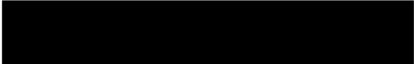




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Pro Bono Counsel for the Respondents

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
HYATTSVILLE, MARYLAND

In the Matters of:)
)
[redacted], [redacted] and [redacted])
)
)
Respondents,)
)
In Removal Proceedings.)
_____)

A# [redacted]
A# [redacted]

Immigration Judge [redacted]
Individual Hearing: [redacted] 2025, at 10:00am

PRE-HEARING BRIEF IN SUPPORT OF RESPONDENTS' FORM I-589

I. INTRODUCTION AND SUMMARY OF LEGAL ARGUMENT

██████████ (“Ms. ██████████”), a Peruvian woman, seeks asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”), and has included her Peruvian spouse, Respondent ██████████, in her application. ██████████ (“Mr. ██████████”), Ms. ██████████’s former domestic partner in Peru, subjected her to almost 12 years of brutal physical assault, rape, death threats, and stalking. Ms. ██████████’s declaration, supporting evidence, and country conditions expert’s declaration and documentation establish that if she returns to Peru, Mr. ██████████ will easily find her and beat, rape, and/or kill her because of her expressed and imputed feminist political opinion, because he considers her his woman and his property, because she escaped his power and control, and because she resisted Peruvian patriarchal gender norms. The Peruvian government is unwilling and unable to protect Ms. ██████████ from Mr. ██████████ because it routinely fails to protect Peruvian women from their male partners’ violence, particularly Afro-Peruvian women like Ms. ██████████. Extensive research shows that Peruvian men use violence to punish and control their female partners with impunity in Peru’s pervasive *machista* culture.¹

II. FACTS AND PROCEDURAL HISTORY²

A. Growing up as a Girl in Peru

Ms. ██████████ was born in ██████████ Peru on ██████████. She lived at home with her parents until she was 11 years old. At that time, her older brother’s children moved into their home, and Ms. ██████████’s parents sent her to live with her older sister ██████████ and ██████████ husband, ██████████. ██████████ provided for Ms. ██████████ until she turned 16. During the five years Ms. ██████████ lived with ██████████ and ██████████, ██████████ sexually abused and raped her. After the first sexual assault, Ms. ██████████ lived in ██████████’s home in constant fear of ██████████. Ms. ██████████ did not disclose the assaults from ██████████ for fear that it would destroy ██████████’s family, that she herself would be blamed for the assaults, and/or that she would be kicked out of the home and have nowhere to live. These attacks and the fear thereof drove Ms. ██████████ to seek refuge with a man named ██████████ ██████████.

B. Meeting and Becoming the Woman of ██████████

When she was 16 years old, Ms. ██████████ was introduced to Mr. ██████████ by her sister ██████████. She confided to him that ██████████ was abusing her and began staying at Mr. ██████████ home to hide from ██████████. During one of those visits, Mr. ██████████ pressured Ms. ██████████ to drink alcohol until she passed out; he then raped her.

After the assault, ██████████ forced Ms. ██████████ to take a ‘morning-after’ pill, pressured her to move in with him, and began referring to her as “his woman” and his “partner” – which has the same significance in Peru as “spouse” – to others in their neighborhood, family and friend circles, and community.³ Ms. ██████████ began living with ██████████ soon thereafter to escape from ██████████. Shortly after they began living together, Mr. ██████████ began punching and kicking her, pushing her around, grabbing her by the hair, slapping her, and beating her several times a week for the eight years they lived together. He physically assaulted her if she “asked him why he came home late, or if [she] expressed dissatisfaction with something, or when [she] did not do the household chores to his satisfaction...He said that [she] had to do these things ‘because you are a woman’ and declared that would not have a woman who would not do these things.”⁴

¹ See Exhibits S-1 to S-13.

² This section is based on Exhibits A-R. Direct quotations are cited to the corresponding exhibit.

³ Exhibit F, “Declaration of ██████████”, ¶¶ 19-22.

⁴ *Id.* at ¶¶23-24.

C. Mr. ██████'s physical abuse and control of Ms. ██████

In addition to the incessant physical abuse, Mr. ██████ also exercised physical and financial control over Ms. ██████.⁵ He would control what clothes or makeup she could wear, her work wages, and would stalk her at work to the point that Ms. ██████ was not able to work without fear he would harm her. He would also demand that she hand over her earnings from work so that he could control her finances – but would instead spend her money on things for other women. Ms. ██████ resisted, defied, and/or disobeyed Mr. ██████'s demands to take care of him, his daughter, and their home, but he insisted that she must obey him because she is a woman and because he owned her. He then used brutal physical and emotional abuse to force her to submit to him. On one occasion, Mr. ██████ poured water over Ms. ██████ and locked her outside on his back patio, only letting her back into the house the next day, while chastising her for challenging his unfaithfulness, which he blatantly declared was his right as a man. At the same time, Mr. ██████ demanded that Ms. ██████ be faithful only to him and repeatedly accused Ms. ██████ of sleeping with other men if she did not wear the clothes he selected, which covered up her body. Members of their community such as Ms. ██████'s friend and neighbor, ██████ ██████ ██████ attest seeing how Mr. ██████ physically assaulted and controlled Ms. ██████ in public and Mr. ██████ recalls seeing on several occasions the deep bruises on her body that Mr. ██████ inflicted upon her during their domestic partnership.⁶

D. Mr. ██████'s initial death threats and sexual abuse of Ms. ██████

Throughout their 8-year domestic partnership, Mr. ██████ raped Ms. ██████ almost daily. He used verbal abuse and physical threats while raping Ms. ██████ such as declaring to her: “you are *my* woman” and asserting to her “that he was my ‘first man’ and that as such he could do whatever he wanted with me. He warned me that even if I went off with another man, I had to always return’ to him because he would always find me and force me to return to him since I would always be his woman.”⁷ These threats were paired with possessive statements asserting that Ms. ██████ was ‘his woman’ and that if she ever left him, he would find her and force her to return to him.⁸ He threatened to publicly post revealing photos of her, to disfigure her, and “when he was ready to do [so]” to kill her.⁹ Despite Ms. ██████ refusing to have sex with him, Mr. ██████ used even worse abuse to force her to do so.

E. Ms. ██████'s Attempts to Escape Mr. ██████ and His Ongoing Abuse and Death Threats

Throughout this relationship, Ms. ██████ thought of escaping from Mr. ██████'s abuse by any means necessary, including through suicide. On one occasion, she attempted to kill herself by taking her mother's epilepsy medication; she was discovered and rescued by her mother.

