Pro Bono Counsel for Respondent

Sanctuary for Families

30 Wall Street, 8th Floor

New York, NY 10005 NON-DETAINED

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**IMMIGRATION COURT**

**201 VARICK STREET**

**NEW YORK, NEW YORK 10014**

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In the Matter of: )

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**Ms. S**  ) **File No.**

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Respondents )

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In Removal Proceedings )

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**Immigration Judge: Next Hearing:**

**Memorandum of Law in Support of Respondents’ Application for Asylum, Withholding of Removal and Convention Against Torture**

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8 C.F.R. § 1208.18(a)(1)

8 C.F.R. § 1208.18(a)(1)

1. **PRELIMINARY STATEMENT**

Ms. S is a X-year-old citizen of Ecuador who has been the victim of severe verbal, physical, and sexual violence at the hands of her husband, “Angelo” for over fifteen years. Her relationship with Angelo was marked by years of repeated and escalating psychological, physical, and sexual abuse, and control – harms that constitute persecution. The overwhelming evidence submitted on her behalf affirms the horrific domestic violence against Ecuadorian women and Ecuadorian women in relationship. The Ecuadorian government authorities largely fail to protect women, to respond to complaints of abuse, or when they do respond, fail to do so effectively. If Ms. S were forced to return to Ecuador, it is very likely that her husband, Angelo, will find her and severely harm or kill her. In addition, Ms. S cannot reasonably relocate within Ecuador to find safety.

Finally, Ms. S is eligible for humanitarian asylum based on the severity of past persecution she has suffered, including almost two decades of domestic violence. Ms. S merits asylum and the Court should grant her application.

1. **PERSONAL HISTORY OF MS. S**

Ms. S is a X-year-old citizen of Ecuador.[[1]](#footnote-1) For almost fifteen years, she was regularly beaten, strangled, and raped by her husband, Angelo. Ms. S grew up in the rural community of TOWN and is a devout Catholic. Ms. S enrolled in college after finishing school, but dropped out following her second year after she was violently attacked by a sexual predator on her way home one evening. It was at this point she began traveling to the town of TOWN, two and a half to three hours from her family’s home in TOWN, twice a week in order to look for employment.[[2]](#footnote-2) When traveling to and from TOWN, she would change busses at a terminal in TOWN. When Ms. S was approximately X years old, she met Angelo while waiting for a bus in TOWN.[[3]](#footnote-3) Angelo lived in TOWN and also traveled to and from TOWN by bus via TOWN regularly. Ms. S saw Angelo a few more times at the bus terminal in TOWN and, after a short period of time, they entered into a romantic relationship and she began living with him and his family in TOWN

By moving in together, the couple were declaring their intention to get married. In Ms. S’s community, once a man and woman start living together, it means they will get married. Crucially, once they start living together, it is no longer permissible for the woman to end the relationship.[[4]](#footnote-4) Women are taught that once they leave their parents’ house and begin living with a man, they have to stay with him and put up with whatever happens.[[5]](#footnote-5)

Ms. S regretted her decision almost immediately after moving in with Angelo and wanted to leave, but felt stuck given community pressure and the societal expectation the pair would now get married.[[6]](#footnote-6) Before moving in, Ms. S believed Angelo to be a humble and educated good person. After she moved in, however, Angelo became extremely controlling and abusive. He completely controlled the couple’s finances and habitually refused to give Ms. S the money to buy a bus ticket for the two-to-three-hour journey to visit her parents, socially isolating her.[[7]](#footnote-7) After six months living with Angelo, Ms. S wanted to escape, but did not know how. The societal pressure for a woman to remain with a man she lives with was so strong Ms. S never even told most of her own family about her feelings and regrets.[[8]](#footnote-8)

In addition to controlling Ms. S through his dominance of the couple’s finances, Angelo also abused her physically and emotionally. He would regularly force Ms. S to have sexual intercourse with him and, when she resisted, he would emotionally abuse and humiliate her, telling her she was “nothing” and “worthless.”[[9]](#footnote-9) Throughout their time together, Ms. S never once consented to having sexual intercourse with Angelo. Angelo frequently blamed Ms. S for “not giving him pleasure” and told her he could do anything he wanted to her.[[10]](#footnote-10) Angelo’s abuse did not stop there. He also believed Ms. S was having relationships with other men and sexually abused her, and on one occasion, strangled her, to showcase his power over her.[[11]](#footnote-11)

Angelo extended his abuse to all areas of Ms. S’s life. He regularly told her that she was his “woman,” as if she belonged to him and demanded she keep their house clean, take care of their children, and have dinner on the table when he got home from work.[[12]](#footnote-12) Ms. S always obeyed him because she was terrified of the consequences if she did not.[[13]](#footnote-13) In her community, women are expected to obey their male partners no matter what, just as Ms. S’s mother did.

Angelo also used his superior physical strength to physically abuse Ms. S. Angelo worked as a car mechanic and, despite not allowing Ms. S to go out and find work of her own, would regularly force Ms. S to work in his mechanic shop with him. He forced her to work with him most days as punishment for what he viewed as her failure to obey him.[[14]](#footnote-14) Angelo used the mechanic shop to demonstrate his power over Ms. S and would spray her in the face with compressed air and throw car doors at her, leaving her badly bruised, both physically and emotionally.[[15]](#footnote-15)

As a result of Angelo’s abuse and Ms. S’s inability to leave him due to societal pressure, Ms. S fell into deep depression and sought mental health treatment from a psychologist.[[16]](#footnote-16) While the psychologist was able to prescribe Ms. S anti-depressants to help with her mental state, she was never able to tell the doctor the whole story as Angelo would always drive her to her doctor’s appointments and would stand outside the exam room door in order to hear everything she said.[[17]](#footnote-17) Even when the doctor asked Ms. S how things were going at home (one of her best chances to tell another person about her situation), she could not tell the doctor the truth as she knew Angelo could hear her and would instead tell the doctor everything was fine.[[18]](#footnote-18)

After Ms. S began treatment with the psychologist, Angelo increased his psychological and emotional abuse and began trying to make Ms. S believe she was crazy. He did this by moving things in their home around at night and telling her the next day that she had moved them and simply did not remember.[[19]](#footnote-19) Angelo’s psychological abuse was so intense that Ms. S began believing she was indeed crazy and it was only when their daughter, E, confronted Angelo about his behavior that Ms. S realized what he was doing.[[20]](#footnote-20)

In addition to all of Angelo’s abuse, he also demanded to legalize their relationship through marriage, which would only create further impediments to Ms. S’s ability to leave the relationship. Ms. S did not want to marry him, however, and repeatedly said no whenever Angelo brought up the topic of marriage.[[21]](#footnote-21) Ms. S came under heavy pressure from her family, Angelo’s family, and Angelo himself to marry him. Ms. S’s family told her she was “not doing what the church commands” by living with Angelo unwed.[[22]](#footnote-22) Further, they told her it was not seen well by the community that she and Angelo had children and lived together outside of wedlock.[[23]](#footnote-23) Angelo’s family also used Ms. S’s Catholic religious beliefs against her to pressure her to marry Angelo.[[24]](#footnote-24) In fact, when Ms. S gave birth to her son, A, both families refused to allow her to have A baptized until she married Angelo.[[25]](#footnote-25) The community also used Ms. S’s religious beliefs to put a great deal of pressure on her to marry Angelo. Around YEAR, Ms. S found out she had contracted tuberculosis and likely passed it on to A.[[26]](#footnote-26) Feeling incredibly guilty about this, she went to speak with a priest, who refused to take her confession and simply told her she would feel better if she married Angelo.[[27]](#footnote-27)

