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Amicus Brief Filed by CGRS in R-A-

Overview of the Attached Brief

The attached brief was filed by the Center for Gender & Refugee Studies (CGRS or Center) to the immigration court on August 19, 2009 in *Matter of R-A-*. See *Matter of R-A-*, 22 I&N Dec. 906 (BIA 1999), *vacated*, 22 I&N Dec. 906 (A.G. 2001), *remanded*, 23 I&N Dec. 694 (A.G. 2005), *remanded*, 24 I&N Dec. 629 (A.G. 2008). The brief addresses domestic violence as a basis for asylum and argues that “married women in Guatemala who are unable to leave the relationship” is a particular social group.

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**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SAN FRANCISCO, CALIFORNIA**

In the Matter of:

Rody Alvarado Peña

In Deportation Proceedings

File No. A 73 753 922

Immigration Judge: Lawrence N. DiCostanzo

Non-Appearance Hearing Date: 8/19/09

RECEIVED
DEPARTMENT OF JUSTICE

AUG 19 2009

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SAN FRANCISCO, CALIFORNIA

**LEGAL MEMORANDUM
AND SUPPORTING DOCUMENTATION**

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I. Introduction

The Respondent, Ms. Rody¹ Alvarado Peña, submits this Legal Memorandum and the accompanying documents in support of her case pursuant to an agreement entered into between the Respondent and the Department of Homeland Security (DHS) at a pre-hearing status conference which took place on May 21, 2009.

This case has had a long and unusual procedural background. The Respondent was granted asylum by an immigration judge on September 20, 1996. The Board of Immigration Appeals (BIA) reversed that grant in 1999. *Matter of R-A-*, 22 I&N Dec. 906 (BIA 1999).

The BIA's decision denying relief was vacated by Attorney General Janet Reno on January 19, 2001. *Matter of R-A-*, 22 I&N Dec. 906 (A.G. 2001; BIA 1999). She remanded the case to the BIA with instructions to stay the case until rules proposed by the Department of Justice (DOJ) in December 2000 were issued as final. *See Asylum and Withholding Definitions*, 65 Fed. Reg. 76588 (Dec. 7, 2000) (proposed rule).

In February 2003, Attorney General John Ashcroft certified the case to himself, but ultimately decided not to take any action on it. He remanded it to the BIA with the same stay that his predecessor, Janet Reno, had imposed. *Matter of R-A-*, 23 I&N Dec. 694 (A.G. 2005). In 2004, while the case was pending before Attorney General Ashcroft, the DHS submitted a brief arguing that Ms. Alvarado had "established statutory eligibility for asylum." Department of Homeland Security's Position on Respondent's

¹ The correct spelling of the Respondent's first name is "Rody," the misspelling "Rodi" appears in the majority of prior filings, and Counsel for Respondent takes this opportunity to make this correction. Furthermore, it should be noted that the Respondent does not use her second last name, but simply goes by "Rody Alvarado."

Eligibility for Relief at 43, *Matter of R-A-*, 23 I&N Dec. 694 (A.G. 2005) (A 73 753 922) [hereinafter DHS 2004 Brief].²

In September 2008, Attorney General Michael Mukasey certified the case to himself, lifted the stay which had been ordered by the two prior attorneys general, and remanded the case to the BIA for decision. *Matter of R-A-*, 24 I&N Dec. 629 (A.G. 2008). The case is before the Immigration Court (IC) on remand from the BIA, in response to a joint request for remand filed by the DHS and the Respondent.

II. The DHS's Position in its 2004 Brief has Narrowed the Issues to be Adjudicated

In its 2004 Brief, the DHS affirmatively argued that Ms. Alvarado met every required element to establish eligibility for asylum. Namely, it found that:

1. Ms. Alvarado has a well-founded fear of persecution. DHS 2004 Brief at 18.
2. She is a member of a cognizable social group defined as "married women in Guatemala who are unable to leave the relationship." *Id.* at 26.
3. The persecution she suffered was on account of her membership in this social group. *Id.* at 36.
4. The government of Guatemala is unable and unwilling to protect her. *Id.* at 40.
5. Internal relocation is not possible. *Id.* at 42.

The only thing that has changed since the filing of the 2004 Brief is the development in the law which requires a showing of "social visibility" and "particularity" to establish a cognizable social group. At the May 21, 2009 pre-hearing status conference in this case, Respondent and DHS agreed that Respondent would submit

² The DHS 2004 Brief was submitted to the Immigration Court as Exhibit A to the Respondent's May 21, 2009 Memorandum for Pre-Hearing Status Conference.

relevant and probative evidence to establish that the social group defined as “married women in Guatemala who are unable to leave the relationship” meets the requirements of social visibility and particularity.

In addition, in an order dated June 4, 2009, this court ordered the Respondent to “provide a declaration that updates her biography with new facts in respect to the exercise of discretion” and to address “any asserted presumption of future persecution[.]” Summary Order at 1, *Matter of R-A-* (A 73 753 922) (June 4, 2009) [hereinafter June 4 Order]. Respondent will do so in this submission, although as to the presumption, she points out that: (1) in its 2004 brief, the DHS found that Ms. Alvarado had suffered past persecution on account of an enumerated ground (*see, e.g.*, reference to a “staggering history” of past abuse, DHS 2004 Brief at 12; or discussion of acts of severe abuse which are “clearly high enough to amount to persecution.” *Id.* at 17), and therefore (2) under the controlling regulations, she is entitled to the presumption of future persecution which arises from a showing of past persecution, and the *burden is on the government to present facts which rebut the presumption.* 8 C.F.R. § 1208.13; 8 C.F.R. § 208.13.