Ms. ██████ repeatedly attempted to flee Mr. ██████. During those attempts, she would hide at her parents' home and pretend not to be there when he came looking. She was able to find some reprieve at her parent's home, as ██████ would not rape her while her family was present. Ms. ██████ did not tell her family about Mr. ██████'s abuse, fearing that it could harm the already fragile health of her parents. When Mr. ██████ did find her at her parents' home, he would act as if they were the perfect couple—then mercilessly beat and rape her once the two were alone at his home. Ms. ██████'s godson, ██████ ██████ ██████, recounts how he saw the deep bruises Mr. ██████ inflicted around Ms. ██████'s neck when she returned home after he accosted her, and beating her at her family home when he thought no one else was watching.¹⁰ Ms. ██████ describes Mr. ██████'s repeated violence in response her attempted escapes in vivid detail, recalling that upon forcing her return to their home, he would declare “that I was his woman, that I could never leave him because he would always find me, and that my parents would never believe me because

⁵ Exhibit F, “Declaration of ██████ ██████ ██████”, ¶¶ 23-27.

⁶ Exhibit H, “Declaration of ██████ ██████ ██████ i”, ¶¶ 5-8.

⁷ Exhibit F, “Declaration of ██████ ██████ ██████”, ¶ 29.

⁸ *Id.* at ¶ 31.

⁹ *Id.* at ¶¶ 35-37.

¹⁰ Exhibit I, “Declaration of ██████ ██████ ██████”, ¶ 5-9.

they would think I was crazy. Then when we arrived at home, [REDACTED] would rape me, saying he needed to be sure that I hadn't been with another man.”¹¹

On or about [REDACTED] 2019, Ms. [REDACTED] received a text message from another woman showing intimate photos of her and Mr. [REDACTED]. The woman alleged that she was pregnant with Mr. [REDACTED]'s child. At that time, Ms. [REDACTED] resolved to leave Mr. [REDACTED] for good. On [REDACTED] 2020, Ms. [REDACTED] blocked Mr. [REDACTED]'s phone number and took a bus to stay with her mother in [REDACTED]. Mr. [REDACTED] used his sister's Facebook messenger account to threaten Ms. [REDACTED], saying he would find her on the street and disfigure her face. Mr. [REDACTED] eventually followed her to [REDACTED] stalking her.

Shortly after arriving in [REDACTED], Ms. [REDACTED] met [REDACTED] (“Mr. E [REDACTED]”), her current husband. The two began dating, infuriating [REDACTED]. Mr. [REDACTED] continued to manipulate Ms. [REDACTED] into returning to him. While he pretended to be the concerning-son-in-law in front of her family, “when he found a way to get me alone, [REDACTED] declared that I belonged to him. He would grab me by the jaw, call me a [REDACTED] and a whore for being with another man. He said, ‘You cannot be with another man except with me. You are a woman because of me.’ He asked me, ‘You like to wear makeup on your face, huh? You’ll see. You’ll see how I will leave your face so disfigured that you will look like a monster.’ He swore that he would rather see me dead than with another man. Once, I recall he told me that he would pick me off the public street, take me to the beach, and make me disappear in the sea, and that ‘no one will find you’”.¹² Eventually, Mr. E [REDACTED] moved in with Ms. [REDACTED] and her parents, but Mr. [REDACTED] continued stalking and threatening Ms. [REDACTED] at home, and threatened Mr. E [REDACTED]'s life as well for being with Mr. [REDACTED] woman.¹³

F. Ms. [REDACTED] Vainly Sought Protection from Peruvian Law Enforcement

As Ms. [REDACTED] had regularly experienced racism from Peruvian police and observed how they routinely dismissed complaints by women regarding domestic violence, she deemed it futile to report Mr. [REDACTED]'s brutal abuse and death threats to Peruvian police. In 2022, Ms. [REDACTED] attempted to seek police protection from Mr. [REDACTED]'s violence. By this time, Mr. [REDACTED]'s threats against Ms. [REDACTED] continued and escalated, even though he began dating another woman (“[REDACTED]”) but he did not live with her as his partner.¹⁴ Mr. [REDACTED] threatened to have his friends attack Ms. [REDACTED] so that he would not have to “get his hands dirty.”¹⁵ [REDACTED]'s brother [REDACTED] called Ms. [REDACTED] from prison and threatened to “take care” of her and [REDACTED].¹⁶ Ms. [REDACTED] reported this incident to the police, but they did nothing to help or protect her from [REDACTED]'s threats. The stress of constant threats from [REDACTED] caused Ms. [REDACTED] to again attempt suicide, and to attempt to end her relationship with Mr. [REDACTED], fearing that [REDACTED] would kill him.

In [REDACTED] 2022, two men attacked Ms. [REDACTED] in public in [REDACTED]. They did not rob her, but they did maul her face, just as [REDACTED] had repeatedly threatened that he would do to her. Ms. [REDACTED] reported the attack to the local police—but they did not open an investigation despite her obvious physical injury when she presented herself at the police station to seek their protection.

¹¹ Exhibit F, “Declaration of [REDACTED]”, ¶ 35.

¹² *Id.* at ¶ 46; *see also* Exhibit I, “Declaration of [REDACTED]”.

¹³ Exhibit F, “Declaration of [REDACTED]”, ¶ 56; *see* Exhibit G, “Witness Declaration of [REDACTED]”.

¹⁴ Exhibit F, “Declaration of [REDACTED]”, ¶¶ 50-51.

¹⁵ *Id.* at ¶ 51.

¹⁶ *Id.* at ¶ 53.

G. Mr. ██████'s Death Threat Prompting Ms. ██████'s Escape to the United States

In August 2022, Ms. ██████ and Mr. ██████ became aware that they were pregnant with a daughter, ██████.¹⁷ As the pregnancy developed, ██████'s threats to Ms. ██████ became increasingly violent.¹⁸ ██████ would drive an hour to Ms. ██████'s home and threatened that “[she] will not last much longer” and “[he] prefers to see [her] dead.”¹⁹ The stress from these threats almost caused Ms. ██████ to suffer a miscarriage.