Though the community and familial pressure on Ms. S to marry Angelo was immense, the most intense pressure came from Angelo himself. When Ms. S refused his demands for her to marry him, he would grab her arm and push her against the wall, leaving bruises on her arms and back and her head throbbing in pain.[[28]](#footnote-28) On DATE YEAR, Angelo even told her family that Ms. S was the problem and said she must be having an affair with another man.[[29]](#footnote-29) When the couple arrived home after the party with Ms. S’s family, Ms. S put their children to bed and locked the doors, her habitual protective measure when she knew Angelo was going to get aggressive, as she did not want the kids to see how he treated her.[[30]](#footnote-30) Angelo then tried to give Ms. S $20, saying that, if he paid her, she “could satisfy him like a prostitute” and do anything he wanted to her.[[31]](#footnote-31) He then forced her to have sexual intercourse with him.[[32]](#footnote-32)

Due to the enormous amount of societal and familial pressure, and despite all of Angelo’s abuse, Ms. S did eventually agree to marry him because she felt she had no other choice.[[33]](#footnote-33) In YEAR, shortly after their wedding, Angelo left for the United States. He was not able to cross the border and returned to Ecuador meaner and more violent than ever.[[34]](#footnote-34) Ms. S was so scared of him at this time that she would lock herself and her children in a room at night, but often Angelo would break the lock and drag her out of the room in order to beat and rape her.[[35]](#footnote-35) One night, Angelo even strangled Ms. S and continued doing so until their daughter yelled for him to stop.[[36]](#footnote-36)

Ms. S never reported Angelo to the police because the police in Ecuador view matters of domestic violence as private matters to be worked out between family members, not as matters for the state to get involved in.[[37]](#footnote-37) As the police would be no help to her and she could not relocate within Ecuador as Angelo would likely track her down and punish her and single mothers are often forced to marry new men, Ms. S felt she had no choice but to flee to the United States to join her sister in STATE.[[38]](#footnote-38) In MONTH YEAR, Ms. S, her children and her sister’s son flew to Mexico and crossed the U.S. border into California, surrendering themselves to U.S. authorities shortly after crossing.[[39]](#footnote-39) The officers contacted Ms. S’s sister, who arranged her travel to STATE, where she lives today.[[40]](#footnote-40)

Ms. S is terrified of returning to Ecuador where she believes Angelo will be able to find her and inflict more harm upon her and greatly appreciates the safety, freedoms, and opportunities her children have in the U.S.[[41]](#footnote-41) Her family never protected her from Angelo and she is worried that if she and her children were to return to Ecuador, her daughter would face a similar fate simply because she is an Ecuadorian woman.[[42]](#footnote-42)

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.[[43]](#footnote-43)

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

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.[[44]](#footnote-44)

1. **Ms. S Is a Member of the Particular Social Groups of Ecuadorian Women and Ecuadorian Women in Domestic Relationships**
   1. **Ms. S Is a Member of the Particular Social Groups of Ecuadorian Women and Ecuadorian 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.”[[45]](#footnote-45)

In Matter of A-R-C-G,[[46]](#footnote-46) 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.”[[47]](#footnote-47) While the particular social groups proffered by Ms. S are slightly different from the particular social group in A-R-C-G, the analysis provided by the Board can be applied to Ms. S’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. S to establish the parameters of her particular social groups.

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

The defining characteristics of Ms. S’s social groups – gender, nationality, and relationship status – are unchangeable and therefore immutable.[[48]](#footnote-48) Particular social groups defined by gender and nationality—such as similarly situated “Guatemalan Women”[[49]](#footnote-49) —have been found cognizable by various immigration judges across the country, including New York City judges.[[50]](#footnote-50) Further, Ms. S’s status in a domestic relationship with Angelo is also immutable. In Ecuador, 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, Angelo kept Ms. S in the relationship by forbidding her to leave the home without his permission, refusing to provide her with financial assistance to purchase a bus ticket to visit her family without him, telling her she was his “woman,” and treating her like his “property,” continually and violently pressuring her to marry him even after she repeatedly refused, and verbally, emotional, physically, and sexually abusing her, all demonstrating her inability to leave her domestic relationship.[[51]](#footnote-51) The existence of children in common often gives abusers like Angelo further opportunity and reasons to continue to abuse women.[[52]](#footnote-52) Ecuadorian society’s acceptance of domestic violence and discriminatory views of women reinforce this exact form of control by male partners. The prevalence of “*machismo*” and “*marianismo*” culture in Ecuador endorses the belief that men should be aggressive and demonstrate this aggressiveness through “authoritarianism, aggression, and dominance toward women and men” and that women are expected to “be reliant, and submissive, sacrifice themselves for motherhood, endure violence and adultery from their husband and preserve their virginity until marriage.”[[53]](#footnote-53)

Additionally, from the perspective of domestic violence, the panoply of violence and cruelty to which Angelo subjected Ms. S – physical and sexual abuse, intimidation 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)

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

The particularity requirement primarily addresses the question of “delineation” of a particular social group.[[56]](#footnote-56) 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.”[[57]](#footnote-57) Here, the terms “women” and “in a domestic relationship” are “informed by societal expectations about gender and subordination…”[[58]](#footnote-58) and a contextual evaluation of a country’s social and cultural restraints may be necessary.[[59]](#footnote-59) 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. S.[[60]](#footnote-60) The terms that define Ms. S’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.[[61]](#footnote-61) Although these groups are large, the size of a group does not preclude a particularity finding.[[62]](#footnote-62) Ms. S’s groups are not amorphous because the defining terms – gender, nationality, and relationship status – provide adequate benchmarks for determining group memberships.[[63]](#footnote-63) The boundaries are identifiable: Ecuadorian women and Ecuadorian women in domestic relationships are members, while men are not.