III. Rody Alvarado Suffered Persecution, and has a Well-founded Fear of Persecution on account of her Membership in the Social Group of “married women in Guatemala who are unable to leave the relationship”

A. The Social Group of “married women in Guatemala who are unable to leave the relationship” is cognizable under the law

1. Ms. Alvarado’s social group was cognizable under controlling precedent in 2004

In its 2004 brief, the DHS argued that Rody Alvarado had established a well-founded fear of persecution on account of her membership in the social group of “married women in Guatemala who are unable to leave the relationship.” DHS 2004 Brief at 36-

38. Gender and nationality (i.e., women in Guatemala) are immutable characteristics, as required by *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985). Furthermore, the DHS argued, under the circumstances of her case, Ms. Alvarado's marital status was also immutable because divorce is not "legally and culturally acceptable in Guatemala" and even if it were, a legal separation or divorce "would have no effect on Osorio's [her husband's] perceptions of authority and control over Alvarado." DHS 2004 Brief at 29. The DHS cited to Ms. Alvarado's declaration and discussed the evidence, which clearly demonstrated that her husband would not accept a termination of their relationship:

...Osorio has told her that she can not leave him, or that "you [she] will suffer much worse than what I have done to you [her] so far." ...Likewise, Osorio has told her "[i]f you ever try to leave, I will come find you. And when I find you, I could kill you, but I'm not going to do that. I will break your legs. I will cripple you so that you will be in a wheel chair for the rest of your life. I will mark your face so it will be scarred forever, it will be twisted and deformed." *Id.* Other times he told her that, if she ever left him, he would find her and kill her. *Id.* Alvarado, in commenting upon her impressions of Osorio's intent, stated "even if I wanted to live my life alone, he would not let me. I would not be free to go anywhere; he would track me down... Alvarado testified that Osorio told her "you can't hide, even if you are buried under ground [sic] you can't hide from me. I don't care what you do, you can't get away. Go ahead, try to disappear, and I will cut off your legs so you can't get away any more."

DHS 2004 Brief at 30-31.

2. Current jurisprudence requires a showing of "social visibility" and "particularity"

Since 2004, when the DHS filed its brief in Ms. Alvarado's case, the BIA has ruled that not all groups that share an immutable or fundamental characteristic are cognizable. *See, e.g., Matter of C-A-*, 23 I&N Dec. 951 (BIA 2006), *aff'd. Castillo-Arias v. U.S. Att'y Gen.*, 446 F.3d 1190 (11th Cir. 2006). In addition to the *Acosta* factors, the "social visibility" and "particularity" of the groups must be established. Social visibility

requires a showing that the “attributes of a particular social group...[are] recognizable and discrete.” *Matter of S-E-G-*, 24 I&N Dec. 579, 586 (BIA 2008), *remanded*. *S-E-G-* (BIA July 28, 2009). Particularity requires proof that the group is not amorphous and diffuse, but that it is “sufficiently distinct” to be recognized “in the society in question, as a discrete class of persons.” *Id.* at 593. Ms. Alvarado’s social group meets these additional requirements. *See* subsections 3 and 4, *infra*.

3. The 2009 DHS Brief in the case of Ms. L.R. provides a framework for proving “social visibility” and “particularity” in domestic violence cases

In a 2009 supplemental brief³ filed by the DHS in the case of Ms. L.R., a severely battered Mexican woman whose case has been widely reported in the press,⁴ the DHS explains how the concepts of social visibility and particularity should be understood and applied in cases of women who have suffered domestic violence. In this 2009 brief, the DHS states that social visibility refers to the fact that the society perceives the defined

³ The Brief was entitled “Department of Homeland Security’s Supplemental Brief” filed April 13, 2009 [hereinafter DHS 2009 Brief]. A redacted copy of this brief was previously submitted to the Immigration Court as Exhibit B to the Respondent’s May 21, 2009 Memorandum for Pre-Hearing Status Conference.

⁴ *See* Julia Preston, *New Policy Permits Asylum for Battered Women*, N.Y. TIMES, July 16, 2009, at A1: Editorial. *Asylum for Battered Women*, N.Y. TIMES, July 18, 2009, available at <http://www.nytimes.com/2009/07/19/opinion/19sun3.html>; Paul Elias, *Feds: Domestic Violence Victims May Get Asylum*, ASSOCIATED PRESS, July 15, 2009, available at <http://www3.signonsandiego.com/stories/2009/jul/15/us-asylum-domestic-violence-071509/>; Yolanda Monge, *La Administración Obama abre la puerta al asilo par alas mujeres maltratadas* [*The Obama Administration Opens the Door to Asylum for Battered Women*], EL PAÍS, July 17, 2009, available at http://www.elpais.com/articulo/internacional/Administracion/Obama/abre/puerta/asilo/mujeres/maltratadas/elpepuint/20090717elpepuint_2/Tes; Maura Kelley, *Battered Women Find Safety in the US*, GUARDIAN (U.K.), July 17, 2009, available at <http://www.guardian.co.uk/commentisfree/cifamerica/2009/jul/17/domestic-violence-asylum-us-immigration>.

group in a certain way, and as a result, accords the group members different treatment. DHS 2009 Brief at 17-19.

In Ms. L.R.'s case, the DHS suggests two legally cognizable social groups, "Mexican women in domestic relationships who are unable to leave" and "Mexican women who are viewed as property by virtue of their positions within a domestic relationship." DHS 2009 Brief at 14. The DHS 2009 Brief states that social visibility could be established by showing that once a woman enters into a domestic relationship, the abuser believes he has the right to treat her as he pleases, and the society – including government officials – expect and tolerate her abuse. The DHS 2009 Brief observes that the evidence in Ms. L.R.'s case strongly suggested that these perceptions about women in domestic relationships exist in Mexico; Ms. L.R.'s domestic partner stated that "he could do anything he wanted to her because she belonged to him." and a report from the United Nations Special Rapporteur on Violence Against Women documented the reluctance of "police and prosecutors" to take action in cases involving domestic violence. DHS 2009 Brief at 15, 17.

In its brief, the DHS further explains that the two social groups it proposes in Ms. L.R.'s case could not only meet the social visibility requirement, but they could also establish the requisite "particularity." DHS 2009 Brief at 18-20. The central defining characteristic of both proposed groups is the "domestic relationship" that the victim has with the persecutor, and the DHS considers that term to be quite susceptible to being defined "in a manner that entails considerable particularity." DHS 2009 Brief at 19. It points to examples in U.S. immigration law which lay out a framework for

“conceptualizing domestic relationships,”⁵ and notes that the term could be defined to a “similar level of specificity, albeit tailored to the unique situation of an asylum applicant’s own society[.]” *Id.*

The DHS 2009 Brief also sets out a clear blueprint as to the evidence necessary to establish social visibility and particularity in cases involving domestic violence. An applicant must demonstrate: (1) a relationship with the abuser which can be defined with appropriate specificity, DHS 2009 Brief at 19; (2) an attitude on the part of the abuser that he has the right to do whatever he wants to the applicant because of her membership in the proposed social group, DHS 2009 Brief at 14-15; and (3) societal perceptions that accept abuse and reinforce the abuser’s belief regarding his right to abuse. *Id.* The first of these three factors goes to the particularity of the social group, while the second and third go to social visibility. The record already made in Ms. Alvarado’s case, considered in conjunction with the evidence hereby submitted to the court, clearly establish that Ms. Alvarado’s social group meets the social visibility and particularity requirements.

