

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
26 FEDERAL PLAZA
NEW YORK, NEW YORK

File Nos.: A [REDACTED]
A [REDACTED]

In the Matters of:

[REDACTED]
[REDACTED]

The respondents.

IN REMOVAL PROCEEDINGS

CHARGE: INA § 212(a)(7)(A)(i) Not in Possession of Valid Entry Document

APPLICATIONS: INA § 208 Asylum
INA § 241(b)(3) Withholding of Removal
8 C.F.R. § 1208.16(c) Convention Against Torture

ON BEHALF OF THE RESPONDENT

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ON BEHALF OF DHS

[REDACTED]

DECISION AND ORDER OF THE IMMIGRATION JUDGE

I. PROCEDURAL HISTORY

[REDACTED] (the lead “respondent”) and [REDACTED] (the minor “respondent” or “[REDACTED]”) are natives and citizens of Guatemala. [Exhs. 1A, 1B]. They applied for admission to the United States at the [REDACTED] Port of entry on [REDACTED]. See *id.* On [REDACTED], the Department of Homeland Security (“DHS” or the “Department”) personally served each of the respondents with a Form I-862, Notice to Appear (“NTA”), charging them with removability pursuant to section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (“INA”), as immigrants who, at the time of application for admission, were not in possession of a valid entry document. *Id.*

On [REDACTED], 2018, the respondents appeared before this Court and, through counsel, acknowledged proper service of the NTAs, admitted the factual allegations contained therein and conceded removability as charged. Removability was therefore established by clear and convincing evidence based on the respondents' admissions and concession. See 8 C.F.R. §§ 1240.8, 1240.10(c). The Court designated Guatemala as the country of removal. See INA § 241(b)(2)(D). As relief from removal, the lead respondent filed a Form I-589, Application for Asylum and Withholding of Removal under the INA ("Form I-589"). [Exh. 2, Tab A]. She also seeks protection under the Convention Against Torture ("CAT"). *Id.* The minor respondent is a derivative on the lead respondent's application.

On [REDACTED] 2019, at a merits hearing before this Court, the lead respondent testified in support of her application. For the reasons that follow, the Court will grant the lead respondent's application for asylum.

II. EXHIBITS

- Exhibit 1A:** NTA for the lead respondent, dated June 4, 2018;
- Exhibit 1B:** NTA for the minor respondent, dated June 4, 2018;
- Exhibit 2:** The lead respondent's Form I-589 and copy of passport, received October 4, 2018;
- Exhibit 3:** The lead respondent's submission, Tabs 1 – 14, received February 22, 2019;
- Exhibit 4:** The lead respondent's submission, Tabs 26 – 48, received April 9, 2019;
- Exhibit 5:** The lead respondent's submission, Tabs 49 – 55, received April 9, 2019;
- Exhibit 6:** The lead respondent's submission, Tabs 14 – 22, received April 9, 2019;
- Exhibit 6A:** The lead respondent's submission, Tabs 24 – 25, received April 2, 2019;
- Exhibit 7:** The lead respondent's submission, Tabs 59 – 67, received April 12, 2019;
- Exhibit 8:** The lead respondent's submission, Tabs 56 – 58, received April 16, 2019;
- Exhibit 9:** The lead respondent's submission, Tab 68, marked April 22, 2019;
- Exhibit 10:** The lead respondent's submission, currency conversion printout, marked April 22, 2019.

III. SUMMARY OF THE CLAIM

The following facts are based on the [REDACTED] 2018 testimony of the lead respondent and one witness before the Court and the documentary evidence submitted in support of the lead respondent's applications for relief. See *Hui Lin Huang v. Holder*, 677 F.3d 130, 137 (2d Cir. 2012) ("[T]he [Immigration Judge ("IJ")] should take pains to make clear what part of his or her determination is fact-finding."). All record evidence has been considered, even if it is not specifically referred to below.

A. [REDACTED]

Dr. [REDACTED] ("Dr. [REDACTED]") has relied on the information provided by the respondents' counsel, including the lead respondent's statement, in forming her opinion for this case. Dr. [REDACTED] is a professor of political science at [REDACTED] in [REDACTED] with her area of expertise in Latin American politics and gender politics. She obtained her PhD from [REDACTED] University in 1985 and has taught at [REDACTED] since [REDACTED]. Her area of research and publishing is Guatemala. She has traveled to Guatemala regularly, approximately once per year, since [REDACTED] both traveling throughout the country and living there for extensive periods of time. She has published books and articles on Guatemalan politics, social movements, and gender. She has extensively researched gendered violence in Guatemala, spoken with representatives of women's organizations, and interviewed women about gendered violence.

Dr. [REDACTED] testified that Guatemala has one law that pertains to the gendered violence evident in the present case. It was passed in approximately 2008 and criminalized femicide, or the murder of women. It was the first law in the country to criminalize violence against women. Dr. [REDACTED] further testified that, while the law is supposedly designed to create various institutions that help adjudicate cases of domestic violence, it does not work. Specifically, Dr. [REDACTED] stated that the law ultimately fails to protect the majority of women in Guatemala from violence. Guatemala remains to have the third highest rate of femicide in the world. While the law is in place, there are not enough government resources made available to enforce it. Lawyers and women's groups in Guatemala argue that the law was put in place for the sake of the country's international reputation. Dr. [REDACTED] does not know exactly how many people have been convicted since the law was enacted, but she stated that over ninety percent are not.

Dr. [REDACTED] testified that Guatemalan society and culture is both patriarchal and "machismo." There is a perception that women are the property of their male partner, even if a couple separates. Men generally view women as their property, even if they have taken on another partner. It is not uncommon for men to have more than one partner and more than one family, in which case he still considers the second woman his property as well. When asked whether alcoholism plays a role in gender-based violence in Guatemala, Dr. [REDACTED] explained that it does, to the extent that sociological research has shown that it does in all societies. However, she stated that it often occurs without alcohol, and that alcohol is sometimes just a factor that exacerbates it. She has never encountered a situation in which alcoholism in Guatemala was the sole factor triggering a domestic violence incident.