These threats came to a head in mid-November, when Ms. ██████ found an envelope on her house's doorstep containing a bullet and the words, “This is what will happen to you and your family.”²⁰ Her car was vandalized shortly thereafter. Ms. ██████ again sought police protection because she was so anxious about Mr. ██████'s death threats; however, the police refused to help her unless she paid them a large bribe, which is common practice for police to be willing to help victims in Peru.²¹

Fearing for her life, the life of Mr. ██████, and now the life of her unborn child, and knowing that the police would not help her, Ms. ██████ resolved to flee to the United States.²² Prior to leaving, Ms. ██████ and Mr. ██████ were married in a civil ceremony in ██████ Peru.²³ During the time that she was in hiding prior to her departure, Ms. ██████ also learned from her father that Mr. ██████ visited her father's house asking if she was pregnant and how far along her pregnancy was. Ms. ██████ and Mr. ██████ promptly made plans to stay with an uncle in ██████ and fled Peru on or about November ██████ 2022. During their escape, Ms. ██████ had constant fears that Mr. ██████ would find them and harm them, and those fears again threatened the health of her unborn child. The family arrived in the United States and surrendered to U.S. Customs and Border Patrol on ██████ 2022, hoping that they would find protection.

III. LEGAL ARGUMENT

A. Ms. ██████ qualifies for asylum.

To qualify for asylum, an applicant must show she has (1) suffered past persecution or has a well-founded fear of future persecution, (2) on account of an enumerated statutory ground, and that (3) the government is unwilling or unable to protect her.²⁴ Ms. ██████ has suffered past persecution in the form of multiple instances of rape, physical beatings, death threats and more. This past persecution was on account of her political opinion and her membership in multiple particular social groups; thus, she has a rebuttable presumption of a well-founded fear of future persecution.²⁵ The Peruvian government is unwilling and unable to protect her and other similarly situated Peruvian women from violence and sexual assault perpetuated by their domestic partners.²⁶ Internal relocation is unreasonable because Mr. ██████ has repeatedly found Ms. ██████ after she attempted to escape and violently retaliated against her, because the Peruvian government

¹⁷ Exhibit F, “Declaration of ██████”, ¶ 56; Exhibit D, “U.S. Birth Certificate of ██████ pe ██████”.

¹⁸ Exhibit F, “Declaration of ██████”, ¶¶ 57-59.

¹⁹ *Id.* at ¶¶ 57-58.

²⁰ *Id.* at ¶ 59.

²¹ *Id.* at ¶¶ 59-60.

²² Exhibit F, “Declaration of ██████”, ¶ 60, ¶¶ 64-68 (“[After reporting the assault, vandalism of her car, and threats] the police refused to help me in any way.”).

²³ *Id.* at ¶ 62; Exhibit R, “Marriage Certificate of ██████”.

²⁴ See 8 U.S.C. § 1158; see also *Herrera-Alcala v. Garland*, 39 F.4th 233, 244-45 (2022); *Ngarurih v. Ashcroft*, 371 F.3d 182, 187 (4th Cir. 2004).

²⁵ See 8 U.S.C. § 1101 (a)(42)(A)-(B); 8 C.F.R. §208.13(a).

²⁶ See *Matter of S-A*, 22 I&N Dec. 1328, 1335 (BIA 2000) (explaining that where the persecutor is a non-government actor, the applicant bears the burden of demonstrating that the government is either unwilling or unable to protect her); see also *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 950-51 (4th Cir. 2015).

historically turns a blind eye to the gender-based violence and abuse that Ms. [REDACTED] and countless other Peruvian women suffer, and because Ms. [REDACTED] lacks necessary male protection and resources to support herself in remote areas of the country.²⁷

B. Ms. [REDACTED] has suffered past persecution in the form of beatings, rapes, and death threats.

Ms. [REDACTED] experienced abuse and violence at the hands of Mr. [REDACTED] that rises to the level of persecution. The Immigration and Nationality Act (“INA”) does not define “persecution”, but courts and the Board of Immigration Appeals (“the Board”) have found that persecution involves “the infliction or threat of death, torture, or injury to one’s person or freedom” because of one of the statutorily protected grounds.²⁸ Persecution includes the “threat of death” and also encompasses behavior broader than “threats to ‘life or freedom.’”²⁹ Rape and sexual assault are such “atrocious forms of persecution” that they justify granting asylum “even where there is little fear of future persecution.”³⁰ Threats of violence and repeated beatings in a domestic relationship may also constitute persecution.³¹ Although singular acts of violence may rise to persecution, a determination of persecution should also consider the cumulative effect of multiple incidents.³²

Ms. [REDACTED] has suffered harm rising to persecution in the form of multiple threats to her life, repeated and severe physical beating, systematic rape, and brutal physical assault. Any one of these instances of abuse would alone constitute persecution. The psychological evaluation of Ms. [REDACTED] further corroborates the extent and severity of the harm Ms. [REDACTED] suffered in Peru. Dr. [REDACTED] completed Ms. [REDACTED]’s evaluation in July 2024 and diagnosed Ms. [REDACTED] with Post-Traumatic Stress Disorder (“PTSD”) and Major Depressive Disorder (“MDD”) based on her past persecution, finding that she “exhibited impairments in memory (short-term and long-term). Her overall cognitive function appeared to be partially impaired by her symptoms of PTSD”.³³ Dr. [REDACTED] observed that “[t]he experiences of being beaten and raped repeatedly, and being in fear of her life, are clear examples of her trauma.”³⁴ Ms. [REDACTED]’s PTSD symptoms include “unwanted, repeated recollections of the traumatic events. She described strong physical reactions when something reminds her of the trauma.”³⁵ Additionally, Ms. [REDACTED] exhibited severe symptoms of MDD, including, “depressed mood, anhedonia, difficulty sleeping, loss of energy, eating issues, and diminished ability to concentrate.”³⁶

²⁷ See *Essouhou v. Gonzales*, 471 F.3d 518, 522 (4th Cir. 2006) (finding that an asylee’s internal relocation would not be reasonable where asylee would be forced to hide away from her persecutor); see also *Matter of Acosta*, 19 I&N Dec. 211, 235-36 (BIA 1985); modified on other grounds by *Matter of Mogharrabi*, 19 I&N Dec. 439 (1987); *Matter of Fuentes*, 19 I&N Dec. 658, 663 (BIA 1988).

²⁸ *Sorto-Guzman v. Garland*, 42 F.4th 443, 448 (4th Cir. 2022) (quoting *Li v. Gonzales*, 405 F.3d 171, 177 (4th Cir. 2005)). See also *Matter of Acosta*, 19 I&N Dec. at 222; *Crespin-Valladares v. Holder*, 632 F.3d 117, 126 (4th Cir. 2011).

²⁹ *I.N.S. v. Stevic*, 467 U.S. 407, 428 n.22 (1984).

³⁰ *Garcia-Martinez v. Ashcroft*, 371 F.3d 1066, 1072 (9th Cir. 2004); see also *Marynenka v. Holder*, 592 F.3d 594, 60 (4th Cir. 2010).