4. Ms. Alvarado's social group meets the dual requirements of social visibility and particularity
 - a. Ms. Alvarado’s relationship with her husband, Francisco Osorio, can be described with the requisite particularity

There are a range of intimate relationships that may be defined as “domestic relationships.” For example, referring back to the framework in the Immigration &

⁵ The DHS 2009 Brief cites to the Immigration and Nationality Act’s definition of a “crime of domestic violence” which includes offenses “against a person committed by a former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs.” INA § 237(a)(2)(E)(I). DHS 2009 Brief at 19.

Nationality Act mentioned *supra* at footnote 5, domestic relationships include relationships where the parties are not legally married, but they live together, and relationships where the parties do not live together, but they have a child in common. It can also include relationships where the individuals are not legally married, but would be considered to be married under the laws of the jurisdiction where they live (i.e., common law). Because there are various arrangements that may come under the rubric of “domestic relationships,” DHS acknowledges the concern that the term might be considered too amorphous to meet the particularity requirement.

However, Ms. Alvarado’s case does not raise any of these concerns. She and her abuser, Francisco Osorio, were legally married. Her social group is not described by reference to a “domestic relationship” but instead by the more precise term describing her married status (i.e., social group of “married women in Guatemala”). Thus, Ms. Alvarado’s relationship with her husband can be described with the requisite particularity; it does – in the words of the DHS 2009 Brief – “clearly delineate[] who is in the group” and who is not. DHS 2009 Brief at 18.

- b. There is overwhelming evidence that Ms. Alvarado’s husband believed that he had the right to batter and abuse her because she was his wife

The record in Ms. Alvarado’s case⁶ is replete with evidence that her husband, Francisco Osorio, believed he had the right to treat her the way he did because she was his wife. From the beginning of their marriage in April 1984, Osorio expressed his right to order her around and to control her every movement. He insisted that except when he was working, she accompany him everywhere he went. If she tried to resist he would

⁶ Reference to the “record” includes all materials accepted into the record throughout the course of this deportation proceeding.

explicitly declare his belief that it was he who controlled, telling her, “[y]ou don’t order me.” Declaration of Rodi [sic] Alvarado Peña at 3-4, *Matter of R-A-*, Immigration Court (Dec. 6, 1996) (A 73 753 922) [hereinafter Alvarado 1996 Decl.].

Osorio repeatedly forced himself on her sexually, hitting her, grabbing her by the hair, and punching her during sex. When she protested, he told her that she was his “woman” and he could do “whatever” he wanted to. This refrain was consistently his response to any actual or perceived resistance by Ms. Alvarado. On one occasion, when she tried to assert herself after suffering rectal injury from forced anal sex and protested, he replied, “[y]ou’re my woman, you do what I say.” Alvarado 1996 Decl. at 6. Osorio expressed this sentiment during numerous episodes of brutal abuse. He would often beat her about the head, or grab her head and “strike it against furniture.” *Id.* at 7. When Ms. Alvarado asked why he would do this, he would reply “I can do it if I want to.” *Id.* He made it clear that he believed in his inherent right to control Ms. Alvarado, telling her that he did not have to answer to her. *Id.* at 8.

Because Osorio felt he had the right to do whatever he pleased to Ms. Alvarado, his brutality knew no bounds. He hit her with his gun, Alvarado 1996 Decl. at 7; Transcript of Record at 27, *Matter of R-A-*, Immigration Court (Dec. 6, 1996) (A 73 753 922) [hereinafter Transcript]; threatened her with machetes and knives, Alvarado 1996 Decl. at 8-9; Transcript at 27; kicked her in the attempt to cause a miscarriage of the baby she refused to abort as he demanded, Alvarado 1996 Decl. at 4; Transcript at 26, 35; kicked her so severely in her genital area that she suffered internal bleeding and hemorrhages, Alvarado 1996 Decl. at 5-6; Transcript at 35-36; battered her face, dislocating her jaw, Alvarado 1996 Decl. at 4; whipped her with an electric cord, severely

injuring her arm, *id.* at 8; Transcript at 23; used her head as a battering ram, breaking windows and mirrors with it, Alvarado 1996 Decl. at 7; Transcript at 23; and beat her into unconsciousness in front of their children, Alvarado 1996 Decl. at 6-7; Transcript at 39.

It is abundantly clear from Osorio's words and actions over the many years of abuse that he believed he had the right to act as he pleased. As Ms. Alvarado summed it up in testimony in her case, her husband treated her as he did because he saw her as "something that belonged to him and that he could do anything he wanted" to, without concern for any repercussions. Transcript at 135.

c. Societal perceptions accept abuse and reinforce the abuser's beliefs in his right to abuse

Accompanying this Legal Memorandum are the declarations of two of Guatemala's most highly regarded experts on the status of women, Hilda Morales Trujillo⁷ (Exhibit B), and Claudia Paz y Paz Bailey⁸ (Exhibit C), and a compilation of

⁷ Ms. Morales' expertise has been recognized by the Organization of American States (OAS), which appointed her as Guatemala's designated expert to OAS procedures for the implementation of the Convention of Belem do Para, which is the key regional treaty in the Americas addressing violence against women. Ms. Morales' expertise is also well-recognized within Guatemala, where she has participated as a representative to CONAPREVI, the country's national coordinating body to prevent, punish and eradicate domestic violence, and she has been instrumental in founding initiatives and projects which carry out research and advocacy on behalf of women's rights. She has authored or co-authored numerous books analyzing various aspects of the legal system in Guatemala, and the necessary reforms to guarantee women equal rights and protection from violence. Ms. Morales has taught law at public and private universities in Guatemala, has been appointed as a magistrate judge, and has held other governmental positions. In 2004, Amnesty International awarded her, along with Mary Robinson, the former U.N. High Commissioner for Human Rights, its Ambassador of Conscience Award. (See Exhibit B, Declaration of Guatemala Expert Hilda Morales Trujillo, August 6, 2009, at 7-11 of the attached documentation packet. ¶¶ 1-8.)