When asked on cross-examination about law and institutions put in place to protect women in Guatemala, and specifically about the fact that the lead respondent's former partner was convicted and sentenced to a penalty, she acknowledged that a small number of women have been fortunate enough to have their cases examined. However, she stressed that the system is nonetheless underfinanced and does not help most women affected by gender-based violence. For example, in the instant case, the lead respondent was able to receive orders of protection, but her

¹ The Court certifies Dr. [REDACTED] as an expert witness on the subject of gender-based violence in Guatemala as it finds that she demonstrated "scientific, technical, or other specialized knowledge [that] will assist the trier of fact to understand the evidence or to determine a fact in issue." *Matter of D-R-*, 25 I&N Dec. 445, 458 (BIA 2011) (citing Fed. R. Evid. 702).

former partner violated all of them and continued to threaten her. Dr. ██████ stated that while such orders can be granted, they are generally not enforced. Furthermore, she pointed out that the sentence in the instant case, and many similar cases, was set as five years in prison, but was ultimately commuted to a small fine with no incarceration.

Dr. ██████ also explained that relocation within Guatemala is extremely difficult for women. First, the cost of living, while seemingly low for outsiders and international travelers, is actually very high for Guatemalans. She stated that with savings of approximately 3,000 quetzals, the lead respondent could support herself for perhaps a month. In order to make more money, she must find work in the formal or informal markets. Informal refers, most often, to making something and selling it on the street. Dr. ██████ stated that this is dangerous to women because many towns and cities are infested with gangs, thus, exposing women to violence. In the formal market, most often working in a factory “on the books,” requires identification documents and other information that creates a government record. According to Dr. ██████ this allows for former partners to easily find women that seek to leave them. Dr. ██████ stated Guatemalan society does not really “accept” women living on their own, so it is difficult to find work and accommodations without being asked official or unofficial questions. She further stated that there are extended family, corrupt government, and business networks that use this information to find women. Finally, Dr. ██████ stressed that this is particularly difficult with a child, because child care is not readily available and affordable, so most women, particularly poorer women, rely on their extended families for support. Dr. ██████ concluded there, that while it is not impossible, it is exceedingly difficult for a women in the lead respondent’s position to relocate within Guatemala. She noted that the lead respondent’s partner works for a corrupt mayor and would likely have access to information and networks to find the lead respondent.

When asked on cross-examination whether she had ever recommended that someone visit Guatemala on vacation, Dr. ██████ stated that she has. When asked how this comports with her statement that there is widespread violence and gang-controlled areas, Dr. ██████ explained that there is a significant difference between living somewhere and travelling to certain areas, especially for tourists who are able to afford hotels, resorts, and cars. She reaffirmed that while she would not tell someone not to go, one must be aware and research issues. She additionally stated that a tourist was recently killed in a tourist area, so violence does occur across the board.

B. The lead respondent

The lead respondent began living with her former partner, ██████ (██████) in ██████ 2012, while she was attending school. ██████ did not allow her to go out or see anyone on her own. He did not let her see her parents. He controlled much of her daily life. The lead respondent did not question ██████ orders or behavior in the beginning, because he allowed her to go to school.

The lead respondent became pregnant with their son, the minor respondent, in ██████ 2013. During the first three months of the pregnancy, ██████ was drunk and attempted to force the lead respondent to have an abortion through medication, but he was unable to afford it. The lead respondent did not want to have an abortion. ██████ continued to be verbally abusive to the lead respondent for the next few years. She tried to silently remain in her room, especially when he

drank, because she was afraid he would hit her. █████ allowed the lead respondent to speak with her mother in █████ 2013, just before she was due to give birth. Her mother took her to the hospital when labor began. The lead respondent remained in the hospital for five days and then at her parents' home for two weeks. █████ did not like this, and threatened to legally take the minor respondent away if the lead respondent did not come back to live with him.

The lead respondent eventually began working for a woman who lived in their building, Mrs. █████, because █████'s salary was not enough to support them, since he had another family with another woman. She worked in the kitchen, then sold food in the markets, from morning until eight in the evening, six days per week. She would take the minor respondent, who was still a baby, with her every day. During this period, █████ had sex with the lead respondent without her permission. She told him that she was very tired from working and wanted him to let her rest, but he told her that she was his "wife" and she had to do it as many times as he wanted. In 2014, the lead respondent decided to go to school and continue working. During this year, █████ became jealous and continued his abusive behavior. The lead respondent stated that she thought she was in love with █████ and had difficulty seeing the faults in their relationship. She believed that he was going to buy a house for them. The lead respondent's mother told her that she should leave █████ because he will not amount to anything, but the lead respondent did not think she could live alone with her son.

█████ continued to be controlling and abusive through 2016. He threatened the lead respondent that he would kill her if she tried to leave him. She was very scared and tried to "keep [my head down]." In █████ 2016, she asked █████ if he would buy her a piece of furniture for her clothing. He refused. The lead respondent decided to buy it herself with some of her savings. █████ was angry that she did this, and physically assaulted her, causing her eye to bleed. The lead respondent was afraid to file a lawsuit after this incident. On █████, 2016, █████ saw the lead respondent speaking with a young man in the kitchen where she worked. He became jealous, followed the man outside with a knife, and then pushed the lead respondent against the wall while still holding the knife. The lead respondent was still afraid to go to the police.

On █████, 2016, █████ came to the lead respondent's workplace while drunk. He began beating her severely and she fell to the floor. The lead respondent was afraid that he was going to kill her. She lost consciousness. The minor respondent was there and witnessed this incident. Mrs. █████ came and yelled for █████ to stop because she would call the police. He told her that, if she called the police, he would kill her too, but he left. Mrs. █████ called the police and asked for assistance. The lead respondent woke up, took her son, and locked herself in Mrs. █████'s room. █████ attempted to come back and break the door down, but he was unable to. The lead respondent allowed the doctor, who owned the building, to come in and examine her. He gave her medicine for pain, inflammation, and anxiety because she was in shock.

The police arrived after █████ left. They could not find him, but the lead respondent filed a complaint that day. The following day she went to the Peace Tribunal, and the day after that she was taken by the National Civil Police to the forensic doctor so she could be evaluated. After several days, the lead respondent went back to her parents' home and stayed there for the remainder of her time in Guatemala. She was left with only five quetzals. The court gave her an order of protection, but █████ continued to look for her at her job and threatened to kill her if she went out

with anyone else. On [REDACTED], 2018, shortly before the lead respondent had an appointment with the tribunal that would hear her case, [REDACTED] threatened to kill her if she went to the appointment. The lead respondent was very scared, and did not go. She left Guatemala because she feared that she could not escape from his threats in Guatemala.