³¹ See *In re R-A-*, 22 I&N Dec. 906, 914 (BIA 1999), remanded by *Matter of R-A-*, 24 I&N Dec. 629 (A.G. 2008) (noting, in the case of domestic violence, that “the severe injuries [R-A-] sustained [were...] sufficient to constitute “persecution”); accord *Ortez-Cruz v. Barr*, 951 F.3d 190, 198-202 (4th Cir. 2020) (finding that withholding of removal was warranted based on petitioner’s experience of domestic violence).

³² See, e.g., *Matter of O-Z- & I-Z-*, 22 I&N Dec. 23, 25–26 (BIA 1998) (finding that, “[i]n the aggregate” being physically assaulted three times, harassed through the mail system, and suffering property vandalism, “rise to the level of persecution”).

³³ Exhibit K, Psychological Evaluation of [REDACTED] by Dr. [REDACTED], (hereinafter “Psychological Evaluation”), ¶ 35.

³⁴ Exhibit K, Psychological Evaluation, at ¶ 49.

³⁵ *Id.* at ¶ 49.

³⁶ *Id.* at ¶ 50.

The cumulative effect of these beatings, rape, and death threats functioned as a tightly knit pattern of violence, domination, and subjugation that clearly establish persecution in the aggregate. As such, Ms. [REDACTED] has been persecuted in her home country and has a presumption of future persecution if she were to return.

C. Ms. [REDACTED] was persecuted on account of her feminist political opinions in favor of women’s rights, autonomy, and opposition to patriarchal norms.

1. Political opinion as a protected ground for asylum.

An asylum applicant making a claim of persecution based on political opinion must: “(1) specify the political opinion on which he or she relies, (2) show that he or she holds that opinion, and (3) show that he or she would be persecuted or has a well-founded fear of persecution based on that opinion.”³⁷ A political opinion may be actual or imputed and is not limited to “conventionally ‘political’ action.”³⁸ An asylum seeker establishes actual a political opinion claim by presenting evidence of prior acts or conduct that were imbued with political meaning and demonstrating that she in fact holds that opinion.³⁹ She may do so by testifying about her political beliefs,⁴⁰ providing evidence of her past activities, or “less overtly symbolic acts” reflecting a political opinion, such as not conforming to cultural norms or traditions.⁴¹

What constitutes an expressed political opinion requires a factual inquiry into the nature of the applicant’s activities, conduct, and words in relation to the political context in which the dispute took place.⁴² Courts have recognized that feminism constitutes a political opinion.⁴³ In *Fatin v. I.N.S.*, the Third Circuit found that the applicant had a “deep[ly] rooted belief in feminism” and “equal rights for women.”⁴⁴ It further held that “we have little doubt that feminism qualifies as a political opinion within the meaning of the relevant statutes.”⁴⁵

On the other hand, the relevant inquiry for imputed political opinion “is not the political views sincerely held or expressed by the victim, but rather the persecutor’s subjective perception of the victim’s views It does not matter, in other words, whether the victim in fact held a particular political opinion; what matters is that she proves that her persecutors believed that she held that opinion.”⁴⁶ Thus, an imputed political opinion is one attributed to the applicant by her persecutor—correctly or incorrectly—on account of her beliefs, actions, or associations.⁴⁷ In *Lagos v. Barr*, for example, the Court found that based on the sociopolitical framework of Honduras, the failure of the petitioner, an unmarried mother, to comply with the Barrio 18 gang’s extortionate demands and her subsequent escape would be perceived by the gang as a

³⁷ *Fatin*, 12 F.3d at 124.

³⁸ *Coriolan v. I.N.S.*, 559 F.2d 993, 1001 (5th Cir. 1977); see UNHCR, Guidelines on International Protection: Gender-Related Persecution ¶ 32 (May 7, 2002) (“[P]olitical opinion should be understood in the broad sense, to incorporate any opinion on any matter in which the machinery of the State, government, society, or policy may be engaged. This may include opinions about gender roles. It would also include nonconformist behavior which leads the persecutors to impute a political opinion on him or her.”).

³⁹ *Rivas-Martinez v. I.N.S.*, 997 F.2d 1143 (5th Cir. 1993); *Chun Gao v. Gonzales*, 424 F.3d 122, 129 (2d Cir. 2005).

⁴⁰ See, e.g., *Lopez Ordonez v. Barr*, 956 F.3d 238, 244 (4th Cir. 2020); *Camara v. Ashcroft*, 378 F.3d 361, 364-65 (4th Cir. 2004).

⁴¹ See *Gomez-Saballos v. I.N.S.*, 79 F.3d 912, 917 (9th Cir. 1996) (noting that an asylee “may hold a political opinion . . . even if the petitioner did not participate in organized political activities”) (citation omitted); *Rivas-Martinez v. I.N.S.*, 997 F.2d 1143, 1148 (5th Cir. 1993) (explaining that acts or refusals to act amount to evidence political opinion). See *Perafan Saldarriaga v. Gonzales*, 402 F.3d 461, 463 (4th Cir. 2005).

⁴² *Castro v. Holder*, 597 F.3d 93, 101 (2d Cir. 2010).

⁴³ *Fatin*, 12 F.3d 1233, 1243 (3d Cir. 1993); see also *Rodriguez Tornes*, 993 F.3d at 752; *Hernandez-Chacon*, 948 F.3d at 104-05.

⁴⁴ *Fatin*, 12 F.3d at 1237.

⁴⁵ *Id.* at 1242.

⁴⁶ [REDACTED] *Lagos v. Barr*, 927 F.3d 236, 254 (4th Cir. 2019).

⁴⁷ *Vumi v. Gonzalez*, 502 F.3d 150, 156 (2007).

“direct challenge to its efforts to establish and maintain political domination within Honduras’ ... and that as a “direct result,” ... Alvarez Lagos would be ‘targeted for violence in a manner that was very graphic, and visible to the community.’”⁴⁸

2. Feminism as a political opinion within the social construct of Peru’s patriarchal culture.

The United Nations has stated that “political opinion should be understood in the broad sense, to incorporate any opinion on any matter in which the machinery of the State, government, society, or policy may be engaged. This may include opinions about gender roles. It would also include nonconformist behavior which leads the persecutors to impute a political opinion on him or her.”⁴⁹ The government, society, and policy of a country define what are considered acceptable or unacceptable gender norms.⁵⁰ Thus, a woman’s expression or behavior in ways that pursue equal rights for women in a society where that is not the norm is a clear example of political opinion.⁵¹

