (2d Cir. 2007); 8 C.F.R. 1208.13(b)(1)(iii)(A). [↑](#footnote-ref-167)
168. Matter of Chen, 20 I&N Dec. 16, 21 (B.I.A. 1989). [↑](#footnote-ref-168)
169. See*,* Matter of L-S-, 25 I&N Dec. 705, 715 (B.I.A. 2012) (explaining relevant considerations for assessing severity). [↑](#footnote-ref-169)
170. 8 C.F.R. § 1208.13(b)(1)(i)(B). [↑](#footnote-ref-170)
171. Matter of L-S*-*, 25 I&N Dec. 705, 715 (BIA 2012). [↑](#footnote-ref-171)
172. Id*.* at 715. [↑](#footnote-ref-172)
173. See also: Vol. II; Country Conditions Reports and Annotated Index. [↑](#footnote-ref-173)
174. Seestatutory exclusions at 8 U.S.C. § 1158(b)(2)(A); 8 C.F.R. § 1208.13(c)(1). [↑](#footnote-ref-174)
175. SeeMatter of Pula, 19 I&N Dec. 467 (B.I.A. 1987). [↑](#footnote-ref-175)
176. 8 U.S.C. § 1231(b)(3). [↑](#footnote-ref-176)
177. 8 C.F.R.§ 1208.18(a)(1). [↑](#footnote-ref-177)
178. Id. (defining torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person”). [↑](#footnote-ref-178)
179. See, e.g*.*, Avendano-Hernandez v. Lynch, 800 F.3d 1072, 1079 (9th Cir. 2015); *Cole v. Holder*, 659 F.3d 762, 771 (9th Cir. 2011). [↑](#footnote-ref-179)
180. 8 C.F.R. § 1208.16(c)(3). [↑](#footnote-ref-180)
181. See Vol. II, Country Conditions and Annotated Index. [↑](#footnote-ref-181)
182. Acquiescence of a public official requires that the official have awareness of or remain “willfully blind” to the activity constituting torture, prior to its commission, and thereafter breach his or her legal responsibility to intervene to prevent such activity. 8 CFR § 1208.18(a)(7); Khouzam v. Ashcroft, 361 F. 3d 161, 171 (2d Cir. 2004); *see also* Gomez-Zuluaga v. Att’y Gen*.*, 527 F.3d 330, 351 (3d Cir. 2008) (ordering the Board to consider as relevant to acquiescence evidence that the “authorities have been especially slow to end abuses against women or bring perpetrators to justice” and that “[t]here is also very little support for women who have been abused”); Ali v. Reno, 237 F.3d 591, 598 (6th Cir. 2001) (noting that where “authorities ignore or consent to severe domestic violence, the [CAT] appears to compel protection for a victim”). [↑](#footnote-ref-182)