* + 1. ***The particular social groups of Ecuadorian Women and Ecuadorian 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.”[[64]](#footnote-64) 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.”[[65]](#footnote-65) The Board has held that women tend to be viewed as a group by society.[[66]](#footnote-66) 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.[[67]](#footnote-67) 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.[[68]](#footnote-68)

Just like in Matter of A-R-C-G, and as seen in the country conditions submitted herewith, Ms. S presents abundant evidence describing how Ecuadorian women and Ecuadorian women in domestic relationships are treated as a group based on their gender, nationality, and relationship status. The evidence demonstrates that in Ecuador 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; with the U.S. State Department citing “lack of investigation of and accountability for violence against women” as one of the major human rights problems facing the country.[[69]](#footnote-69)

The Ecuadorian government has, in response, taken minimal steps to better enforce laws enacted to address the various forms of violence against women.[[70]](#footnote-70) However, these attempts have not been very successful as the court system is insufficiently staffed, many Ecuadorian judges lack the specialized training required to handle cases of gender-based violence, and Ecuadorian protection-board officials often discourage victims from reporting their abusers.[[71]](#footnote-71) The laws that purport to protect women in Ecuador from their abusers do not undermine this particular group classification, but rather emphasize that Ecuadorian society views women as a group. The existence of such laws and programs demonstrate not only the pervasiveness of this societal problem in Ecuador but also makes clear that the Ecuadorian government has identified “Ecuadorian Women” and “Ecuadorian Women in Domestic Relationships” as a distinct group in Ecuadorian which is in special need of protection, even as the Ecuadorian government has failed to actually provide that protection. The country conditions reports establish that this high prevalence of violence against women, explicitly domestic violence, has continued despite Ecuador’s legal framework aimed at addressing domestic violence[[72]](#footnote-72) and “the lack of investigation of and accountability for violence against women and children” to be a problem.[[73]](#footnote-73) Femicide in Ecuador is on the rise, with 69 femicides reported in 2013 and 97 in 2014[[74]](#footnote-74) followed by 106 in 2019, 118 in 2020[[75]](#footnote-75) and 206 through September 3, 2022. [[76]](#footnote-76) Thus, although the Ecuadorian government has failed to effectively protect Ecuadorian women and enforce its domestic laws, the enactment of laws and programs to protect women from intimate partner violence shows that the Ecuadorian government has recognized that Ecuadorian Women, and Ecuadorian Women in Domestic Relationships are distinct social groups in need of protection.

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

The constant physical torment and sexual and psychological abuse suffered by Ms. S 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.”[[77]](#footnote-77) Persecution may include psychological or emotional harm.[[78]](#footnote-78) All harm must be considered cumulatively to determine whether it constitutes persecution.[[79]](#footnote-79) Furthermore, “[p]rivate acts” may constitute persecution where the government “is unable or unwilling to control” the actor.[[80]](#footnote-80) At least “one central reason” for the persecution must be one of the protected grounds.[[81]](#footnote-81)

For nearly fifteen years, Ms. S experienced a pattern of increasingly severe coercive and controlling behavior from her husband, Angelo. 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. Angelo’s routine violence included pushing, severe bruising, rape, forced labor, and social isolation.[[82]](#footnote-82) Considered cumulatively, all of the abuse described above and experienced by Ms. S rises to the level of persecution.

The constant physical torment and sexual and psychological abuse suffered by Ms. S at the hands of her husband plainly falls within the commonly understood definition of persecution.[[83]](#footnote-83) Although not defined in the INA, the Second Circuit has explained that the term “persecution” includes “more than threats to life and freedom, and therefore encompasses a variety of forms of adverse treatment, including non-life-threatening violence and physical abuse, or non-physical forms of harm… In short, persecution is the infliction of suffering or harm upon those who differ on the basis of a protected statutory ground....”[[84]](#footnote-84) Emotional harm alone may constitute persecution even when there is no physical harm.[[85]](#footnote-85) Evidence of physical abuse provides “significant support” for a finding of past persecution.[[86]](#footnote-86) “[R]ape is sufficiently serious to constitute persecution.”[[87]](#footnote-87) “Threats may amount to persecution if they are imminent, concrete, or so menacing as to cause significant actual suffering or harm.”[[88]](#footnote-88) When combined with other persecutory behavior, death threats may rise to the level of past persecution.[[89]](#footnote-89) Domestic violence and sexual violence may constitute persecution.[[90]](#footnote-90)

Ms. S suffered significant abuse. Representative examples include:

* On DAY, after Ms. S again refused to marry Angelo, she locked herself in a room for safety. Angelo broke into the room and dragged her out. He called her a “prostitute” and a “bitch.” He threatened he could do anything he wanted to her. He then violently raped her.
* When Angelo became jealous and suspicious that Ms. S was texting someone on her phone, he grabbed her around her neck and strangled her.
* Angelo repeatedly refused to allow Ms. S to leave their shared home and visit her family, telling her she was his “woman,” and didn’t have the right to spend time with her family.
* When her family visited without Angelo’s permission, Angelo grabbed her arms, shook her, and pushed her against the wall, causing bruising on her arms and pain in the back of her head.
* Angelo forced Ms. S to work in his auto body shop. During the course of her work there, he sprayed an air compressor into her face, which burned; on a separate occasion in the shop, he grabbed a car door and threw it against her, causing bruising and pain on her shoulders and arms.

In light of the foregoing, it is clear why Ms. S lived in constant fear of Angelo. The cumulative effect of these incidents of harm plainly warrants a grant of asylum.

1. **Ms. S Was Persecuted On Account of Her Membership in these Particular Social Groups**

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. S suffered barbaric domestic violence at the hands of Angelo and the direct and circumstantial evidence establish that Ms. S was persecuted by Angelo because she is an Ecuadorian woman and an Ecuadorian woman in a domestic relationship with him.

First, Angelo’s statements and actions demonstrate his intention to harm her based on her membership in these groups. Angelo sought to exert his dominance and power over Ms. S as his “woman” and property. The timing of Angelo abuse is also illustrative: the physical, sexual, and emotional abuse began after Ms. S moved in with him and had a sexual relationship with him, which crystalized their relationship. Some of the most serious beatings and rapes came after she otherwise failed to meet societal expectations of a woman in a relationship or sought to assert her rights in the relationship. For example, when she didn’t have dinner prepared timely, he insulted her and called her “worthless;” when he believed she was texting with another man, he strangled her[[93]](#footnote-93); when she disobeyed his rules and allowed her family to visit their home, he grabbed her arms, shook her, and shoved her against a wall. Ms. S’s affidavit details multiple examples of Angelo raping her. Ms. S never had a consensual sexual relationship with Angelo. When he demanded sexual intercourse and she refused, he blamed her for not giving him pleasure and raped her. On numerous occasions, she locked herself in a room, very clearly indicating that she did not consent to sex. Angelo broke into the room, dragged Ms. S to their shared bedroom, and raped her. When Ms. S refused to marry him, he brutally raped in retaliation. While raping her, he would insult her and hit her body as a means to seal his dominance over her.[[94]](#footnote-94) The escalating abuse following Ms. S’s defiance of the commands of the relationship, whether her defiance was intentional or unintentional, provides additional evidence that Angelo persecuted her because she was a woman and because of his perceived ownership of her.

Further, Angelo’s acts of violence and repression against Ms. S cannot be attributed simply to “personal disputes.” As country conditions demonstrate *infra*, Ms. S suffered this horrific treatment in the context of widely-held norms in Ecuador that impose behavioral obligations on women and permit their male partners to enforce these norms in a violent manner.[[95]](#footnote-95) Angelo went as far as to treat Ms. S as his property and told her he could “do anything he wanted” to her.[[96]](#footnote-96) As the man, he was also justified in his abuse against her by blaming her, as the woman, for failing to abide by his demands. Even if Angelo did have personal motivations in the sense that he was angry that Ms. S disobeyed his wishes by not having dinner prepared on time or refusing to engage in a sexual relationship, the reason he attacked her is because such attacks are deemed permissible by Ecuadorian society.