The lead respondent testified that, if she were forced to return to Guatemala, she would live with her parents because she has nowhere else to go. She stated that the authorities in Guatemala first told her to try to forgive [REDACTED] because they had a child together. The lead respondent reiterated that [REDACTED] continued to threaten her until she left Guatemala in 2018. He searched for her at work and at her parents' home. He threatened her approximately ten times at her parents' home and approximately three times at her place of work. Each time he threatened to kill her if she did not withdraw her complaint against him.

When asked to explain the process after she filed a complaint, the lead respondent explained that she went to the national police, they officially recorded his attack as an attempt of femicide, and she was evaluated by a forensic doctor. She then went to the "justice of peace," where [REDACTED] presented himself and stated that he wanted to see his son. The judge wanted the lead respondent to go back with [REDACTED] for the sake of their family. [REDACTED] was not convicted of anything at this time. He told the lead respondent after this hearing that he bribed the judge so that she would take it easy on him. The lead respondent then went to the office that helped women with domestic violence as a follow up to try to get some conviction. Then another case was created and both she and [REDACTED] presented themselves in court. [REDACTED] stated that he did not remember what he did to the lead respondent. During the next several months the lead respondent testified that there were other hearings and summonses that she received. [REDACTED] would look for her, find out about the summons, and forbid her from going. She testified that she was very scared of him and did not show up the last few times. [REDACTED] was ultimately convicted and ordered to pay a small fine.

The lead respondent is afraid that she will be beaten, sexually assaulted, and possibly killed by [REDACTED] if she returns to Guatemala. He has not been detained and has been seen by her family as recently as 2019. She is particularly worried because he works for the mayor of their town and therefore has influence with the local government.

IV. LEGAL STANDARDS & ANALYSIS

A. Credibility and Corroboration

In all applications for asylum, the Court must make a threshold determination of the alien's credibility. For asylum applications filed on or after May 11, 2005, such as the lead respondent's, after considering "the totality of the evidence, and all relevant factors," the Court may base a credibility determination on: the demeanor, candor, or responsiveness of the applicant or witness; the inherent plausibility of the account; the consistency between oral and written statements; the internal consistency of such statements; the consistency of such statements with evidence of record; and any inaccuracy or falsehood in such statements, "without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim"; or any other factor. *See* INA § 208(b)(1)(B)(iii); *see also Matter of J-Y-C-*, 24 I&N Dec. 260, 266 (BIA 2007); *Diallo v. U.S. Dep't of Justice*, 548 F.3d 232, 234 n.1 (2d Cir. 2008). Moreover, an alien requesting

asylum bears the evidentiary burden of proof and persuasion in connection with any application under INA § 208. 8 C.F.R. § 1208.13(a).

After considering the totality of the evidence, the Court finds that the lead respondent testified credibly.² She was forthcoming, responsive to questions, and her testimony was internally consistent and overall consistent with her asylum application and evidentiary submissions. Moreover, the respondent adequately corroborated her claim. In support of her application, she submitted a personal statement, affidavits of support, legal documents concerning her experiences in Guatemala, and numerous country condition reports and articles relating to Guatemala. *See* [Exhs. 3 – 10].

Additionally, the Court concludes that Dr. ██████ also testified credibly. Her answers were forthcoming, responsive, and clear. Her testimony was internally consistent and consistent with the documentary evidence in the record.

B. Asylum

1. Statutory Eligibility

To be statutorily eligible for asylum, an applicant bears the burden of establishing that she is a refugee, which requires a showing of past persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. INA §§ 101(a)(42)(A), 208(b)(1)(A); 8 C.F.R. §§ 1208.13, 1240.8(d). If eligibility is established, asylum may be granted in the exercise of discretion. INA § 208(b)(1)(A); *see INS v. Cardoza-Fonseca*, 480 U.S. 421, 423 (1987).

i. Past Persecution

“Persecution” has generally been interpreted to include threats to life, confinement, torture, and economic restrictions so severe that they constitute a threat to life or freedom. *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985). There is no universally accepted definition of “persecution.” When evaluating whether persecution has occurred, the Court must consider events cumulatively. *Poradisova v. Gonzales*, 420 F.3d 70, 79-80 (2d Cir. 2005). The determination of whether mistreatment rises to the level of persecution must be made on a case-by-case basis. *See Matter of C-Y-Z-*, 21 I&N Dec. 915, 924 (BIA 1997) (*abrogated on other grounds by Shi Liang Lin v. U.S. Dep’t of Justice*, 494 F.3d 296, 307 (2d Cir. 2007)).

The Court finds that the harm the lead respondent suffered cumulatively rises to the level of persecution. The lead respondent credibly testified that her ex-partner, ██████, was controlling and physically abusive to her for several years. She testified that he abused her by beating and raping her on multiple occasions, even in front of their son, ██████. The Second Circuit has found that rape and severe physical abuse rise to the level of persecution. *See Balachova v. Mukasey*, 547 F.3d 374, 386-87 (2d Cir. 2008) (“[w]e have no doubt that rape is sufficiently serious to

² The Court notes that the Department stipulated to the facts contained in the lead respondent’s statement, and her in-court testimony was given to explain some of the details regarding the process of her legal case in Guatemala and her fear of return. The Department stated in closing that it did not find the instant case to have any questions of fact.

constitute persecution”). While each solitary incident may not rise to the level of persecution, the Court finds them to be significant when analyzed “in light of the *context* in which the harm occurred.” *Manzur v. U.S. Dep’t of Homeland Sec.*, 494 F.3d 281, 290 (2d Cir. 2007) (quoting *Uwais v. U.S. Att’y Gen.*, 478 F.3d 513, 517 (2d Cir.2007) (emphasis added)). The Court finds that the mental, physical, and sexual abuse to which the lead respondent was subjected goes beyond mere harassment and rises to the level of persecution.

ii. Protected Ground – Particular Social Group

An applicant for asylum must demonstrate that the persecution she fears would be “on account of” her race, religion, nationality, membership in a particular social group, or political opinion. INA §§ 101(a)(42)(A), 208(b)(1)(A); 8 C.F.R. §§ 1208.13, 1240.8(d). Additionally, an applicant for asylum should clearly indicate on the record before the IJ the enumerated ground(s) she is relying upon in making a claim, including the exact delineation of any particular social group to which the applicant claims to belong. *Matter of A-B-*, 27 I&N Dec. 316, 344 (AG 2018), *abrogated by Grace v. Whitaker*, 344 F. Supp. 3d 96 (D.D.C 2018); *Matter of W-Y-C- & H-O-B-*, 27 I&N Dec. 189, 191 (BIA 2018).