⁸ Ms. Paz y Paz Bailey [hereinafter "Ms. Paz"] is a highly regarded expert on human rights, women's rights, and the Guatemalan criminal justice system. She has published extensively on these issues, taught law at public and private law schools in Guatemala,

reports and articles addressing conditions in Guatemala relevant to the matters at issue (Exhibit D). This evidence overwhelmingly establishes that societal perceptions in Guatemala accept abuse and reinforce the abuser's beliefs in his right to abuse.

In her declaration, Hilda Morales Trujillo sums up the manner in which this attitude pervades the entire society, stating: "In Guatemala, violence committed against women operates on several levels: in the home by the abuser; perpetuation through societal attitudes; and [through] an unresponsive and ineffective legal system that is unwilling to protect women." Exhibit B, Declaration of Guatemala Expert Hilda Morales Trujillo at 24,⁹ ¶ 34 [hereinafter Morales Decl.]. Ms. Morales reiterates the role that societal and cultural norms have on male violence against women, referring to "societal assumptions of a man's right to abuse his partner." *id.* at 11, ¶ 9, and to a Guatemalan "culture that embraces the subjugation of women and celebrates a man's right to dominate." *Id.* at 11, ¶ 10. It is accepted that the "husband has the complete right to tell the woman what she can and cannot do." and if a woman "challenges this structure, she will be punished, not only by her husband, but also by others in the form of social stigma for being a 'bad woman.'" *Id.*

worked with the Office of Human Rights of the Archbishop of Guatemala, and served as legal advisor to the United Nations High Commissioner for Refugees. Ms. Paz has also worked with the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), and most recently served as executive director of the prestigious Guatemalan Institute for the Comparative Study of Criminal Law (ICCPG). (See Exhibit C, Declaration of Guatemala Expert Claudia Paz y Paz Bailey, August 5, 2009, at 27-29 of the attached documentation packet, ¶¶ 1-3.)

⁹ All page numbers provided for declarations and country condition documentation refer to the corresponding page numbers in the supporting documents submitted in conjunction with this Legal Memorandum, not to the original page numbers of the individual documents. The official citations to documents referred to in this Legal Memorandum are also provided in footnotes which accompany the first reference to each document.

These attitudes are reflected in the response – or perhaps better characterized as non-response – of State officials. The “notion that a woman... is at fault for being beaten because she does not obey her husband [is] prevalent throughout Guatemala, especially among the governmental and judicial authorities with the duty to investigate and prosecute crimes.” *Id.* at 12, ¶ 11. The officials “shirk their responsibility” to take action because they believe that the “man has the right to use violence against a woman as a means of exercising power and control over her.” *Id.* Ms. Morales recounts incidents where women who have reported abuse to the police have been treated as if they were the criminal, or who were told that they could “fix things by simply having sex with their husbands that night... The police ridicule these women even when the marks of the abuse they have suffered are visible.” *Id.* at 12, ¶ 10.

These gender inequalities are mirrored in the “patriarchal framework of the legal system” in Guatemala; neither the civil nor the criminal codes provide equal rights, or adequately criminalize acts of violence against women. *Id.* at 14, ¶ 15; *see id.* at 13-23, ¶¶ 13-30.

Violence against women in Guatemala has culminated in an “epidemic” of killings of women, commonly referred to as “femicides.” *Id.* at 12, ¶ 12. More than 4,000 women have been killed between 2000 and 2008. Ms. Morales states that these killings are not random, but are the result of a “legal system and a culture that lacks respect for women[.]” *Id.* There has been wide acceptance of these killings on the part of the governmental authorities, who “lack political will to investigate and prosecute gender-motivated crimes[.]” *Id.* at 20, ¶ 23.

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Guatemala has enacted a series of “special laws,”¹⁰ beginning with the 1996 Law to Prevent, Punish and Eradicate Family Violence, followed by the 2008 Law Against Femicide and Other Forms of Violence against Women [hereinafter Femicide Law], and the 2009 Law Against Sexual Violence, Exploitation and Human Trafficking [hereinafter Trafficking Law]. However, according to Ms. Morales, notwithstanding the passage of these laws, nothing has changed for women in Guatemala. “There has been no perceptible reduction in violence against women... in fact, the number of femicides has increased, with 2008 having the highest number of killings yet – and there has been no indication of a reduction in impunity for those responsible for the femicides or for other crimes involving violence against women.” *Id.* at 24. ¶ 35.

As discussed below, Ms. Morales’ analysis and expert opinions are consistent with those of other notable experts, as well as with documentation from the U.S. Department of State, the Organization of American States (OAS), various United Nations bodies, the Canadian government, and a wide range of non-governmental organizations.

In her expert declaration, also submitted in support of Ms. Alvarado’s case, Claudia Paz y Paz Bailey reaches the same conclusions as Ms. Morales. *See* Exhibit C. Declaration of Guatemala Expert Claudia Paz y Paz Bailey [hereinafter Paz Decl.]. Ms. Paz states that violence against women in Guatemala is rooted in long-standing cultural

¹⁰ The term “special law” is used to designate a law which is enacted to stand alone, rather than as a provision of existing Guatemalan codes. The enactment of special laws as a way in which to deal with inadequate or discriminatory provisions in Guatemala’s civil and criminal codes has been criticized by legal experts. These special laws often leave standing the contradictory provisions in the civil and criminal codes, and lead to confusion regarding the proper jurisdiction for enforcement of these laws. Center for Gender & Refugee Studies (CGRS) Interview with Angélica Valenzuela, Executive Director, *Centro de Investigación, Capacitación, y Apoyo a la Mujer* [Center for Women’s Research, Training and Support], in Guatemala (Sept. 25, 2008)(on file with CGRS office).