It is clear that Angelo subscribes to *machismo* culture and views Ms. S as inferior to him and as his property. Angelo has demonstrated this in his repeated use of violence against Ms. S. Angelo expected her to behave as if she were his property. He controlled and dominated every aspect of her life: her schedule, her whereabouts, her faith, her family, her finances, and her sexuality. When she refused his demands she marry him, 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. S has been a victim of gender-based violence, corroborating the pervasiveness of this pandemic in Ecuador. Before her horrific experience with Angelo, Ms. S was attacked by a stranger on the street because he viewed her a woman in Ecuador and because he knew he could do so with impunity.[[97]](#footnote-97)

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.[[98]](#footnote-98) 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.[[99]](#footnote-99) The Board has explicitly held that societal context is critical for evaluating nexus in cases of domestic violence.[[100]](#footnote-100) The significant country conditions evidence in the record documents that violence against women is fully accepted and considered normal in Ecuadorian society. In both urban and rural Ecuador, it is common for victims to deny the harms done to them by uttering the common expression, “He’s my husband,” normalizing the violence against women endemic in the country.[[101]](#footnote-101) Women’s own families often contribute to this problem by telling women (largely due to their own religious beliefs) that they should stay with their abusers, accept their situations and change their attitudes towards their husbands.[[102]](#footnote-102) Ecuador’s legal system encourages this violence by locating most Gender Violence Judicial Units in urban areas, making it extremely difficult for rural victims, like Ms. S, to file complaints.[[103]](#footnote-103) The legal system also contributes to the country’s normalization of violence against women by not punishing abusers who have been reported and then simply fail to show up for trial.[[104]](#footnote-104) Further exacerbating the problem is the fact a large part of Ecuadorian society views violence against women as “a private matter of the home rather than a grave human rights violation,” making it very difficult for abused women to seek the help and support they need.[[105]](#footnote-105)

Ms. S has clearly provided both direct and circumstantial evidence showing that her particular social groups are at least one central reason for the persecution inflicted upon her by Angelo, 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).[[106]](#footnote-106) 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 Angelo that Ecuadorian society, including the government, tolerates and even encourages such abhorrent acts. This circumstantial evidence further demonstrates that Ms. S’s persecution was on account of her group memberships and that Angelo 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 Ecuadorian Government was Unwilling or Unable to Protect Ms. S**

“[P]ersecution can certainly be found when the government, although not conducting the persecution, is unable or unwilling to control it.”[[107]](#footnote-107) 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.”[[108]](#footnote-108) Due to *machismo* and sexist cultural norms, the government of Ecuador has been unable or unwilling to protect women in Ms. S’s particular social group from persecution, including physical beatings, rape, and death threats.

Consistent with Matter of A-R-C-G, this Court should look at whether the Ecuadorian Government was “unwilling or unable” to protect Ms. S.[[109]](#footnote-109) There is no doubt that the Ecuadorian government’s refusal to protect women exceeds mere ineffectiveness.[[110]](#footnote-110) As detailed extensively in the annotated table of contents referencing multiple country conditions reports, voluminous evidence establishes a fundamental inability and unwillingness of the Ecuadorian government to meaningfully implement laws to prevent the beating, rape, and murder of Ecuadorian women, particularly those in domestic relationships and who refuse to be subservient or otherwise conform to societal expectations of women.[[111]](#footnote-111) The fact that there may or may not be laws to protect women from femicide, 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 Ecuador in spite of such laws and indicates that this form of violence is a serious, growing, and pervasive problem.[[112]](#footnote-112) There was a sharp increase in femicides in 2021 over the preceding six-year period.[[113]](#footnote-113)

The lack of protection provided to Ms. S 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.”[[114]](#footnote-114) 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 Ecuador. The Report confirms that Ecuador’s judicial system faced many challenges: While Ecuador’s constitution “provides for an independent judiciary, outside pressure and corruption impaired the judicial process.”[[115]](#footnote-115)

In Ecuador, nearly 65 percent of women have been victims of some form of violence in their lives.[[116]](#footnote-116) Further, Ecuador is among the countries in South America with the highest rates of femicide.[[117]](#footnote-117) Despite this staggering number and chronic problem, “domestic violence, including physical, sexual, and psychological abuse, is still considered a private matter and not an issue of public concern in most parts of the country.”[[118]](#footnote-118) It is exactly this “persistence of gender discriminatory and stereotyped attitudes and behavior, deeply rooted patriarchal and ‘machista’ social norms, the normalization of violence, and the social stigma attached to reporting violence,”[[119]](#footnote-119) that leads to insufficient resources, legislations, and complete lack of the enforcement of laws to protect women like Ms. S from violence.

It exactly because of this cultural acceptance of violence against women that Ms. S did not report Angelo’s abuse to the police. Since childhood, when she was attacked on the street by a sexual predator and her parents did not call the police, she has been taught that reporting violence is useless and “silence and inaction are motivated partly by the sense of impunity, the belief that criminal charges will not be effective and the aggressor will be free to return home.”[[120]](#footnote-120) Further, as a woman, Ms. S was taught the expression, “’he’s my husband….[which] implies the justification of the behavior of the men. Violence is naturalized.”[[121]](#footnote-121) As such, throughout her relationship with Angelo, she didn’t report him because she knew that the police would not see the domestic violence as a crime, but only as a “matter of the couple.”[[122]](#footnote-122) NGOs working in Ecuador have confirmed women face discrimination in judicial proceedings, “namely, in reporting and filing charges in cases of alleged sexual abuse.”[[123]](#footnote-123) Both her own experience and the numerous reports in the media shows that there is no protection from the authorities for victims of sexual and domestic violence. It is therefore unsurprising that women, like Ms. S, generally do not report violence or abuse.

Not only is gender-based violence widespread in Ecuador, onerous reporting requirements impede timely access to medical services and create obstacles for women and girls seeking post-violence care, as rape victims “must file a complaint at the Public Prosecutor’s Office and submit to gynecological evaluations akin to rape kits administered by medical experts.”[[124]](#footnote-124) Due to this and fear of retribution from their abusers and social stigma, many women opt to forego reporting sexual violence as a result.[[125]](#footnote-125) Women additionally underreport incidents of violence against them in large part because it is difficult to have their cases taken seriously, documented and investigated by the police. This is shown by the fact that, when “intimate partner sexual abuse is reported, it is less likely to result in prosecution and conviction than assault by a stranger.”[[126]](#footnote-126)

According to recent studies discussed *supra*, the government’s response to sexual and gender-based violence remains insufficient. These results indicate how law enforcement officials are compromised to curb the violent excesses of Ecuador’s deep-rooted macho culture. The laws in place have failed to change societal norms and have been an ineffective tool for dealing with gender-based violence and harassment.[[127]](#footnote-127) Like many countries, Ecuador has laws to protect women, but they tend to exist on paper only.[[128]](#footnote-128) Further, although the Ecuadorian Government has enacted some laws intended to protect victims of domestic violence, it has done little to implement the laws and prosecute those responsible.[[129]](#footnote-129) Recent events call into question the willingness of the government as a whole to protect women from violence. But even if 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 (though counsel does not concede), the record undoubtedly demonstrates the inability of the government to protect women, including Ms. S.