The lead respondent has alleged that the persecution she suffered was on account of her membership in the particular social group of “Guatemalan women.” *See also* [Exh. 3, Tab 12]. DHS counsel argued that the lead respondent’s proposed group is not cognizable, and that, even if the respondent had articulated a cognizable such group, she had not established that the government of Guatemala was unwilling or unable to protect her. As explained below, the lead respondent has established that her persecution was on account of her membership in the particular social group of “Guatemalan women.”

In a claim of persecution on account of membership in a particular social group, the social group must (1) be composed of members who share a common immutable characteristic; (2) be defined with particularity; and (3) be socially distinct within the society in question. *Matter of W-G-R-*, 26 I&N Dec. 208, 210-12 (BIA 2014); *Matter of M-E-V-G-*, 26 I&N Dec. 227, 239-41 (BIA 2014). An immutable characteristic is one shared by a group of people—a characteristic that either is beyond the power of an individual to change or is so fundamental to individual identity or conscience that it should not be required to be changed. *See Matter of Kasinga*, 21 I&N Dec. 357, 365-66 (BIA 1996). Next, the particularity requirement is “definitional in nature” and focuses on delineation—whether the particular social group definition is sufficiently discrete and precise, rather than amorphous. *M-E-V-G-*, 26 I&N Dec. at 239-41. The proposed particular social group should address the “outer limits” of the group’s boundaries and “provide a clear benchmark for determining who falls within this group” and “be discrete and have definable boundaries.” *Id.* at 241. In making this determination, the definition should be analyzed in the context of the society in question and focus on whether members of the society “generally agree on who is included in the group.” *W-G-R-*, 26 I&N Dec. at 214. Lastly, “social distinction” requires that members of the proposed group would be perceived as a separate or distinct group by society. *M-E-V-G-*, 26 I&N Dec. at 241-42. In other words, the society in question must meaningfully distinguish those with the common, immutable characteristic from those who do not have it. *Id.* at 238.

The Courts of Appeals have both recognized and rejected gender-defined social groups as cognizable for purposes of asylum. See *Paloka v. Holder*, 762 F.3d 191, 197 (2d Cir. 2014) (collecting cases); *Cece v. Holder*, 733 F.3d 662, 669 (7th Cir. 2013) (collecting cases). In 1991, the Second Circuit held that “[p]ossession of broadly-based characteristics such as youth and gender will not by itself endow individuals with membership in a particular social group.” *Gomez v. INS*, 947 F.2d 660, 664 (2d Cir. 1991). However, it later recognized that gender, when combined with “ethnicity, nationality, or tribal membership – satisfies the social group requirement.” *Bah v. Mukasey*, 529 F.3d 99, 112 (2d Cir. 2008). (stating that it “appears . . . that [an applicant’s] gender – combined with their ethnicity, nationality, or tribal membership – satisfies the social group requirement”); *Koudriachova v. Gonzales*, 490 F.3d 255, 261 (2d Cir. 2007) (recognizing the Ninth Circuit’s finding in *Mohammed v. Gonzales*, 400 F.3d 785, 798 (9th Cir. 2005) that Somalian females constitute a particular social group);³ *Gao v. Gonzales*, 440 F.3d 62, 64 (2d Cir. 2006), *vacated and remanded on other grounds sub nom. Keisler v. Gao*, 552 U.S. 801 (2007) (finding that the concept of particular social group is “broad enough to encompass groups whose main shared trait is a common one, such as gender, at least so long as the group shares a further characteristic that is identifiable to would-be persecutors and is immutable or fundamental”); *Abankwah v. INS*, 185 F.3d 18, 21 (2d Cir. 1999) (finding “women of the Nkumssa tribe who did not remain virgins until marriage” is a cognizable social group). However, the Second Circuit has not laid out a framework for gender-based claims, but has instead remanded to the BIA “to decide this issue as well as to define the parameters of the social group in the first instance.” *Bah*, 529 F.3d at 112; see also *Paloka*, 762 F.3d at 198-99.

In *Matter of A-B-*, the Attorney General considered only gender-based persecution at the intersection of domestic violence, and in doing so, avoided addressing the most common form of gender-based asylum claims—where a woman faces persecution for no other reason besides her status as a woman, regardless of whether she is in an intimate relationship. Accordingly, while *A-B-* extrapolates on the viability of gender-based asylum claims between private parties in domestic relationships, it does not address whether societal, gender-based violence is alone sufficient for a woman in a particular country to constitute a cognizable social group under the INA. Ultimately, the determination of whether “women” in a particular country constitute a cognizable social group requires a country-specific, fact intensive analysis, as there are some countries in which women are parceled out as a whole, irrespective of other defining characteristics, and subjected to laws or customs that undermine their rights and condone gender-based violence. See, e.g., *Mohammed v. Gonzales*, 400 F.3d 785 (9th Cir. 2005).

In *Paloka*, the Second Circuit left open the question of whether proposed groups based on age and gender are cognizable in light of the BIA’s precedential decisions in *M-E-V-G-* and *W-G-R-*. 762 F.3d at 198-99.⁴ Since *Paloka*, the Second Circuit has not analyzed a gender-based

³ In *Koudriachova v. Gonzales*, 490 F.3d 255, 261 (2d Cir. 2007), the Second Circuit explained that once the applicant has demonstrated that she possesses an immutable characteristic that will characterize a particular social group, “there is no additional requirement that members of the group share an element of cohesiveness or homogeneity.” *Id.* at 263 (citing *Matter of C-A-*, 23 I&N Dec. 951, 957 (BIA 2006)) (internal citations omitted).

⁴ The Court in *Paloka* remanded this issue to the BIA, and made several important observations. First, the Court noted that “being a victim of a crime or even being a likely target for criminal opportunistic behavior does not necessarily preclude the existence of a valid asylum claim if the claimant would likely be targeted because of her membership in a sufficiently defined social group” because “those facing persecution may often be the most vulnerable to crimes,

particular social group in any precedential opinion. Accordingly, the Court will address this issue in the first instance.