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and societal attitudes. Acceptance of violence, which she refers to as the “normalization” of violence against women within society, was constructed in Guatemala over “more than five hundred years.” Paz Decl. at 31, ¶ 11. She dates this violence and inequality back to the “patriarchal relationships that were established during Guatemala’s colonization[.]” *Id.* at 34, ¶ 18. Pursuant to these beliefs, “women are inferior beings who may be subjected to sexual harassment, rape, and even murder.” *Id.* at 31, ¶ 9. These forms of harm are often utilized as a form of “punishment or retaliation” against a woman or girl who attempts to challenge her subordinate gender role; in this context “[p]hysical abuse and rape are seen as acts of discipline, as well as revenge: as a means to reestablish order (to punish a woman for going outside her role) and as a natural result of patriarchal relationships[.]” *Id.* at 29, ¶ 5.

These inequalities have been reinforced by a judicial system which has perpetuated “women’s subordination.” *Id.* at 36, ¶ 22. Women who are victims of physical and sexual violence “encounter prejudice and discrimination” from government authorities. *Id.* at 35, ¶ 19. Investigators and prosecutors “blame the victims” of gender-based crimes, and as a result of their attitudes, often “assume that the victims ‘deserved’ the violence to which they were subjected[.]” *Id.*

Ms. Paz also references the relatively recent phenomenon of “femicides” in Guatemala as demonstrating the scope and gravity of violence against women. Over 4,000 women have been murdered in Guatemala since 2000, and the number of women killed has increased annually, leading her to observe that “[e]ach year it is more dangerous to be a woman in Guatemala.” *Id.* at 29, ¶ 4. The bodies of femicide victims show evidence of brutality – indicating that many were raped or beaten before being

killed. *Id.* at 30, ¶ 6. There is “widespread acceptance of this growing violence,” *id.* at 31, ¶ 10, and “sexist attitudes” result in discriminatory handling of these cases by the authorities. *Id.* at 35, ¶ 19. Impunity for the perpetrators is rampant, with 98% of the killings never investigated, prosecuted, or resulting in convictions. *Id.* at 31, ¶ 8. This impunity is not without its consequences; “[t]his lack of responsibility on the part of the State for crimes against women has contributed to gender-based violence because it has sent the message that men are above the law. The possibility that they may be able to rape or kill a woman without fearing punishment, creates a tacit approval of the crimes, which results in ever more violence.” *Id.* at 36, ¶ 21.

Reaching a similar conclusion to that of Ms. Morales, Ms. Paz concludes that the recent passage of new laws – namely the Femicide and Trafficking Laws – have not “resulted in a reduction in the high levels of violence against women, or in the impunity that is still prevalent in Guatemala for those who commit these violent acts.” *Id.* at 32, ¶ 12.

This dire situation of inequality, violence against women, and impunity which persists in Guatemala has been documented in the reports of numerous governmental, inter-governmental, and non-governmental organizations. In its most recent Country Report,¹¹ the U.S. State Department observed that “[v]iolence against women, including domestic violence *remained* a common and serious problem[.]” [Emphasis added.] See Exhibit D at 148. The State Department noted the frequent failure of the police to “intervene in violent situations in the home” despite legal requirements to do so. and it

¹¹ U.S. Dep’t of State, *2008 Human Rights Report: Guatemala* (Feb. 25, 2009), available at <http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119161.htm>.

remarked on the brutality of the femicides, noting that the bodies of many of the women killed bore evidence of “sexual assault, torture and mutilation.” *Id.* at 136.

So extreme is the situation in Guatemala that in 2007 both chambers of the U.S. Congress approved resolutions¹² expressing concern about violence against women in Guatemala. *See* Exhibit D at 236, 242. The two resolutions noted the disturbing phenomenon of the gender-motivated killings of women (i.e., the femicides), condemned the high rate of violence towards women, and criticized the lack of an effective response from society, as well as government officials. They called on the Guatemalan government to do more, including to “act with due diligence” to investigate the killings of women and girls promptly, “prosecute those responsible,” and work towards eliminating the tolerance of violence against women. *Id.* at 239, 246.

A number of key United Nations bodies have expressed similar concern regarding the plight of women and girls in Guatemala, and the ineffectiveness of recent legal initiatives, such as the Femicide or Trafficking Laws. For example, in its 2009 report¹³ (*see* Exhibit D at 72-81), the U.N. Committee on the Elimination of Discrimination against Women (U.N. CEDAW) noted its concern about the “pervasiveness of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family, the workplace, political life and society.” at 75, and called upon the Guatemalan government to “modify social and cultural attitudes which are the root cause of most forms of violence targeting women, in particular murders motivated by

¹² H.R. Res. 100, 110th Cong. (2007); S. Res. 178, 100th Cong. (2007).

¹³ Comm. on the Elimination of All Forms of Discrimination against Women [CEDAW], *Concluding observations of the Committee on the Elimination of Discrimination against Women*, U.N. Doc. CEDAW/C/GUA/CO/7 (Feb. 12, 2009).

gender prejudice.” *Id.* at 76. It observed that the recently enacted laws were not enough to combat domestic violence against women in Guatemala due to the continued prevalence of violence against women. *Id.* The Office of the U.N. High Commissioner for Human Rights, as well as the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (U.N. Special Rapporteur), also issued highly critical reports¹⁴ on the situation of women in Guatemala in 2009. Both reports expressed grave concern regarding the rising number of femicides. *See* Exhibit D at 297, 313. The U.N. Special Rapporteur commented on the “gender bias” on the part of authorities investigating the crimes. *id.* at 297, and both reports stated that there were problems with the implementation of the recently passed Femicide Law, which prevented it from being effective. *Id.* at 297, 313-14.

The Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) has also singled out Guatemala for censure regarding the status and treatment of women. In its 2007 report *Access to Justice for Women Victims of Violence in the Americas*,¹⁵ the IACHR refers to the “historically unequal power relations

¹⁴ The U.N. High Commissioner for Human Rights, *Report of the U.N High Commissioner for Human Rights on the activities of her office in Guatemala in 2008, delivered to the General Assembly and Human Rights Council*, U.N. Doc A/HRC/10/31/Add.1 (Feb. 28, 2009); The Special Rapporteur on extrajudicial, summary or arbitrary executions. *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions. Philip Alston: Addendum: Follow-up to Country Recommendations – Guatemala, delivered to the General Assembly and Human Rights Council*, U.N. Doc A/HRC/11/2/Add.7 (May 4, 2009).

¹⁵ Org. of Amer. States, Inter-Amer. Commission on Human Rights [IACHR], *Access to Justice for Women Victims of Violence in the Americas* (Jan. 20, 2007), available at <http://www.cidh.org/women/Access07/Report%20Access%20to%20Justice%20Report%20English%20020507.pdf>.