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

There is no question that Ms. S’s fear of future persecution is well-founded. As an initial matter, because Ms. S has established that she suffered past persecution, she is entitled to a *presumption* of well-founded fear of future persecution.[[130]](#footnote-130) 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. S no longer has a well-founded fear of persecution; or (2) Ms. S could avoid future persecution by relocating within Ecuador, and that it is reasonable under all circumstances to expect her to do so.[[131]](#footnote-131) The government cannot establish either of these conditions.

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

The government cannot demonstrate a fundamental change in the circumstances in Ecuador. As discussed *supra,* Ecuadorian Women and Ecuadorian Women in Domestic Relationships 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. S is not any safer than the day she left Ecuador.

Country conditions evidence indicates that persecution against women is entrenched in Ecuador.[[132]](#footnote-132) Recent news reports indicate that Ms. S would continue to face extreme danger should she return to Ecuador, in the form of being harmed or killed. The BBC reported in September of this year that femicide is on the rise in Ecuador and continues to be a pervasive problem, with 206 women killed by September 3, 2022.[[133]](#footnote-133) According to the Aldea Foundation, an organization that tracks femicides in Ecuador, the government dramatically undercounts femicides and the official figures are far too low.[[134]](#footnote-134) Further, the UN estimates that 65% of Ecuadorian women experience gender-based violence in their lifetimes.[[135]](#footnote-135)

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

For individuals like Ms. S persecuted by non-governmental actors, relocation alternatives must be both safe *and* reasonable in light of all circumstances.[[136]](#footnote-136) 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. S would be neither safe nor reasonable and the record makes clear that Ms. S could not safely escape Angelo were she to relocate in Ecuador. Ms. S’s fears that Angelo will track her down are all supported by country conditions evidence, since Ecuador’s criminal justice system turns a blind eye to violence against women.[[137]](#footnote-137)

Even if Ms. S would be safe from her abuser somewhere else in Ecuador (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.[[138]](#footnote-138) It is extremely difficult, if not impossible, for Ecuadorian women to relocate to an area without family support and employment. Relocating to another part of the country is not viable because Ms. S would need to have a job to support herself which she does not have. Moreover, the situation in Ecuador deteriorated considerably during the Covid-19 pandemic for women and femicides in Ecuador have increased, with 106 femicides reported in 2019, 118 in 2020[[139]](#footnote-139) and 206 through September 3, 2022. [[140]](#footnote-140)

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

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

Even without the presumption, Ms. S has a well-founded fear of future persecution if returned to Ecuador. 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).[[141]](#footnote-141) 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.[[142]](#footnote-142) 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.[[143]](#footnote-143) Even a 10% chance of persecution on a protected ground is enough to meet this burden.[[144]](#footnote-144) Should Ms. S return to Ecuador, her fear of future persecution is well-founded – she has more than the requisite 10% chance of persecution.[[145]](#footnote-145)

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

Ms. S has a genuine fear of persecution if she is forced to return to Ecuador. She is terrified that Angelo 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, which Angelo would view as a challenge to his masculinity and patriarchal authority. She knows what he is capable of, and her fear that he will find and harm or kill is very real.

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

Her fear is objectively reasonable. Women in Ecuador 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 a “lack of investigation of and accountability for violence against women” continues to be a serious problem.[[146]](#footnote-146) Further, victims of domestic and sexual violence in Ecuador frequently do not report their abusers as the process of reporting sexual violence is traumatic. Victims of sexual assault are required to file a complaint at a Public Prosecutor’s Office and then undergo a thorough physical gynecological examination.[[147]](#footnote-147) Many local officials also discourage victims from reporting their abusers and many victims decline to press charges due to fears of retribution and social stigma.[[148]](#footnote-148) Ms. S’s fear of return to Ecuador is grounded in reality. The extensive documentation in support of her asylum claim and her own testimony are “credible, specific and detailed evidence that a reasonable person in her position would fear persecution.”[[149]](#footnote-149)

In short, Ecuador is a country that is dangerous for women, merely because they are women and their homes have become one of the most dangerous places.[[150]](#footnote-150) Accordingly, because Ms. S has demonstrated she fled Ecuador both because of her past persecution and because of her well-founded fear of future persecution, she meets this criterion for asylum.

1. **Ms. S 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.[[151]](#footnote-151)

1. **Ms. S 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.”[[152]](#footnote-152) Certainly being repeatedly raped and beaten for more than one decade qualifies as “more than the usual amount of ill-treatment.”[[153]](#footnote-153) Further, as a result of this severe and sustained violence, Ms. S continues to experience multiple symptoms of Post-Traumatic Stress Disorder (“PTSD”). The symptoms include: unwanted memories, avoidance, extreme fear of men, loss of interest in activities she used to enjoy, difficulty sleeping, and vivid nightmares.[[154]](#footnote-154)

Taking into consideration relevant factors, such as the extremely violently nature of the abuse and the resulting psychological harm, the standard for humanitarian asylum based on the severity of past persecution is met here.[[155]](#footnote-155)

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

There is also a reasonable possibility that Ms. S will suffer “other serious harm” if she is forced to return to Ecuador. Other serious harm is a “specific, additional, and separate avenue for relief.”[[156]](#footnote-156) No nexus between the “other serious harm” and an asylum ground protected under the Act need be shown.[[157]](#footnote-157) Country conditions, including “serious ongoing human rights abuses,” which, as discussed above, are prevalent in Ecuador, are possible harms warranting humanitarian asylum.[[158]](#footnote-158)

If returned to Ecuador, Ms. S will be at heightened risk for violence, including physical violence, rape, or sexual exploitation, because Ms. S offended Angelo’s sense of *machismo* by leaving him and fleeing to the United States. In addition, returning to Ecuador will exacerbate Ms. S’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. S 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.”[[159]](#footnote-159) Ms. S has never committed, been charged with, or convicted of a crime, in the United States or elsewhere in the world. Ms. S 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. S’s case.[[160]](#footnote-160) Ms. S has demonstrated past persecution and the inability and unwillingness of the Ecuadorian government to protect her. There are no negative factors in this case that should be balanced against a grant of asylum. Ms. S meets all of the requirements for asylum and the Court should exercise its discretion favorably, granting her application in this matter.

1. **Ms. S 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.[[161]](#footnote-161) 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.”[[162]](#footnote-162)

Ms. S 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 groups “Ecuadorian Women,” and “Ecuadorian 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. S, along with the extensive and credible country conditions evidence, together meet the higher threshold for the likelihood of future harm that will befall Ms. S if returned. Accordingly, Ms. S is entitled to withholding of removal.