Social patriarchy is a framework of gender norms, and it is defined as “a social system in which power is held by men, through cultural norms and customs that favor men and withhold opportunity from women.”⁵² Female behavior that does not conform to patriarchal gender norms may be considered as feminism, or expressions of female autonomy.⁵³ Expressing female autonomy within a patriarchal society intent on erasing that autonomy defies the idea of male supreme authority.⁵⁴ This defiance is often controlled and punished by violence, including domestic violence or sexual subservience.⁵⁵ Domestic violence expert Nancy Lemon summarizes this social construct simply: “The male batterer is motivated by a firm belief in male privilege, which expresses itself in an expectation that men and women conform to traditional and rigid gender roles in heterosexual relationships. The batterer treats his wife or partner like a servant or property rather than as an equal partner, acts like the ‘master of the castle,’ and assumes authority to define men’s and women’s gender roles and make final decisions regarding what his wife or partner will or will not do.”⁵⁶ Extensive research has documented how the male batterer’s exercise of power over the woman is threatened when she does not conform to patriarchal gender norms, such as when those women are “beaten if dinner was not ready when their abusers wanted it, or if they refused to have sex when the abusers wanted to have sex.”⁵⁷

Partners acting with male privilege believe their violence is justified “on the basis that the batterers, as men, were entitled to punish the women when they did not behave as the batterers thought women *should*.”⁵⁸ Hence, when women do not behave according to these male batterers’ expectations or demands – whether or not those women’s behavior is because they are knowingly exercising feminist ideology – the male batterers believe these women are failing at fulfilling the “‘the obligations of a good wife’ – that is, they believed their wives’ failure to cook well, to be available for sex, and to act in a deferential manner

⁴⁸ *Lagos v. Barr*, 927 F.3d at 251.

⁴⁹ UNHCR, Guidelines on International Protection: Gender-Related Persecution ¶ 32 (May 7, 2002).

⁵⁰ Rona Kaufman, “Patriarchal Violence”, 71 *Buff. L. Rev.* 509 (2023). Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol71/iss3/3>.

⁵¹ *Id.*

⁵² Dictionary.com, “Patriarchy”, <https://www.dictionary.com/browse/patriarchy> (accessed Dec. 12, 2024).

⁵³ Dictionary.com, “Feminism”, <https://www.dictionary.com/browse/feminism> (accessed Dec. 12, 2024).

⁵⁴ Rona Kaufman, “Patriarchal Violence”, 71 *Buff. L. Rev.* 509, 518 (“patriarchal violence is a form of ideologically driven violence that works to uphold the patriarchal hierarchy in which men’s interests are prioritized over the interests of girls and women”).

⁵⁵ Rona Kaufman, “Patriarchal Violence”.

⁵⁶ Exhibit N, “Declaration of Nancy K.D. Lemon, Expert on Domestic Violence and Battered Women” (hereinafter “Declaration of Nancy K.D. Lemon”) ¶ 27, ¶ 30.

⁵⁷ “Declaration of Nancy K.D. Lemon”, at ¶ 28.

⁵⁸ *Id.* at ¶ 29 (emphasis added).

constituted a reasonable basis for assault.”⁵⁹ A male partner’s use of violence manifests his attempt to maintain the status quo of a patriarchal society, one where, as the man, he “has unilateral authority to make the rules, and the abused, as a woman, must submit to his authority.”⁶⁰ Indeed, within this framework, a woman’s refusal or failure to be the definition of a woman in the eyes of her male partner is itself an act of political resistance in certain patriarchal cultures.

The social construct of how feminist behavior is defined in Peru and is punished within Peru’s patriarchal culture is seen in extensive research. In Peru, a long history of patriarchal definitions of gender has normalized violence against and sexual subordination of women who do not fit the accepted cultural script of femininity. Physical violence in Peru is culturally accepted to exercise control over women because of “the widespread enactment of [a] conventional family structure and societal support for patriarchal control”.⁶¹ For example, Dr. ██████ defines women’s self-autonomy in Peru as a woman “wanting to work, become educated, choose their own partner, have sex or not have sex, etc.”⁶² Women who exercise these beliefs or are seen by Peruvian society as defying acceptable gender norms are depicted as deserving punishment so that the status quo in Peru’s patriarchal society can be maintained.⁶³ For instance, Peruvian women who express a belief in self-autonomy – or are seen to believe in self-autonomy – face violent retribution by “male domestic partners [who are] supported by many in the larger community, including state actors” which “often results in torture and death for such women.”⁶⁴ The extensive record here is distinctly different from the record in *Fatin v. I.N.S.*, which the Third Circuit determined was insufficient to show feminists in Iran are “generally subjected to treatment so harsh that it may accurately be described as ‘persecution’”, leading the Court to hold that the petitioner did not have a well-founded fear of persecution.⁶⁵ Here, the record shows that Peruvian women who express beliefs in equal rights or freedom of choice face punishment ranging from physical abuse to rape, or even femicide.⁶⁶ Thus, while behavior that defies Peruvian customs or gender norms may be less overt than outright political protests, they are no less symbolic as feminist acts.⁶⁷

3. Ms. ██████ experienced persecution on account of her expressed and imputed feminist political opinion.

Here, every day of her partnership with Mr. ██████ and after her attempted separation from him, Ms. ██████’s behavior threatened his role in Peru’s patriarchal status quo. Ms. ██████ expressed her political opinion of female autonomy that she should have full control over her life choices and her body, which in Peruvian culture justified and empowered Mr. ██████’s use of violence to establish his authority over her as his woman. During her common law partnership with Mr. ██████ she expressed feminist

⁵⁹ Declaration of Nancy K.D. Lemon, Expert on Domestic Violence and Battered Women, ¶ 29.

⁶⁰ *Id.* at ¶ 30.

⁶¹ Exhibit L, “December 5, 2024 Report on Gender-Based Violence Conditions in Peru by Dr. ██████” (hereinafter “Dr. ██████ Report”), ¶ 16.

⁶² Exhibit L, “Dr. ██████ Report”, ¶30.

⁶³ Exhibit S-11, Francisco A Barón-Lozada, et al., *Women’s Autonomy and Intimate Partner Violence in Peru: Analysis of a National Health Survey*, International Journal of Environmental Research and Public Health, Vol. 19, Issue 21, Nov.3, 2022, p. 23 (explaining that men use physical and sexual violence towards women because of a perceived right men have due to their believed social superiority).

⁶⁴ Exhibit L, “Dr. ██████ Report”, ¶30.

⁶⁵ *Fatin*, 12 F.3d at 1242.

⁶⁶ See Exhibit L, “Dr. ██████ Report”, ¶ 21 (noting a rise in “extremely violent attacks on women and girls as well as on feminists pressing for social change and government protection,” and highlighting a national poll that revealed 30% of the sample population believed “that women who “disrespect” their husbands merit “some kind of punishment.”); See also Exhibit S-5, Raúl Allain, *Peru: Stop violence against women*, *Pressenza*, p. 6 (Jul. 14, 2022), (explaining how femicide is used to control women and how sexual harassment is used to asserts a man’s “right to intrude on the woman’s attention.”).