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between men and women” in Guatemala. See Exhibit D at 380. Women are seen as inferior, and as a consequence, “oppression of women within the family” is both condoned and tolerated. *Id.* at 380. These attitudes are clearly shared by judicial authorities, who poorly treat women victims of violence because the “acceptance and socialization of violence and discrimination against women [are seen] as normal behaviors within the social structure[.]” *Id.* at 426. This is by no means the first time that the IACHR has urged Guatemala to address this systemic and ongoing problem: in its 2004 Annual Report¹⁶ it noted that Guatemala should “urgently intensify its efforts to combat... violence and discrimination against women[.]” *Id.* at 273.

The Canadian government, in a 2006 publication of its Immigration and Refugee Board,¹⁷ provided a perspective on Guatemala consistent with all the foregoing. It cited a leading women’s rights activist as stating that “aggression towards women is perceived as ‘natural’” and it quoted the Guatemalan Human Rights Ombudsman as stating that domestic violence in Guatemala was “quantitatively alarming” and widespread across the country. See Exhibit D at 210. A report prepared for the European Parliament in 2006¹⁸

¹⁶ Org. of Amer. States, Inter-Amer. Commission on Human Rights [IACHR], *Annual Report of the Inter-American Commission on Human Rights 2004* (Feb. 23, 2005), available at <http://www.cidh.org/annualrep/2004eng/toc.htm>.

¹⁷ Immigration and Refugee Board of Can., *Guatemala: Domestic violence; recourse and services available to victims (2005 –September 2006)* (Dec. 18, 2006), available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=45f1473d2f&skip=&coi=GTM&querysi=domestic%20violence&searchin=fulltext&display=10&sort=relevance>.

¹⁸ Johanna Ikonen, *Background Paper: Femicide—the Case of Mexico and Guatemala, delivered to the European Parliament* (April 19, 2006), available at http://www.europarl.europa.eu/meetdocs/2004_2009/documents/fd/droi20060419_h_bacgroundnote_/droi20060419_h_backgroundnote_en.pdf.

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commented that violence against women is not only accepted, it is seen as a “positive” attribute within the culture. *Id.* at 217. The European Parliament report draws the connections between Guatemalan societal attitudes and the government’s failure to respond, concluding that “[t]he denial of an effective judicial response both springs from and feeds back into the perception that violence against women and especially domestic violence is not a serious crime[.]” *Id.* at 218.

This bleak picture of the normalization of violence against women in Guatemala, and the impunity which results from the discrimination and bias of governmental officials, is also documented in countless reports of non-governmental organizations (NGOs). Amnesty International has published a number of reports in which it has documented the prevalence and acceptance of violence against women, and the failure of the authorities to offer an effective response. *See generally* Exhibit D, *Unrelenting Danger*¹⁹ at 229; *Amnesty International World Report 2007: Guatemala*²⁰ at 234; *Guatemala: No protection, no justice: Killings of women (an update)*²¹ at 250; *Amnesty International Report 2009*²² at 330; *Guatemala: A Summary of Amnesty International’s*

¹⁹ Laura E. Asturias and Virginia del Águila, *Unrelenting Danger*, Amnesty International Magazine, Fall 2005, available at <http://www.amnestyusa.org/amnesty-magazine/fall-2005/unrelenting-danger/page.do?id=1105190>.

²⁰ Amnesty Int’l, *Amnesty International Report 2007: Guatemala* (May 23, 2007), available at <http://www.unhcr.org/refworld/docid/46558ecc2.html>.

²¹ Amnesty Int’l, *Guatemala: No protection, no justice: Killings of women (an update)* (July 18, 2006), available at <http://www.amnesty.org/en/library/asset/AMR34/019/2006/en/970f9ee4-d423-11dd-8743-d305bea2b2c7/amr340192006en.pdf>.

²² Amnesty Int’l, *Amnesty International Report 2009: The State of the World’s Human Rights* (2009) available at <http://thereport.amnesty.org/sites/report2009.amnesty.org/files/documents/air09-en.pdf>.

*Concerns*²³ at 487; and *Guatemala: No protection, no justice: Killings of women*²⁴ at 495.

The Washington Office on Latin America (WOLA),²⁵ at 190, 195-200, and the Guatemalan Human Rights Commission (GHRC),²⁶ at 185, have stated the same.

A Latin American NGO, CLADEM (Caribbean Committee for the Defense of Women's Rights) submitted an extensive report²⁷ to the U.N. Committee on the Elimination of Discrimination Against Women, outlining the many ways in which the government of Guatemala has failed in its obligations to comply with U.N. CEDAW. See Exhibit D at 114-131. CLADEM deplored the "absolutely patriarchal" nature of Guatemalan society, *id.* at 122, where women are "second-class citizens... taught from the beginning to subordinate their needs and opinions to those of men..." *Id.* at 125. The CLADEM report further noted that notwithstanding developing laws, which afford

²³ Amnesty Int'l, *Guatemala: A Summary of Amnesty International's Concerns with regard to the Guatemalan Government's Implementation of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment* (April 2006), available at <http://www.amnesty.org/en/library/info/AMR34/013/2006>.

²⁴ Amnesty Int'l, *Guatemala: No protection, no justice: killings of women in Guatemala* (June 2005), available at <http://web.amnesty.org/library/index/ENGAMR340172005>.

²⁵ Adriana Beltrán & Laurie Freeman, Washington Office on Latin America (WOLA), *Hidden in Plain Sight: Violence Against Women in Mexico and Guatemala* (March 2007), available at <http://www.wola.org/media/ViolenceAWomen.pdf>.

²⁶ Julie Suarez and Marty Jordan, Guatemalan Human Rights Commission (GHRC), *Three thousand and Counting: A Report on Violence against Women in Guatemala* (Sept. 2007), available at <http://www.ghrc-usa.org/Programs/ForWomensRighttoLive/ThreethousandandCounting.AReportonViolenceAgainstWomeninGuatemala.pdf>.

²⁷ Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM). *Beijing Committee: Guatemala* (Aug. 2002), available at http://www.cladem.org/english/regional/monitoreo_convenios/cedawguatemalai.asp.

women greater rights on paper, “the norms in force in Guatemala are still discriminatory for women.” *Id.* at 126.