1. **Ms. S 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.[[163]](#footnote-163) The harm Ms. S fears if returned to Ecuador meets the definition of torture.[[164]](#footnote-164) Rapes, beatings, and mental suffering like that Ms. S has already experienced and that she fears will be her fate if returned have been recognized as forms of torture.[[165]](#footnote-165)

The likelihood that Ms. S will face these acts of torture if removed to Ecuador surpasses the “more likely than not” threshold. The record contains substantial evidence of Ms. S’s past torture, as well as relevant country conditions information, all of which must be considered in assessing the likelihood of future torture.[[166]](#footnote-166) The record evidence describes her husband’s brutality and shows he could potentially kill her. The evidence documenting widespread abuse and murder of women in Ecuador reinforces the likelihood she will be tortured upon return. The Ecuadorian government will consent or acquiesce in Ms. S’s husband’s likely torture. 8 C.F.R. § 1208.18(a)(1). As discussed at length above, Ecuadorian authorities consistently refuse to offer any meaningful protection to women like Ms. S. The ineffectiveness of legal protections for women in Ecuador manifests in more than individual injustices. Rather, the record definitively shows that it serves as *de facto* encouragement for the violence.[[167]](#footnote-167) Under Second Circuit law, this is tantamount to acquiescence under the CAT.[[168]](#footnote-168) Based on the foregoing, Ms. S has established her entitlement to CAT relief.

1. **CONCLUSION**

Ms. S and her children, E and A, 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 membership in the particular social groups defined as Ecuadorian women and Ecuadorian 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. S is likely to face if she is forced to return to Ecuador also qualify her for withholding of removal under INA § 241(b)(3) and protection under the UN Convention Against Torture.

Date:

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

Deirdre Stradone

Sanctuary for Families

30 Wall Street, 8th Floor

New York, NY 10005

Pro Bono Counsel

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**IMMIGRATION COURT**

**201 VARICK STREET**

**NEW YORK, NEW YORK 10014**

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In the Matter of: )

)

**Ms. S**  ) **File No.**

**E**  )

**A )**

Respondents )

)

In Removal Proceedings )

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**Immigration Judge: Next Hearing:**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on DATE, I, Name, delivered by e-service a copy of the attached foregoing Memorandum of Law in the above-referenced motion on:

U.S. Department of Homeland Security

ICE Office of the Chief Counsel

26 Federal Plaza, 11th Floor

New York, NY 10278

Date: By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Esq.