Here, the Court finds that the lead respondent has established that women in Guatemala are members of a cognizable particular social group because the group meets the requirements of immutability, particularity, and social distinction. First, one's gender qualifies as an immutable characteristic as it is generally unchangeable, and is certainly a characteristic that no one should be required to change. *See Acosta*, 19 I&N Dec. at 233 (finding a particular social group is made up of people "all of whom share a common, immutable characteristic," which is "a characteristic that is either beyond the power of an individual to change or is so fundamental to individual identity or conscience that it ought not to be required to be changed.") In fact, the Board has specified that one's "sex" is a paradigmatic immutable characteristic on which particular social group membership can be based. *Id.* (stating that "[t]he shared characteristic might be an innate one such as sex, color, [or] kinship ties").

Second, the lead respondent has established that Guatemalan society views women as sufficiently distinct to qualify as a particular social group. *See M-E-V-G-*, 26 I&N Dec. 227 ("A viable particular social group should be perceived within the given society as a sufficiently distinct group"; *W-G-R-*, 26 I&N Dec. at 217 ("[S]ocial distinction exists where the relevant society perceives, considers, or recognizes the group as a distinct social group"). The lead respondent submitted the 2018 State Department Human Rights Report on Guatemala, which states that "[v]iolence against women, including sexual and domestic violence, [remains] a serious problem." [Exh 6, Tab 20]. The report also states that, while the Guatemalan government has taken steps to combat rape, femicide, and general violence against women, "police had minimal training or capacity to investigate...and the government did not enforce the law effectively." *Id.* The report further states femicide remains a significant problem, despite the possibility of prison sentences. *See id.* Numerous other country conditions reports state the same. The lead respondent submitted a recent United Nations report, in addition to several scholarly articles, that indicated that Guatemala has the third highest rate of femicide globally. *See* [Exh. 4, Tab 43]. Guatemalan law defines femicide as a crime committed "by persons who, within the framework of unequal relations of power between men and women, kill a women *for being a women*." *See* [Exh. 4, Tab 44, emphasis added]. Taken as a whole, the lead respondent's evidence establishes that cultural and legal norms in Guatemala permit widespread violence and discrimination against women. Through this evidence, the lead respondent has shown that women in Guatemala "are set apart, or distinct, from other persons within [Guatemala] in some significant way," and are therefore socially distinct. *M-E-V-G-*, 26 I&N Dec. at 238.

Third, the lead respondent's proposed group – women in Guatemala – is defined with particularity. *See M-E-V-G-*, 26 I&N Dec. at 238 ("The particularity requirement relates to the

especially if the government condones or aids the perpetrators." *Id.* at 198 (citing *M-E-V-G-*, 26 I&N Dec. at 243 and *Cece*, 733 F.3d at 671–72). Second, the Court focused on the BIA's step process, noting that the first step—whether the group is cognizable—focuses on how the society in which the group exists views the group, not on the perpetrator's view. *Id.* It is only at the second step—whether the persecution was "on account of" the victim's status as a member of the group—that the perpetrator's mindset becomes important. *Id.* Finally, the Court noted that a proposed group based on age and gender, might, for example, consider the Seventh Circuit's observation that both gender and youth are immutable characteristics that fit within the broad definition set out in *Acosta*, 19 I&N Dec. at 233. *Id.* (citing *Cece*, 733 F.3d at 671).

group's boundaries or. . . the need to put outer limits on the definition of a particular social group." (quotations omitted)). Particularity "chiefly addresses the question of delineation." *W-G-R-*, 26 I&N Dec. at 214. In other words, the requirement "clarifies the point. . . that not every 'immutable characteristic' is sufficiently precise enough to define a particular social group." *M-E-V-G-*, 26 I&N Dec. at 239; *Matter of W-G-R-*, 26 I&N Dec. at 213.⁵ Here, the boundaries of the lead respondent's group are precise, clearly delineated, and identifiable: women are members and men are not. See *Matter of M-E-V-G-*, 26 I&N Dec. at 239; *Matter of W-G-R-*, 26 I&N Dec. at 213-14; *Temu*, 740 F.3d at 895; *Zelaya*, 668 F.3d at 165. There is a clear benchmark for determining whether a person in Guatemala is a member of the group: whether that person is a woman. See *M-E-V-G-*, 26 I&N Dec. at 238-39; *W-G-R-*, 26 I&N Dec. at 213-14.

In *Matter of A-M-E- & J-G-U-*, the Board ruled that "affluent Guatemalans" are not members of a cognizable particular social group because "[t]he terms 'wealthy' and 'affluent' standing alone are too amorphous to provide an adequate benchmark for determining group membership." 24 I&N Dec. 69, 74 (BIA 2007). Here, by contrast, the term "woman" is not too amorphous to provide such an adequate benchmark, as, in the vast majority of cases, a person either is a woman or is not.⁶ The group of "women in Guatemala" does not change based on who defines it, and it therefore has boundaries that are fixed enough to meet the particularity requirement. *Id.*

Moreover, the lead respondent's group is defined with particularity even though it is large. See *Matter of S-E-G-*, 24 I&N Dec. 579, 585 (BIA 2008) ("While the size of the group may be an important factor in determining whether the group can be so recognized, the key question is whether the proposed definition is sufficiently particular or is too amorphous . . . to create a benchmark for determining group membership.") (quotations omitted). Therefore, the "key question" relates not to the size of the group but to whether the group's definition provides an adequate benchmark for determining which people are members and which people are not. *Id.* ("The essence of the particularity requirement . . . is whether the proposed group can accurately be described in a manner sufficiently distinct that the group would be recognized, in the society in question, as a discrete class of persons"); see also *Reyes v. Lynch*, 842 F.3d 1125, 1135 (9th Cir. 2016) (stating that the Board's "statement of the purpose and function of the 'particularity' requirement does not, on its face, impose a numerical limit on a proposed particular social group or disqualify groups that exceed specific breadth or size limitations"). As discussed above, the lead respondent's group has an adequate benchmark: women are members and men are not.

Moreover, it would be inconsistent the principle of *ejusdem generis* to find that a large group necessarily cannot be defined with particularity.⁷ As noted above, section 101(a)(42) of the

⁵ As the Fourth Circuit has held, a "group must have identifiable boundaries to meet the [Board's] particularity element." *Temu v. Holder*, 740 F.3d 887, 895 (4th Cir. 2014); see also *Zelaya v. Holder*, 668 F.3d 159, 165 (4th Cir. 2012) (stating that a particular social group must "be defined with sufficient particularity to avoid indeterminacy").