The reports discussed in this section, as well as the many other reports and articles not herein discussed, but submitted and summarized on pages 43 through 71 of Exhibit D, provide an overwhelmingly consistent – albeit bleak – picture of the situation in Guatemala for women. Violence against women is pervasive, normalized and celebrated within broad sectors of the society. This violence is so extreme that it has culminated in the phenomenon of femicides – the brutal gender-motivated killings of women. Violence against women, and the number of killings, has consistently increased, notwithstanding new laws and initiatives in Guatemala. And the government of Guatemala – through its police, prosecutors, judges – has in the past, and continues into the present – to exhibit a bias that has prevented any effective response or protection for women who are victims of domestic abuse, as well as other forms of violence. It is clear that the situation in Guatemala meets the DHS 2009 Brief’s standard for establishing social visibility which requires that societal perceptions accept abuse and reinforce the abuser’s belief regarding his right to abuse. DHS 2009 Brief at 14-18. No other interpretation – on this record – is possible.

IV. Ms. Alvarado is Entitled to the Presumption of a Well-founded Fear on the Basis of her Past Persecution

It is well-established in the law that an applicant who has established past persecution on account of a statutory ground is entitled to the presumption of a well-founded fear of persecution. 8 C.F.R. § 1208.13; 8 C.F.R. § 208.13. The presumption can be rebutted by proof of changed circumstances such that the applicant’s fear is no longer well-founded, or by proof that the applicant could avoid future persecution

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through reasonable relocation within the country of feared persecution. 8 C.F.R. § 1208.13(b)(1)(A) & (B); 8 C.F.R. § 208.13(b)(1)(A) & (B). The burden of rebutting this presumption through proof of changed circumstances or reasonable relocation lies squarely on the shoulders of the government. In a section entitled “Burden of proof,” 8 C.F.R. § 1208.13 (b)(1)(ii) clearly states: “In cases in which an applicant has demonstrated past persecution under paragraph (b)(1) of this section, *the Service shall bear the burden* of establishing by a preponderance of the evidence the requirements” necessary for rebuttal. [Emphasis added.] 8 C.F.R. § 1208.13 (b)(1)(ii); 8 C.F.R. § 208.13 (b)(1)(ii).

In two successive Orders, this court ordered the Respondent to update her biography with facts relevant to the presumption of a well-founded fear of persecution. In the June 4, 2009 Order, this court ordered her to provide “new facts in respect to... the application of *any asserted presumption* of future persecution.” [Emphasis added.] June 4 Order at 1. In a subsequent Order, dated June 23, 2009, this court reiterated that aspect of the ruling, ordering that Respondent provide “an updated declaration addressing any changed circumstances, in view of the presumption of a well-founded fear of future persecution *that she hopes to have applied in this case[.]*” [Emphasis added.] Order at 1, *Matter of R-A-* (A 73753922) (June 23, 2009) [hereinafter June 23 Order].

Respondent has complied with this court’s Orders. However, Respondent emphasizes the indisputable fact that Ms. Alvarado has suffered harm in the past rising to the level of persecution. The DHS 2004 Brief reaches this conclusion without equivocation. Therefore, as the DHS itself found, *as a matter of law*, Ms. Alvarado is entitled to the presumption of a well-founded fear which arises from past persecution.

DHS 2004 Brief at 18. Thus, notwithstanding the implication of this court's Orders, which refer to the application of "any asserted presumption of future persecution" or hoped for presumption (June 4 Order at 1; June 23 Order at 1), what is at issue here is not the arising of the presumption – but rather whether the presumption which has arisen, can be rebutted – a burden which the government bears.

As discussed above, the presumption can only be rebutted by proof of changed circumstances or reasonable relocation. In its 2004 Brief, DHS stated that Ms. Alvarado "could not reasonably avoid persecution by relocating within Guatemala." DHS 2004 Brief at 42. Therefore the only matter at issue is whether there have been changed circumstances such that Ms. Alvarado no longer has a well-founded fear.

A. There have been no changed circumstances to rebut Ms. Alvarado's well-founded fear of persecution

In order to meet its burden the government is "obligated to introduce evidence that, on an individualized basis, rebuts a particular applicant's specific grounds" for her well-founded fear of persecution. *Popova v. INS*, 273 F.3d 1251, 1259 (9th Cir. 2001) (internal quotation marks omitted). There is simply no evidence pertaining to Ms. Alvarado's individual situation, nor to country conditions in Guatemala, sufficient to rebut the presumption to which she is entitled.

First, there is no basis for concluding any changed circumstances relative to her persecutor, Francisco Osorio. Ms. Alvarado's two children, ----- and -----, live with their paternal grandparents in Guatemala. See Exhibit A, 2009 Declaration of Rody Alvarado Peña at 3 [hereinafter Alvarado 2009 Decl.]. In her 2009 Declaration, Ms. Alvarado states that, understandably, she has not been in direct communication with her husband since she fled Guatemala in 1995. However, she is in regular communication

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with her children, and would have heard if something had happened to Osorio, or if he had left the country. *Id.* at 10.

Furthermore, there is no basis for concluding any changed circumstances in Guatemala as regards violence against women, and the high level of impunity which continues to be enjoyed by those who batter, rape and kill women. The discussion in section III.A.4.c. *supra.* makes it abundantly clear that despite the passage of new laws in Guatemala, there has yet to be any indication of changed societal attitudes, a reduction in violence, or an increase in effective prosecutions or punishment of those responsible for domestic violence or other crimes against women in Guatemala. In the absence of any evidence of changed circumstances, the government is simply unable to rebut Ms. Alvarado's presumption of a well-founded fear.

V. Assuming *Arguendo* that the Government could Rebut the Presumption of a Well-founded Fear, Ms. Alvarado would be Entitled to Asylum as a Result of the Severity of her Past Persecution

In cases of severe past persecution, an applicant may obtain asylum even if she has no well-founded fear of future persecution, providing that she has "compelling reasons" for being unwilling to return, based on the severity of the past persecution. 8 C.F.R. § 1208.13(b)(1)(A)(iii)(A); 8 C.F.R. § 208.13(b)(1)(A)(iii)(A). Thus, even if the government were able to provide evidence of changed circumstances – which it cannot on the record in this case – Ms. Alvarado would be entitled to asylum.