⁶⁷ *Perafan Saldarriaga v. Gonzales*, 402 F.3d 461, 463 (4th Cir. 2005). See also, *Rivas-Martinez v. I.N.S.*, 997 F.2d 1143 (5th Cir. 1993); *Chun Gao v. Gonzales*, 424 F.3d 122, 129 (2d Cir. 2005).

beliefs in her words and her behavior: (1) she refused to have sex with Mr. [REDACTED] (2) she defied his demands of how she took care of household chores, his daughter, or her appearance; (3) she did not wear the clothes he ordered her to wear, which covered up her entire body, only to be called a “whore” for not doing so; (4) she declared and tried to explain to Mr. [REDACTED] that men and women domestic partners should be held to the same fidelity standard; (5) he stalked and threatened her repeatedly at her workplaces until she was forced to leave her jobs, unable to work; (6) she insisted repeatedly to Mr. [REDACTED] that she did not want to be his woman; and (7) on multiple occasions over a number of years, she unsuccessfully tried to end their relationship and escape from him in Peru.⁶⁸ These forms of behavior were Ms. [REDACTED]’s expressions to Mr. [REDACTED] that she was his equal. Dr. [REDACTED] observes that Ms. [REDACTED] in “defying [Mr. [REDACTED] control over her and leaving the relationship, ...asserted her right to self-autonomy as a woman in defiance of widely-held acceptance of patriarchal privileges and gender norms in Peru.”⁶⁹

Ms. [REDACTED] engaged in this feminist behavior even though she knew she would – and did – face immediate and violent retaliation in the form of innumerable rapes, brutal physical assault and mauling of her face, and repeated death threats.⁷⁰, as reflected in Ms. [REDACTED]’s declaration: “I confronted [REDACTED] and disobeyed him in these ways because I did not believe that he had the right as a man to control me, and that as a woman I could work or wear the things I wanted, the right to refuse to have sex when I wanted, and the right to expect that my partner is faithful to me like he expects me to be. But whenever I tried to resist or when I disobeyed Alejandro, he would violently retaliate against me. He acted as if he was my lord and master, and he acted as if I had no right to make any decisions in my life whatsoever.”⁷¹ For example, on multiple occasions and in immediate response to Ms. [REDACTED]’s feminist behavior, Mr. [REDACTED] explained to her that she must obey him and had to remain with him despite her refusals and defiance because she is a woman, because he owned her, and because as a man, he had the right to exercise power and control over her choices and movement.⁷² Moreover, when Ms. [REDACTED] told Mr. [REDACTED] that she deserved respect as a woman and that she did not want to have sex or be his woman,⁷³ Mr. [REDACTED] retaliated against her with repeated death threats, ferocious physical abuse, and countless rapes.

Mr. [REDACTED]’s behavior in response to Ms. [REDACTED]’s exercise of self-autonomy is similar to the case of *Tornes v. Garland*. There, the Ninth Circuit found that the petitioner was persecuted for her expressed feminist political opinion.⁷⁴ The record showed that several male persecutors stated that they harmed applicant “because she sought an equal perch in the social hierarchy”, and the Court noted specifically as corroboration of the petitioner’s claim that some of the worst acts of violence against her occurred when she asserted self-autonomy – such as saying she was not obligated to have sex whenever her persecutor wished, and was then raped.⁷⁵ Likewise, Ms. [REDACTED]’s similar behavior defied acceptable patriarchal norms, and she faced the same swift and violent reprisal from Mr. [REDACTED] for refusing to conform to those norms.

Additionally, in line with the Fourth Circuit’s analysis of imputed political opinion in *Lagos v. Bar*, Mr. [REDACTED] also imputed Ms. [REDACTED]’s behavior as having the political opinion of feminism. The above examples show how Mr. [REDACTED] used violence to immediately punish what he saw as Ms. [REDACTED]’s non-gender conforming behavior. Dr. [REDACTED] explains that based on her research of Peru’s patriarchal social structures, Mr. [REDACTED] likely saw his inability to dominate Ms. [REDACTED] as ‘his woman’ as a threat to his status and local power, thus justifying, in his mind, his violent efforts to dramatically establish power over

⁶⁸ Exhibit F, “Declaration of [REDACTED]”, ¶¶ 23-24, 28-29, 30-31, 34, 36, 40.

⁶⁹ Exhibit L, “Dr. [REDACTED] Report”, ¶30.

⁷⁰ Exhibit F, “Declaration of [REDACTED]”, ¶ 33.

⁷¹ *Id.* at ¶31.

⁷² *Id.* at ¶¶ 26, 33.

⁷³ *Id.* at ¶ 28.

⁷⁴ 993 F.3d 743, 752 (9th Cir. 2021).

⁷⁵ *Id.* at 752-753.

her.⁷⁶ Moreover, Ms. ██████'s attempts to separate from Mr. ██████ were met with his declarations that “[y]ou are a woman because of me”, that he would rather see her dead than with another man, threats to disfigure her face for not obeying him, and insistence that she belonged to him.⁷⁷ Notably, when Mr. ██████ discovered that Ms. ██████ was married to another man and pregnant with his child, Mr. ██████'s response was to threaten to kill her and her family by leaving a bullet in an envelope outside her home.⁷⁸

The record of imputed feminist political opinion here is analogous to the one in *Lagos v. Barr*. There, the petitioner's refusal to pay a male gang member's extortion demands was deemed by the Fourth Circuit as political opposition to the gang's power, and thus an imputed anti-gang political opinion, based on the patriarchal right to have power over unmarried Honduran women.⁷⁹ Further, Mr. ██████'s demands for sexual relations and his declarations that he owned Ms. ██████ the more she refused to be with him also echo the record in *Hernandez-Chacon v. Barr*.⁸⁰ There, the record suggested that the gang members wanted to punish the petitioner after she resisted their sexual advances because “they believed she was taking a stand against the pervasive norm of sexual subordination.”⁸¹ The Second Circuit held that the immigration judge “failed to consider whether the attackers imputed an anti-patriarchy political opinion to her when she resisted [the male gang members'] sexual advances, and whether that imputed opinion was a central reason for their decision to target her.”⁸² Likewise, Mr. ██████ interpreted Ms. ██████'s resistance to be his woman or submit to his sexual advances as taking a stance against Peru's norm of the sexual subordination of women.