⁶ In *Temu*, the Fourth Circuit commented that the group in *A-M-E- & J-G-U-*, "affluent Guatemalans," was not defined with particularity "because the group changes dramatically based on who defines it." 740 F.3d at 895 (stating that "[a]ffluent might include the wealthiest 1% of Guatemalans, or it might include the wealthiest 20%," and that the group therefore "lacked boundaries that are fixed enough to qualify as a particular social group.").

⁷ For decades, the Board has stated that *ejusdem generis* underlies its determinations of which groups qualify as particular social groups. See *M-E-V-G-*, 26 I&N Dec. at 234 (applying "the interpretive canon 'ejusdem generis'" in interpreting "the phrase 'membership in a particular social group'"); *Acosta*, 19 I&N Dec. at 233 (stating that "[w]e

Act defines a “refugee,” in relevant part, as someone who has been persecuted, or has a well-founded fear of persecution, “on account of race, religion, nationality, membership in a particular social group, or political opinion.” In this provision, “membership in a particular social group” is a general phrase as compared with the more specific words and phrases “race,” “religion,” “nationality,” and “political opinion.” Applying *ejusdem generis*, the phrase “particular social group” should be interpreted to include groups in the same class as the other protected grounds: race, religion, nationality, and political opinion.⁸ See *Matter of M-E-V-G-*, 26 I&N Dec. at 234 (stating that “[c]onsistent with the interpretive canon ‘*ejusdem generis*,’ the proper interpretation of the phrase [membership in a particular social group] can only be achieved when it is compared with the other enumerated grounds of persecution . . .”). None of the other protected grounds are limited by size⁹ and therefore particular social groups should similarly not be limited by size.¹⁰

It could be argued that the Board’s decision in *W-G-R-* stands for the proposition that a group cannot be defined with particularity if it is internally diverse. After all, in ruling that the proposed group of “former members of the Mara 18 gang in El Salvador who have renounced their gang membership” is not defined with particularity, the Board stated that the group “could include persons of any age, sex, or background.” 26 I&N Dec. at 221. If one accepts the premise that a group cannot be defined with particularity if it is internally diverse, then it could be further argued that the group of “women in Guatemala” is not defined with particularity. That group is highly diverse, as it encompasses, for example, women of different ages, races, and levels of education. However, imposing a requirement that a group cannot be internally diverse to be defined with particularity would run counter to other Board precedent decisions, and would preclude the recognition of particular social groups that are currently commonly accepted. See *Reyes*, 842 F.3d at 1135 (stating that the particularity requirement is not “contrary to the principle that diversity within a proposed particular social group may not serve as the *sine qua non* of the particularity analysis”); *Matter of C-A-*, 23 I&N Dec. 951, 957 (BIA 2006) (stating that the Board does not “require an element of ‘cohesiveness’ or homogeneity among group members”); see also *S-E-G-*, 24 I&N Dec. at 586 n. 3. A policy that an internally diverse group cannot be defined with particularity would preclude, for example, particular social groups based on sexual orientation, which the Board has expressly recognized. *Toboso-Alfonso*, 20 I&N Dec. at 822-23; *M-E-V-G-*, 26 I&N Dec. at 245, (affirming that “homosexuals in Cuba” are members of a cognizable particular social group and is defined with particularity); *W-G-R-*, 26 I&N Dec. at 219 (same).

The Ninth Circuit and the Board have suggested that broad or otherwise large groups cannot qualify as particular social groups. See *Sanchez-Trujillo v. INS*, 801 F.3d 1571, 1577 (9th

find the well-established doctrine of *ejusdem generis* . . . to be most helpful in construing the phrase ‘membership in a particular social group’”).

⁸ The Board conducted such an analysis in *Matter of Acosta*, 19 I&N Dec. at 233. There, the Board noted that persecution on account of race, religion, nationality, or political opinion is “aimed at an immutable characteristic.” Therefore, the Board stated that, “[a]pplying the doctrine of *ejusdem generis*, we interpret the phrase ‘persecution on account of membership in a particular social group’ to mean persecution that is [likewise] directed toward an individual who is a member of a group of persons all of whom share a common, immutable characteristic.” *Id.*

⁹ For example, there may be thousands or millions of people of a particular race or religion in a given country.

¹⁰ The Court notes that the Board has routinely recognized large groups as defined with particularity. See *Matter of Toboso-Alfonso*, 20 I&N Dec. 819, 822-23 (BIA 1990) (recognizing “homosexuals . . . in Cuba” as members of a particular social group); *Matter of H-*, 21 I&N Dec. 337, 343 (BIA 1996) (finding members of the Marehan subclan in Somalia are members of a particular social group); *W-G-R-*, 26 I&N Dec. at 219 (stating that the group of “members of the Marehan subclan” is “easily definable and therefore sufficiently particular”).

Cir. 1986) (stating that “the term ‘particular social group’ was intended to apply” to “cohesive, homogeneous group[s]” that likely excludes “major segments of an embattled nation”); *Ochoa v. Gonzales*, 406 F.3d 1166, 1170-71 (9th Cir. 2005) (rejecting as “too broad” a proposed particular social group of “business owners in Colombia who rejected demands by narco-traffickers to participate in illegal activity” finding that “[t]here is no unifying relationship or characteristic to narrow this diverse and disconnected group.”); *M-E-V-G-* 26 I&N Dec. at 239 (citing *Ochoa*, 406 F.3d at 1170-71) (stating “a particular social group must be narrowly defined and that major segments of the population will rarely, if ever, constitute a distinct social group.”). However, Ninth Circuit case law does not support an argument that women in Guatemala are not members of a particular social group. Recognizing a “major segment” of a country’s population as a cognizable particular social group does not mean that that individual will necessarily qualify for asylum. To qualify for asylum, it is not enough for an applicant to show that he or she is a member of a particular social group; he or she must also show that the requisite fear of persecution on account of that group membership. In fact, everyone has a racial identity, but no one would likely argue that the possibility that an applicant can receive asylum based on persecution on account of his or her race is, to use the Ninth Circuit’s words in *Sanchez-Trujillo*, “tantamount to extending refugee status to every alien displaced by general conditions of unrest or violence in his or her home country.” 801 F.3d at 1577.¹¹ Moreover, were the Board to agree with the Ninth Circuit’s statement in *Sanchez-Trujillo* that groups must be “cohesive” and “homogeneous” in order to be cognizable particular social groups, the Board would be contradicting its own statement in *Matter of C-A-*, that it did not “require an element of ‘cohesiveness’ or homogeneity among group members.” 23 I&N Dec. at 957.