The record documents the egregious physical persecution suffered by Respondent throughout her marriage. Over the course of a decade, Ms. Alvarado was beaten, kicked, whipped, dragged by her hair, and knocked unconscious by her husband. She was repeatedly raped, sodomized, and infected with sexually transmitted diseases by him.

When he was not physically assaulting her, he was threatening her with death or severe physical maiming. He would wake her up at night, with a machete to her throat, and ask what she would do if he “stuck this knife” in her. Alvarado 1996 Decl. at 8; Transcript at 27. He would throw a machete across the room, narrowly missing her, and then laugh and ask her what she would do if he cut off her arms. Transcript at 48. As recounted in subsection III.A.1, *supra*, he made numerous other threats of violence, including cutting off her legs, scarring her face, and killing her if she ever tried to leave him. Ms. Alvarado was terrorized throughout the course of the marriage, living in a situation in which her home had become a virtual prison and torture chamber.

Based on the controlling jurisprudence, the harm which Ms. Alvarado suffered is more than sufficient to meet the standard of severe and atrocious past persecution. *See e.g., Lopez-Galarza v. INS*, 99 F.3d 954, 960-63 (9th Cir. 1996) (Nicaraguan applicant imprisoned for 15 days, raped and physically abused repeatedly), *Desir v. Ilchert*, 840 F.2d 723, 729 (9th Cir. 1988) (Haitian applicant arrested, assaulted, beaten some fifty times with wooden stick, and threatened with death by the Macoutes on several occasions).

VI. Ms. Alvarado Qualifies for Asylum in the Exercise of Discretion

Establishing eligibility for asylum requires a two part finding – first that the individual meets the legal standard, and second that on the weighing of positive and adverse factors, he or she deserves asylum in the exercise of discretion. Ms. Alvarado has clearly established that she meets the legal standard for asylum. It is also without question that she merits asylum in the exercise of discretion.

Ms. Alvarado has lived an exemplary life in the United States since her arrival here fourteen years ago. She has an unblemished record, with no criminal or other adverse factors of any kind against her. Ms. Alvarado has demonstrated great stability, working to support herself throughout the years. She has also attempted to provide moral support to other women who have suffered domestic violence through her participation in support groups. Alvarado 2009 Decl. at 5.

Furthermore, Ms. Alvarado has been willing to speak out in the hopes of educating others regarding the situation in Guatemala, and the need to address violence against women. Included among her efforts to educate the public was her participation in the Public Broadcasting Service (PBS) film documentary, "Destination America: Breaking Free – A Woman's Journey" which premiered in October 2005.²⁸ Her plight has garnered bipartisan support in the U.S. Congress, with letters from congressmembers on both sides of the aisle supporting her.²⁹ It has also attracted the support of conservative as well as liberal groups.

²⁸ *Destination America: Breaking Free – A Woman's Journey* (PBS television broadcast Oct. 26, 2005). For further information about this documentary, see the PBS website at <http://www.pbs.org/destinationamerica/program.html>.

²⁹ The Congressional Hispanic Caucus sent a letter to former Attorney General Janet Reno on July 22, 1999. On December 2, 1999, five senators sent Attorney General Reno a letter expressing their concern about *Matter of R-A-*. On February 14, 2000, Senators Leahy, Brownback, Jeffords, Kerry, Kennedy, Feingold and Schumer sent a letter to Attorney General Reno asking her to reverse the BIA's decision in an honor killing case; this letter referred to *Matter of R-A-* and expressed concern that "the BIA lacks sufficient understanding of current standards in both United States asylum law and policy and international human rights law." On September 2000, members of both the House and Senate sent letters to the Attorney General again urging her to take immediate action to reverse *Matter of R-A-*. For details regarding these letters, see <http://cgrs.uchastings.edu/campaigns/alvarado.php>.

In the weighing of both favorable and unfavorable factors, there simply are no adverse factors in Ms. Alvarado's record. Furthermore, even if there were to be adverse factors, they would have to be of a most compelling nature. As the Ninth Circuit stated in *Hernandez-Ortiz v. INS*, 777 F.2d 509 (9th Cir. 1985), because discretion is only exercised after an individual has been found to meet the refugee standard, a denial in the exercise of discretion results in returning a *bona fide* refugee to the country of persecution. Therefore, only the most genuine and compelling factors may justify a denial in the exercise of discretion. *Hernandez-Ortiz v. INS*, 777 F.2d at 519.

VII. Conclusion

Ms. Alvarado arrived in the U.S. in 1995 and sought asylum. In 1996, as discussed *supra*, an immigration judge (Mimi Schooley Yam) in San Francisco granted her asylum. Eight years later, in 2004, after actions taken in her case by the Board of Immigration Appeals and two attorneys general, the Department of Homeland Security itself reaffirmed the ultimate conclusion reached by immigration Judge Schooley Yam – *namely that Ms. Alvarado should be granted asylum.*

An additional five years have passed since the DHS filed its brief, but her case remains unresolved. Throughout the course of these long 14 years, Ms. Alvarado has been in limbo, separated from her two children in Guatemala, and without the peace of mind that would come from knowing that she will not be sent back to a situation of violence and torment at the hands of her brutal husband.

The only thing that has changed since the DHS filed its 2004 brief arguing that Ms. Alvarado should be granted relief is that the jurisprudence of social group has

developed to require a showing of social visibility and particularity. As discussed in detail herein, Ms. Alvarado's proposed social group clearly meets the criteria that the DHS itself has set forth for establishing social visibility and particularity.

Furthermore, there are absolutely no factors that would militate for a denial in her case. Ms. Alvarado has worked hard and contributed to society during her years in the United States, and not only have conditions in Guatemala failed to improve, they have actually worsened, with violence against women and impunity for abusers greater now than it was a decade ago.

Ms. Alvarado has waited a long time for the immigration authorities entrusted with deciding her fate to reach a decision. She has been painfully aware of the contradictory twists and turns taken by a range of authorities in her case – from the initial immigration judge, to the BIA, to three successive attorneys general, to the DHS itself. She submits this Legal Memorandum and its accompanying exhibits in the hope that a decision will finally be rendered. On this record, and within this context – it would be hard to explain what additional evidence is required to establish that she qualifies for asylum.

Respectfully submitted,



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