In sum, Ms. ██████'s actions and Mr. ██████'s behavior and statements establish Ms. ██████'s expressed and imputed feminist political opinion that she had a right over her own body, full control over her autonomy, right to self-determination, and right to liberty.

D. Ms. ██████ was persecuted on account of her membership in cognizable particular social groups.

To qualify for asylum based on membership in a particular social group (“PSG”), the applicant must establish three elements: (1) she must identify a group that constitutes a particular social group; (2) demonstrate membership in that social group; and (3) prove that she has a well-founded fear of persecution based upon her membership in that social group.⁸³ Triers of fact must determine whether an applicant establishes each of these elements separately, and they should not be conflated. Social groups must be assessed on a case-by-case basis.⁸⁴ Ms. ██████ is a member of the following cognizable particular social groups: (1) Peruvian women, (2) Peruvian women viewed as property by virtue of their status in a domestic partnership, (3) Peruvian women unable to leave their domestic partnership, and (4) Peruvian women who resist patriarchal norms.

1. The particular social groups are not circularly defined.

⁷⁶ Exhibit F, “Dr. ██████ Report”, ¶29.

⁷⁷ *Id.* at ¶ 47-48.

⁷⁸ *Id.* at ¶ 60.

⁷⁹ See *Lagos v. Barr*, 927 F.3d at 254-55.

⁸⁰ 948 F.3d 94, 103 (2d Cir. 2020).

⁸¹ *Hernandez-Chacon v. Barr*, 948 F.3d 94, 104-05 (2d Cir. 2020).

⁸² *Id.*

⁸³ *Fatin v. I.N.S.*, 12 F.3d 1233, 1240 (3rd Cir. 1993) (citing *Matter of Acosta*, 19 I&N Dec. at 233); accord *Crespin-Valladares*, 632 F.3d at 124-27.

⁸⁴ See *Amaya v. Rosen*, 986 F.3d 424, 434 (4th Cir. 2021); *Lagos v. Barr*, 927 F.3d 236, 253 (4th Cir. 2019); *Matter of M-E-V-G-*, 26 I&N Dec. 227, 251 (BIA 2014) (“Social group determinations are made on a case-by-case basis”).

These groups are not circularly defined by the harm suffered,⁸⁵ especially the PSGs of “Peruvian women unable to leave their domestic partnership” and “Peruvian women viewed as property.” *Matter of A-B-III*⁸⁶ re-instituted the precedential decision of *Matter of A-R-C-G-*,⁸⁷ which found that the “unable to leave” PSG is cognizable and not circular. The Fourth Circuit in *Sicarán v. Barr*⁸⁸ extensively deferred to the now vacated *Matter of A-B-I*’s⁸⁹ interpretation of circularity, and thus its circularity analysis should not be followed here. Moreover, since the vacatur of *Matter of A-B-I*, the Fourth Circuit has implemented the precedential circularity principle as based on *Matter of A-R-C-G-*. For example, in *Guevara-Martinez v. Garland*,⁹⁰ the Fourth Circuit granted the petitioner’s unopposed motion to remand for consideration of, *inter alia*, whether the PSG, “women in El Salvador who are unable to leave a relationship,” is impermissibly circular in light of *Matter of A-R-C-G-*, based on evidence in the record that the petitioner did not seek police protection because her husband said he “would take it out on [her] if [she] dared go to the police” and country conditions evidence supporting the petitioner’s claim that she would not be protected in El Salvador.

The Board has been clear that the anti-circularity principle for PSGs forecloses *only* those groups *exclusively* defined by the harm feared.⁹¹ Here, the PSGs are defined by factors other than the persecution feared, such as nationality and gender. While some of Ms. ██████’s PSGs are, in part, defined by the group members’ experience of physical abuse, there are multiple reasons endemic to domestic violence that trap people in domestic partnerships. A woman’s inability to leave an abusive relationship or being viewed as property are frequently driven by diverse social, economic, or religious norms that subordinate women to men.⁹² For example, in *Diaz-Reynoso v. Barr*, the Ninth Circuit found that an asylum seeker’s “financial dependence on her husband, limited education, [and] rural location” as well as a widespread view in her society that “a relationship does not end until the man agrees” may be the reasons she is unable to leave that relationship.⁹³

2. Ms. ██████’s social groups are cognizable.

Well-settled jurisprudence establishes three distinct components of a cognizable social group. First, its members must share a “common, immutable 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 be required to be changed.”⁹⁴ In making the determination that members of a group share immutable traits, both the applicant’s circumstances and country conditions information should be considered.⁹⁵

Second, the group must be sufficiently particular and provide a clear benchmark for who falls within the group.⁹⁶ In other words, “[t]he ‘particularity’ requirement” serves to “clarif[y] the point that ‘not every immutable characteristic’ is sufficiently precise to define a particular social group.”⁹⁷ Third, the proposed

⁸⁵ The Board has consistently held that the definition of a particular social group need not be wholly detached from the harm suffered; rather, it must not be *solely* defined by that harm. *See Matter of A-M-E- & J-G-U*, 24 I&N Dec. 69, 74 (BIA 2007).

⁸⁶ 28 I. & N. Dec. 307, 308-09 (A.G. 2021).

⁸⁷ 26 I. & N. Dec. 388 (B.I.A. 2014).

⁸⁸ 979 F.3d 210, 215-217 (4th Cir. 2020).

⁸⁹ *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018).

⁹⁰ 2023 U.S. App. LEXIS 26214, *1-3.

⁹¹ *See, e.g., W-G-R-*, 26 I&N Dec. at 215; *A-M-E- & J-G-U-*, 24 I&N Dec. at 74.

⁹² *See* Exhibit I, “Declaration of Nancy K.D. Lemon”.

⁹³ *Diaz-Reynoso v. Barr*, 968 F.3d 1070, 1087 (9th Cir. 2020).

⁹⁴ *Matter of Acosta*, 19 I&N Dec. at 233.

⁹⁵ Where courts have accepted social groups defined by the combination of gender and nationality, they have necessarily considered country conditions evidence. *See, e.g., Bi Xia Qu v. Holder*, 618 F.3d 602 (6th Cir. 2010) (considering gender and Chinese country conditions); *Perdomo v. Holder*, 611 F.3d 662 (9th Cir. 2010) (Guatemalan women).

⁹⁶ *Matter of M-E-V-G-*, 26 I&N Dec. 227, 239 (BIA 2014).