Finally, several circuits have acknowledged that women in a particular country could form a particular social group. *See Mohammed v. Gonzales*, 400 F.3d 785, 797 (9th Cir. 2005) (holding that “the recognition that girls or women of a particular clan or nationality (or even in some circumstances females in general) may constitute a social group is simply a logical application of our law.”); *Perdomo*, 611 F.3d at 667 (interpreting *Mohammed* as “clearly acknowledg[ing] that women in a particular country, regardless of ethnicity or clan membership, could form a particular social group.”); *Hassan v. Gonzales*, 484 F.3d 513, 518 (8th Cir. 2007) (finding “Somali females” are members of a particular social group); *Fatin v. INS*, 12 F.3d 1233, 1240 (3d Cir. 1993) (stating that “to the extent that the petitioner in this case suggests that she would be persecuted or has a well-founded fear that she would be persecuted in Iran simply because she is a woman,” she has articulated a cognizable particular social group).

¹¹ In addition, subsequent to *Sanchez-Trujillo*, the Ninth Circuit has recognized particular social groups that are large and internally diverse. *See, e.g., Mihalev v. Ashcroft*, 388 F.3d 722 (9th Cir. 2004) (finding “Gypsy ethnicity” to be a cognizable particular social group); *Karouni v. Gonzales*, 399 F.3d 1163, 1172 (9th Cir. 2005) (“affirming that *all* alien homosexuals are members of a ‘particular social group.’”). Moreover, in *Perdomo v. Holder*, 611 F.3d 662, 668 (9th Cir. 2010), the Ninth Circuit, referencing *Karouni* and *Mihalev*, commented that “broad and internally diverse social groups” based on “an innate characteristic,” such as “homosexuals and Gypsies,” can qualify as particular social groups under Ninth Circuit law. *See id.* at 699 (rejecting “the notion that a persecuted group may simply represent too large a portion of a population to allow its members to qualify for asylum”); *see id.* (stating that “the size and breadth of a group alone does not preclude a group from qualifying as [a particular social] group.”). The Ninth Circuit more recently made clear that that the Board’s “statement of the purpose and function of the ‘particularity’ requirement does not, on its face, impose a numerical limit on a proposed particular social group or disqualify groups that exceed specific breadth or size limitations.” *Reyes*, 842 F.3d at 1135.

In light of the foregoing, the Court concludes that the proposed social group's internal diversity does not defeat a finding that it is defined with particularity. Accordingly, the Court finds that "women in Guatemala" is immutable, particular, and socially distinct, and is therefore a cognizable particular social group.

iii. Nexus

The Court has concluded that "Women in Guatemala" constitutes a particular social group for asylum purposes. But this does not mean that all women in Guatemala will qualify for amnesty. There are no floodgates waiting to be breached. In order to be granted protection, an applicant must also demonstrate that a protected ground was "at least one central reason for persecuting the applicant." INA § 208(b)(1)(B)(i); *Matter of N-M-*, 25 I&N Dec. 526, 526 (BIA 2011); *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 212 (BIA 2007).

Under the particular circumstances of this case, the lead respondent met her burden to show that her membership in the particular social group of "women in Guatemala," was at least one central reason for which ██████ persecuted her. While a protected ground must be a "central reason" for any persecution inflicted, it need not be the *sole* reason. INA § 208(b)(1)(B)(i); *Matter of C-T-L-*, 25 I&N Dec. 341, 350 (BIA 2010). The fact that applicants were persecuted by actors with "mixed motives" will not preclude them from establishing their eligibility for asylum. *Castro v. Holder*, 597 F.3d 93, 104 (2d Cir. 2010); *J-B-N*, 24 I&N Dec. at 212. Nor must applicants "show with absolute certainty why [certain] events occurred." *Manzur v. U.S. Dep't of Homeland Sec.*, 494 F.3d 281, 292 (2d Cir. 2007) (quoting *Uwais v. U.S. Att'y Gen.*, 478 F.3d 513, 517 (2d Cir. 2007)); see also *Osorio v. INS*, 18 F.3d 1017, 1028 (2d Cir. 1994). In this case, the lead respondent's credible testimony demonstrates that ██████'s behavior conforms to the predominant view of traditional gender roles in Guatemala. Some scholars have explained that the phenomenon of violence against women in Guatemala is a product of deep rooted patriarchal culture and historically unequal power relations. See [Exh. 3, Tab 7]. Dr. ██████ explained that the concepts of male dominance and control are normalized in society and often absorbed by women who then blame themselves for their partner's behavior. See *id.* ██████ further explained that there is a societal belief that women are, in essence, the property of their husbands. See *id.* The lead respondent testified that ██████ abused her for various reasons related to her status as a woman: he restricted her movement, her contact with family, and her ability to use her own money, such as when he beat her because she tried to buy herself a dresser. See also [Exh. 2, Tab A]. He became jealous and physically abused her when she spoke to another man in public. He continuously threatened to kill her if she ever left him, and then threatened to kill her when she attempted to pursue a case against him and his abuse. See *id.* Her testimony and statement further indicate that ██████ raped her on several occasions, and that he told her that she must have sexual intercourse with him whenever he wanted because she was his "wife." See *id.*

Additionally, the lead respondent submitted adequate circumstantial evidence of ██████'s motives to establish that her status as a woman was one central reason for his abuse and the ultimate physical attack. Specifically, he is a man, his abuse was at times sexual in nature, and his abuse was more often than not related to the lead respondent acting in a manner that he did not approve of for a woman, such as speaking to another man or refusing to engage in sexual intercourse. See *INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992) (stating that "the [asylum] statute makes motive

critical,” and that an applicant “must [therefore] provide *some* evidence of it, direct or circumstantial”). The Board ruled in *Matter of N-M-*, 25 I&N Dec. 526, 531 (BIA 2011), that “an alien must demonstrate that the persecutor would not have harmed the applicant if the protected trait did not exist,” and the lead respondent in this case has demonstrated to the satisfaction of the Court that, based on the circumstances of her particular abuse, ██████ would not have abused her if she were a man. As the lead respondent has shown that her status as a woman was one central reason for her attack, she has shown that the persecution she suffered was on account of a protected ground. See section 208(b)(1)(B)(i) of the Act.