1. Volume I, Exhibit A, Affidavit of Ms. S, ¶ 1. [↑](#footnote-ref-1)
2. Id. at 17. [↑](#footnote-ref-2)
3. Id. at 18. [↑](#footnote-ref-3)
4. Id. at 24. [↑](#footnote-ref-4)
5. Id. at 24. [↑](#footnote-ref-5)
6. Id. at 20. [↑](#footnote-ref-6)
7. Id. at 23. [↑](#footnote-ref-7)
8. Id. at 24. [↑](#footnote-ref-8)
9. Id. at 47 and 26. [↑](#footnote-ref-9)
10. Id. at 32. [↑](#footnote-ref-10)
11. Id. at 49. [↑](#footnote-ref-11)
12. Id. at 25. [↑](#footnote-ref-12)
13. Id. at 26. [↑](#footnote-ref-13)
14. Id. at 30. [↑](#footnote-ref-14)
15. Id. at 30. [↑](#footnote-ref-15)
16. Id. at 33-34. [↑](#footnote-ref-16)
17. Id. at 34-35. [↑](#footnote-ref-17)
18. Id. at 35. [↑](#footnote-ref-18)
19. Id. at 36. [↑](#footnote-ref-19)
20. Id. at 36. [↑](#footnote-ref-20)
21. Id. at 42. [↑](#footnote-ref-21)
22. Id. at 39. [↑](#footnote-ref-22)
23. Id. at 39. [↑](#footnote-ref-23)
24. Id. at 44. [↑](#footnote-ref-24)
25. Id. at 44. [↑](#footnote-ref-25)
26. Id. at 45. [↑](#footnote-ref-26)
27. Id. at 46. [↑](#footnote-ref-27)
28. Id. at 42. [↑](#footnote-ref-28)
29. Id. at 42. [↑](#footnote-ref-29)
30. Id. at 43. [↑](#footnote-ref-30)
31. Id. at 43. [↑](#footnote-ref-31)
32. Id. at 43. [↑](#footnote-ref-32)
33. Id. at 36 and 47. [↑](#footnote-ref-33)
34. Id. at 48. [↑](#footnote-ref-34)
35. Id. at 49. [↑](#footnote-ref-35)
36. Id. at 50. [↑](#footnote-ref-36)
37. Id. at 52. [↑](#footnote-ref-37)
38. Id. at 54. [↑](#footnote-ref-38)
39. Id. at 54. [↑](#footnote-ref-39)
40. Id. at 54. [↑](#footnote-ref-40)
41. Id. at 57. [↑](#footnote-ref-41)
42. Id. at 57. [↑](#footnote-ref-42)
43. SeeGuan Shan Liao v. US Dep’t of Justice, 293 F.3d 61, 66 (2d Cir. 2002). [↑](#footnote-ref-43)
44. 8 U.S.C. 1158(b)(1)(B)(iii). [↑](#footnote-ref-44)
45. Matter of Acosta. 19 I&N Dec. 211 (BIA 1985). [↑](#footnote-ref-45)
46. Matter of A-R-C-G, 26 I&N Dec. 388 (BIA 2014). [↑](#footnote-ref-46)
47. Matter of A-R-C-G, 26 I&N Dec. 388, 388 (BIA 2014). [↑](#footnote-ref-47)
48. 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-48)
49. SeeVol. II, Exhibit. I, 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-49)
50. While the decisions are not precedential, the reasoning in those decisions is persuasive and are helpful in the adjudication of Ms. S’s case. [↑](#footnote-ref-50)
51. Exhibit A, Affidavit of Ms. S, ¶ 32, 42 and 43. [↑](#footnote-ref-51)
52. See, e.g., Santiago Boira et al., *Intimate Partner Violence and Femicide in Ecuador*, Qualitative Sociology Review (July 2017)(Vol II., Ex. Z)( “The response of the families and neighbors is ambivalence, and, on occasion, they place the blame on the victim. In the case of the family, participants commented that relatives usually encouraged women to stay in the relationship (for religious reasons, to maintain the family unit, for the good of the children, etc.), arguing that the victim should change her attitudes towards her husband and accept her situation.” Page [37].”) [↑](#footnote-ref-52)
53. See, e.g*.*, Verónica Pinos et al., Perception of gender stereotypes, machismo and marianismo in Ecuadorian adolescents: A focus group study, MASKANA, Vol. 7, No. 2, 2016, ¶ 18. [↑](#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. Matter of W-G-R-, 26 I&N Dec. 208,214 (BIA 2014). [↑](#footnote-ref-56)
57. Matter of M-E-V-G-, 26 I&N Dec. 277, 239 (BIA 2014). [↑](#footnote-ref-57)
58. Matter of A-R-C-G, 26 I&N Dec. 388, 393. [↑](#footnote-ref-58)
59. Id. (citing Matter of W-G-R-, 26 I&N Dec. at 214). [↑](#footnote-ref-59)
60. Id. at 393. [↑](#footnote-ref-60)
61. 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-61)
62. 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-62)
63. Id. [↑](#footnote-ref-63)
64. Matter of W-G-R-, 26 I&N Dec. 208, 217 (BIA 2014). [↑](#footnote-ref-64)
65. Matter of W-G-R-, 26 I&N Dec. at 586-587. [↑](#footnote-ref-65)
66. 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-66)
67. Matter of A-R-C-G, 26 I&N Dec. at 393. [↑](#footnote-ref-67)
68. Id. at 394. [↑](#footnote-ref-68)
69. Vol. II, Exhibit LL, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [1]. [↑](#footnote-ref-69)
70. Id. at [23]. [↑](#footnote-ref-70)
71. Id. [↑](#footnote-ref-71)
72. Vol. II, Country Conditions and Annotated Index. [↑](#footnote-ref-72)
73. Vol. II, Exhibit LL, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022). [↑](#footnote-ref-73)
74. Vol. II, Exhibit Z, Santiago Boira et al., Intimate Partner Violence and Femicide in Ecuador, Qualitative Sociology Review, July 2017, p. [32]. [↑](#footnote-ref-74)
75. Vol. II, Exhibit LL, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [23]. [↑](#footnote-ref-75)
76. Vol. II, Exhibit T, James FitzGerald, María Belén Bernal: Ecuadorian authorities find body of missing lawyer, BBC News (September 22, 2022). [↑](#footnote-ref-76)
77. Ivanishvili v. U.S. Dep’t of Justice, 433 F.3d 332, 342 (2d Cir. 2006). [↑](#footnote-ref-77)
78. 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-78)
79. See, e.g*.,* Korablina v. INS, 158 F.3d 1038, 1044 (9th Cir. 1998). [↑](#footnote-ref-79)
80. Pan v. Holder, 777 F.3d 540, 543-44 (2d Cir. 2015). [↑](#footnote-ref-80)
81. INA § 208(b)(1)(B)(i); Matter of J-B-N- & S-M-, 24 I&N Dec. 208, 211 (BIA 2007). [↑](#footnote-ref-81)
82. Exhibit A, Affidavit of Ms. S, ¶ 24, 28, 30, 31, 32, 42, 47 and 49. [↑](#footnote-ref-82)
83. See alsoU.N. High Commissioner for Refugees, Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, U.N. Doc. HCR/GIP/02/01 at ¶ 9 (May 7, 2002) (recognizing domestic violence against women as a form of persecution). [↑](#footnote-ref-83)
84. Manzur v. U.S. Dep’t of Homeland Sec., 494 F.3d 281, 288 (2d Cir. 2007) (quoting Ivanishvili v. U.S. Dep’t of Justice, 433 F.3d 332, 341 (2d Cir. 2006)). [↑](#footnote-ref-84)
85. Matter of A-K-, 24 I&N Dec. 275, 278 (B.I.A. 2007). [↑](#footnote-ref-85)
86. SeeRizal v. Gonzales, 442 F.3d 84, 92 (2d Cir. 2006); see alsoJanjua v. Lynch, 13-113 NAC, 620 Fed. App’x 21, 24 (2d Cir. July 1, 2015) (adjudicators must “be keenly sensitive to the fact that a ‘minor beating’ or, for that matter, any physical degradation designed to cause pain, humiliation, or other suffering may rise to the level of persecution”). [↑](#footnote-ref-86)
87. Mei Fun Wong v. Holder, 633 F.3d 64, 76 (2d Cir. 2011) (internal quotations omitted). [↑](#footnote-ref-87)
88. Ci Pan v. U.S. Att’y Gen, 449 F.3d 408, 314 (2d. Cir. 2006) [↑](#footnote-ref-88)
89. SeeGashi v. Holder, 702 F.3d 130, 138 (2d Cir. 2012) (an applicant suffered past persecution when he was “repeatedly warned, threatened with death, and attacked with deadly weapons including a knife and a metal knob”). [↑](#footnote-ref-89)
90. SeeMatter of R-A-, 22 I & N Dec. 906 (BIA 1999). [↑](#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. See Volume II, Ex. Z Santiago Boira et al., *Intimate Partner Violence and Femicide in Ecuador*, Qualitative Sociology Review (July 2017)(“Jealousy and infidelity are also given as excuses for violent behavior, and, as in other situations, patriarchal attitudes are dominant and used by men to justify their actions.”) [↑](#footnote-ref-93)
94. Exhibit A, Affidavit of Ms. S, ¶ 32. [↑](#footnote-ref-94)
95. 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-95)
96. Exhibit A, Affidavit of Ms. S, ¶ 32. [↑](#footnote-ref-96)
97. Exhibit A, Affidavit of Ms. S, ¶ 12. [↑](#footnote-ref-97)
98. 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-98)