iv. Government Unable or Unwilling

Persecution must be inflicted by either the government or by a person or entity the government is “unwilling or unable to control.” See *Acosta*, 19 I&N Dec. at 222; see also *Pavlova v. INS*, 441 F.3d 82, 91 (2d Cir. 2006). The Attorney General stated that “[p]ersecution is something a government does,” either directly or indirectly by being unwilling or unable to prevent private misconduct. *A-B-*, 27 I&N Dec. at 337. In the context of a non-governmental entity perpetrating the harm, an applicant must show that the government condoned the private actions “or at least demonstrated a complete helplessness to protect the victims.” *Id.*

The lead respondent credibly testified that her former partner, ██████ worked for the local government. However, even if he were not involved with the Guatemalan government, in the instant case the Court finds that the Guatemalan government is unwilling or unable to control the lead respondent’s persecutor. The lead respondent testified to her experiences with the Guatemalan judicial system as it relates to filing complaints and attending hearings following a domestic violence attack. She explained that, initially, a judge recommended that she reconcile with ██████ for the sake of their family. See also [Exh. 2, Tab A; 7, Tab 59]. She further credibly testified that, though ██████ was ultimately convicted of a crime and sentenced to five years in prison, this was commuted to only a small fine. See [Exh. 2, Tab A; 3, Tab 6]. The lead respondent further credibly testified that, though she was issued protection orders, ██████ did not follow them, continuously approached her, and threatened her with death. Finally, the lead respondent has provided sufficient evidence to indicate that ██████ is currently not detained, living in Guatemala, and has not been deprived of his role in the local government, despite having been convicted of a violent crime. See also [Exh. 3, Tab 11; 4, Tab 37].

The Court acknowledges that the lead respondent received assistance from the Guatemalan authorities in the instant case. It acknowledges that the police responded to Mrs. ██████’s calls, that the lead respondent was summoned to numerous hearings, and that ██████ was ultimately convicted of a crime. However, the Court finds that the fact lead respondent actively availed herself of every possible service and avenue available to seek protection, but continued receiving constant death threats until she left the country, to be indicative of a lack of actual, meaningful protection. Documentary evidence supports the lead respondent’s contention that Guatemalan authorities struggle to meaningfully control violence of the type she endured. Country conditions evidence illustrates that gender violence, especially against women, continues to be a problem in Guatemala and that extreme corruption in law enforcement and judicial bodies has led to high levels of impunity among perpetrators of crimes. See [Exh. 6, Tab 20].¹² The 2018 Department

¹² See discussion *supra*, Section B.1.ii, p. 10 – 11.

State Report indicated that some of the most serious human rights issues included widespread government corruption, and that violence against women remains a significant problem. *See id.* Indeed, the lead respondent testified that ██████ himself successfully bribed a judge and that he did not obey a single order of protection issued against him. The additional country conditions evidence submitted regarding Guatemalan justice system corroborates the lead respondent's claim that the government will fail to protect her. Finally, though ██████ ultimately faced a conviction, his sentence was commuted to a small fine. *See* [Exh. 3, Tab 6] ██████ statement and research corroborates the contention that the commutation of the minimum sentence of five years essentially "renders the protection afforded by law illusory." Therefore, the orders of protection were not enforced, ██████ successfully bribed a judge, and the ultimate sentence does not appear to meaningfully prevent ██████ from committing further violent acts or harming the lead respondent with impunity in the future. As a result, despite the evidence in the record regarding Guatemala's legal efforts to combat violence against women, the Court finds that they are unable to adequately protect women in the country. The Court thus finds that the Guatemalan government condoned ██████'s private action and would have been unable to protect the lead respondent. *See A-B-*, 27 I&N Dec. at 316.

Therefore, the Court finds that the lead respondent suffered persecution on account of her membership in the particular social group of "Guatemalan women" at the hands of a man that the Guatemalan government has proven to be unable or unwilling to control.

v. Well-Founded Fear

If past persecution is established, a presumption arises that the applicant has a well-founded fear of future persecution on the basis of the original claim. 8 C.F.R. § 1208.13(b)(1). This regulatory presumption may be rebutted if DHS establishes by a preponderance of the evidence that the applicant's fear is no longer well-founded due to a fundamental change in circumstances, or that the applicant could avoid future persecution by relocating to another part of the country and that it would be reasonable to expect him to do so. 8 C.F.R. § 1208.13(b)(1)(i)-(ii). As the lead respondent has established that she suffered past persecution, she is presumed to have a well-founded fear of future persecution based on the same claim. 8 C.F.R. § 1208.13(b)(1). DHS has not established that she could avoid persecution in Guatemala through internal relocation or that there has been a fundamental change in circumstances in Guatemala. Therefore, the Court finds that DHS has failed to rebut the presumption of a well-founded fear of persecution.

2. Discretion

An applicant who establishes statutory eligibility for asylum still bears the burden of demonstrating that she merits a grant of asylum as a matter of discretion. INA § 208(b)(1). In determining whether a favorable exercise of discretion is warranted, both favorable and adverse factors should be considered. *Matter of Pula*, 19 I&N Dec. 467, 473 (BIA 1987). Humanitarian factors, such as age, health, or family ties, should be considered in the exercise of discretion. *Matter of H-*, 21 I&N Dec. 337, 347-48 (BIA 1996) (*citing Pula*, 19 I&N Dec. 467).

The Court finds that the lead respondent deserves a favorable exercise of discretion. There are no known adverse factors that would warrant denial of the application. *See Pula*, 19 I&N Dec. at 474.

Accordingly, based upon the specific factors in this case, the Court grants the lead respondent's application for asylum.

C. Withholding of Removal and Protection under the CAT

Since the lead respondent's asylum application is hereby granted, the Court need not reach the merits of her applications for withholding of removal pursuant to INA § 241(b)(3) or under the CAT pursuant to 8 C.F.R. § 1208.16(c).


After a careful review of the record, the following order will be entered:

ORDER

IT IS HEREBY ORDERED that the lead respondent's application for asylum under INA § 208 be **GRANTED**.

[Redacted]

Date



Howard Hom
U.S. Immigration Judge

A COPY OF THIS DECISION WAS
PERSONALLY SERVED ALIEN ATTY DHS
SERVED VIA U.S. MAIL
SERVED VIA FAX

[Redacted]