99. SeeU.S. Citizenship and Immigration Services., Nexus and the Protected Groundsat 19 (2012); U.S. Citizenship and Immigration Services., 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-99)
100. 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-100)
101. Vol. II, Exhibit Z, Santiago Boira et al., Intimate Partner Violence and Femicide in Ecuador, Qualitative Sociology Review (July 2017), p. [35]. [↑](#footnote-ref-101)
102. Id. at [37]. [↑](#footnote-ref-102)
103. Id. at [40]. [↑](#footnote-ref-103)
104. Id. at [41]. [↑](#footnote-ref-104)
105. Vol. II, Exhibit X, Santiago Boira et al., Sexual Violence Against Women in Ecuador: An Overview from the Rural and Indigenous Areas of Imbabura, Anthropological Researches and Studies (April 2021), p. [2]. [↑](#footnote-ref-105)
106. Matter of A-B-, 28 I&N Dec. 199 (A.G. 2021). [↑](#footnote-ref-106)
107. 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-107)
108. Ivanishvili v. US. Department of Justice, 433 F.3d at 342 (2d. Cir. 2006). [↑](#footnote-ref-108)
109. 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-109)
110. Vol. II, Country Conditions and Annotated Index. [↑](#footnote-ref-110)
111. Vol. II, Country Conditions and Annotated Index. [↑](#footnote-ref-111)
112. Vol. II, Exhibit R, Agence France-Presse, Hundreds of women protest femicide in Ecuador, France 24 (October 2, 2022). [↑](#footnote-ref-112)
113. Id. [↑](#footnote-ref-113)
114. Tambadou v. Gonzales, 446 F.3d 298, 302 (2d Cir. 2006) (internal citations omitted). [↑](#footnote-ref-114)
115. Vol. II, Exhibit L, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [9]. [↑](#footnote-ref-115)
116. Vol. II, Exhibit O, U.N. Human Rights Council, Visit to Ecuador: Report of the Special Rapporteur on violence against women its causes and consequences, A/HRC/44/52/Add.2 (May 22, 2020) p. [11]. [↑](#footnote-ref-116)
117. Vol. II, Exhibit Q, Arístides A. Vara-Horna, *The country costs of violence against women in Ecuador*, Deutsche Gesellschaft für Internationale Zusammenarbeit (September 2020). [↑](#footnote-ref-117)
118. Vol. II, Exhibit O, U.N. Human Rights Council, Visit to Ecuador: Report of the Special Rapporteur on violence against women its causes and consequences, A/HRC/44/52/Add.2 (May 22, 2020) p. [11]. [↑](#footnote-ref-118)
119. Id. At [3]. [↑](#footnote-ref-119)
120. Volume II, Exhibit Z, Santiago Boira et al., *Intimate Partner Violence and Femicide in Ecuador*, Qualitative Sociology Review (July 2017), p. [44] [↑](#footnote-ref-120)
121. Id. at [35] [↑](#footnote-ref-121)
122. Exhibit A, Affidavit of Ms. S, ¶ 52. [↑](#footnote-ref-122)
123. Vol. II, Exhibit L, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [26]. [↑](#footnote-ref-123)
124. Vol. II, Exhibit M, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2020 (Mar. 30, 2021), p. [24]. [↑](#footnote-ref-124)
125. Id. [↑](#footnote-ref-125)
126. Vol. II, Exhibit O, U.N. Human Rights Council, Visit to Ecuador: Report of the Special Rapporteur on violence against women its causes and consequences, A/HRC/44/52/Add.2 (May 22, 2020) p. [11]. [↑](#footnote-ref-126)
127. Vol. II, Exhibit Z, Santiago Boira et al., Intimate Partner Violence and Femicide in Ecuador, Qualitative Sociology Review (July 2017), p. [40-41]. [↑](#footnote-ref-127)
128. Vol. II, Exhibit L, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [24]. [↑](#footnote-ref-128)
129. Vol. II, Exhibit Z, Santiago Boira et al., Intimate Partner Violence and Femicide in Ecuador, Qualitative Sociology Review (July 2017), p. [41]. [↑](#footnote-ref-129)
130. SeeAliyev v. Mukasey, 549 F.3d 111, 118-19 (2d. Cir. 2008). [↑](#footnote-ref-130)
131. 8 C.F.R. § 1208.13(b)(1)(i). [↑](#footnote-ref-131)
132. SeeSection III.A. above; see also Vol. II, Country Conditions Reports and Annotated Index. [↑](#footnote-ref-132)
133. Vol. II, Exhibit T, James FitzGerald, María Belén Bernal: Ecuadorian authorities find body of missing lawyer, BBC News (September 22, 2022). [↑](#footnote-ref-133)
134. Vol. II, Exhibit U, Lara Owen et al., Femicide detectives: 'Counting bodies is the best place to start', BBC News (March 8, 2022). [↑](#footnote-ref-134)
135. Vol. II, Exhibit T, James FitzGerald, María Belén Bernal: Ecuadorian authorities find body of missing lawyer, BBC News (September 22, 2022). [↑](#footnote-ref-135)
136. 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-136)
137. Vol. II, Exhibit U, Lara Owen et al., Femicide detectives: 'Counting bodies is the best place to start', BBC News (March 8, 2022). [↑](#footnote-ref-137)
138. 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-138)
139. Vol. II, Exhibit L, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [23]. [↑](#footnote-ref-139)
140. Vol. II, Exhibit T, James FitzGerald, María Belén Bernal: Ecuadorian authorities find body of missing lawyer, BBC News (September 22, 2022). [↑](#footnote-ref-140)
141. See INS v. Cardoza-Fonseca, 480 U.S. 421 (1987); Ramsameachire v. Ashcroft, 357 F. 3d 169, 178 (2d Cir. 2004). [↑](#footnote-ref-141)
142. Id.; Matter of Mogharrabi, 19 I. & N. Dec. 439, 445 (BIA 1987). [↑](#footnote-ref-142)
143. Abankwah v. INS, 185 F.3d 18, 22 (2d Cir. 1999); Matter of Mogharrabi, 19 I. & N. Dec. 439, 445 (BIA 1987). [↑](#footnote-ref-143)
144. 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-144)
145. Diallo v. INS, 232 F.3d 279, 284 (2d Cir. 2000); see also Cardoza-Fonseca, 480 U.S. at 431. [↑](#footnote-ref-145)
146. Vol. II, Exhibit L, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [1]. [↑](#footnote-ref-146)
147. Vol. II, Exhibit L, U.S. Department of State, Bureau of Democracy, H.R. and Lab., Human Rights Country Report: Ecuador 2021 (Apr. 12, 2022), p. [24]. [↑](#footnote-ref-147)
148. Id. [↑](#footnote-ref-148)
149. Abankwah, 185 F.3d at 22; Mogharrabi, 19 I. & N. Dec. at 445. [↑](#footnote-ref-149)
150. Vol. II, Exhibit T, James FitzGerald, María Belén Bernal: Ecuadorian authorities find body of missing lawyer, BBC News (September 22, 2022). [↑](#footnote-ref-150)
151. 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-151)
152. Omaro Jalloh v. Gonzales, 498 F.3d 148, 152 (2d Cir. 2007); 8 C.F.R. 1208.13(b)(1)(iii)(A). [↑](#footnote-ref-152)
153. Matter of Chen, 20 I&N Dec. 16, 21 (B.I.A. 1989). [↑](#footnote-ref-153)
154. Volume I, Exhibit D. Affidavit of Cinthia Prieto, MSW. [↑](#footnote-ref-154)
155. See*,* Matter of L-S-, 25 I&N Dec. 705, 715 (B.I.A. 2012) (explaining relevant considerations for assessing severity). [↑](#footnote-ref-155)
156. 8 C.F.R. § 1208.13(b)(1)(i)(B). [↑](#footnote-ref-156)
157. Matter of L-S*-*, 25 I&N Dec. 705, 715 (BIA 2012). [↑](#footnote-ref-157)
158. Id*.* at 715. [↑](#footnote-ref-158)
159. Seestatutory exclusions at 8 U.S.C. § 1158(b)(2)(A); 8 C.F.R. § 1208.13(c)(1). [↑](#footnote-ref-159)
160. SeeMatter of Pula, 19 I&N Dec. 467 (B.I.A. 1987). [↑](#footnote-ref-160)
161. 8 U.S.C. § 1231(b)(3). [↑](#footnote-ref-161)
162. Chun Gao v. Gonzales, 424 F.3d 122, 129 (2d Cir. 2005). [↑](#footnote-ref-162)
163. 8 C.F.R.§ 1208.18(a)(1). [↑](#footnote-ref-163)
164. Id. (defining torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person”). [↑](#footnote-ref-164)
165. 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-165)
166. 8 C.F.R. § 1208.16(c)(3). [↑](#footnote-ref-166)
167. See Vol. II, Country Conditions and Annotated Index. [↑](#footnote-ref-167)
168. 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-168)