⁹⁷ *Matter of A-R-C-G-*, 26 I&N Dec. 388, 392 (BIA 2-14) (quoting *Matter of M-E-V-G-*, 26 I&N Dec. at 239).

group must be socially distinct, meaning persons in the same society would distinguish it.⁹⁸ Thus, a particular social group is socially distinct when it is “generally recognizable by others in the community.”⁹⁹ The Board has clarified that “a group’s recognition for asylum purposes is determined by the perception of the society in question, rather than by the perception of the persecutor.”¹⁰⁰ Still, a social group need not be ocularly visible; “rather, it must be *perceived* as a group by society.”¹⁰¹

a. Ms. ██████’s social groups are defined by common, immutable traits.

Ms. ██████’s articulated social groups are defined by commonly understood, immutable traits, including nationality, gender, status in a domestic relationship, and fundamental beliefs.

i. “Peruvian women”

“Peruvian women” is defined by nationality and gender, both of which the Board has repeatedly affirmed as immutable. In *Matter of Acosta*, 19 I&N Dec. at 233, the Board stated that “[t]he shared characteristic might be an innate one such as sex, color, or kinship ties.” Similarly, in *Matter of Kasinga*, 21 I&N Dec. at 366, the BIA recognized a group formed by gender, tribal identity, youth, and other characteristics. The circuit courts have also recognized the viability of gender- and nationality-based social group asylum claims in a variety of contexts.¹⁰² UNHCR guidance also provides unequivocally that sex is an immutable or fundamental characteristic.¹⁰³

ii. “Peruvian women viewed as property by virtue of their status in a domestic partnership,” “Peruvian women unable to leave their domestic partnerships,” and “Peruvian women who resist patriarchal norms”

These three proposed social groups are defined by immutable traits of nationality and gender. “Peruvian women viewed as property by virtue of their status in a domestic partnership” is further defined by the immutability of its members past involvement in a domestic partnership and a fundamental opposition to assuming a subservient position in the same. An assessment of the immutability of a domestic partnership or common law marriage must consider whether a woman’s intimate partner would recognize her ability to end the relationship despite physical separation, as well as the broader societal context.¹⁰⁴ Where evidence shows that a domestic relationship is defined by a deeply embedded pattern of violent domination reflecting the man’s belief in his right to abrogate his female partner’s autonomy, the Board has found that the woman’s status in the relationship is immutable, particularly when reinforced by deeply-rooted social dynamics that subordinate women to men, like those present in countries like Peru.¹⁰⁵

All three groups are also defined by the immutable characteristic of their members’ rejection of patriarchal norms. Such a rejection reflects a commitment to the rights and autonomy of all women, a

⁹⁸ *Matter of M-E-V-G-*, 26 I&N Dec at 238; *Nolasco v. Garland*, 7 F.4th 180, 189-90 (4th Cir. 2021).

⁹⁹ *Matter of A-M-E- & J-G-U-*, 24 I&N Dec. 69, 74 (BIA 2007).

¹⁰⁰ *Matter of M-E-V-G-*, 26 I&N Dec. at 242; *Matter of W-G-R-*, 26 I&N Dec. 208, 217–18 (BIA 2014).

¹⁰¹ *Matter of M-E-V-G-*, 26 I&N Dec. at 240 (emphasis added).

¹⁰² See, e.g., *Haoua v. Gonzales*, 472 F.3d 227, 232 (4th Cir. 2007) (“‘Forced female genital mutilation involves the infliction of grave harm constituting persecution on account of membership in a particular social group that can form the basis of a successful claim for asylum.’”) (quoting *Abay v. Ashcroft*, 368 F.3d 634, 638 (6th Cir. 2004)).

¹⁰³ See UNHCR, Guidelines on International Protection: Gender-Related Persecution ¶ 30 (May 7, 2002) (“It follows that sex can properly be within the ambit of the social group category, with women being a clear example of a social subset defined by innate and immutable characteristics, and who are frequently treated differently than men.”).

¹⁰⁴ Cf. *Niang v. Gonzales*, 422 F.3d 1187, 1191 (10th Cir. 2005) (assessing a family’s expectations that its members adhere “to certain gender roles and expectations”).

¹⁰⁵ See *Matter of A-R-C-G-*, 26 I&N Dec. 388, 388 (BIA 2014) (recognizing that “married women in Guatemala who are unable to leave their relationship” could, “constitute a cognizable particular social group” within the meaning of the INA).

fundamental principle intrinsic to a person's identity as an autonomous individual. Where societal norms dictate that women are subordinate to men, women who refuse to be subservient, who refuse to conform to societal norms for women's behavior, and who favor the rights and autonomy of women hold beliefs that are immutable, and they "should not be required to change because it is fundamental to their individual identities or consciences" to evade harm.¹⁰⁶

b. Ms. ██████'s articulated groups are particular and socially distinct.

A group must also have "particular and well-defined boundaries" and constitute a "discrete class of persons."¹⁰⁷ Particularity considers whether terms used to describe the groups have "commonly accepted definitions in the society of which the group is a part."¹⁰⁸ Social distinction depends on "evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group."¹⁰⁹ As the Board has set forth, "country conditions reports, expert witness testimony, and press accounts of discriminatory laws and policies, historical animosities, and the like" are relevant to establishing a social group.¹¹⁰

i. "Peruvian women"

"Peruvian women" is a particular group. The Fourth Circuit found in *Amaya v. Rosen*, 986 F.3d 424 (4th Cir. 2021), that the size of a group such as "Guatemalan women" is not determinative in assessing its particularity; rather, the particularity requirement is necessary to ensure that there is a clear benchmark for determining who falls within the group.¹¹¹ Here, on its face the group's commonly understood definitions of "Peruvian" and "woman" impose clear benchmarks on its outer bounds. It excludes non-Peruvian women and refers only to a single gender.

Moreover, this group is socially distinct in that the combination of nationality and gender is perceived by the government and Peruvian society generally as distinct from men and non-Peruvian women. For instance, gender and nationality are indicated on an individual's birth certificate and passport. There is substantial evidence to support that Peruvian women "exis[t] and [are] set apart within the society in some significant way" in Peru.¹¹² Treatment of and discrimination against Peruvian women can be traced to a deeply rooted patriarchal order that promotes male domination and overt gender bias against women.¹¹³ Indeed, gender is one of the primary reasons why women are expected to be submissive to men in all aspects of life in Peru.¹¹⁴

ii. "Peruvian women viewed as property by virtue of their status in a domestic partnership," "Peruvian women unable to leave their domestic partnerships", and "Peruvian women who resist patriarchal norms"

"Peruvian women who are viewed as property by virtue of their status in a domestic partnership" and "Peruvian women who are unable to leave a domestic partnership" are both particular because the terms

¹⁰⁶ *Matter of Acosta*, 19 I&N Dec. at 233.

¹⁰⁷ *Matter of S-E-G-*, 24 I&N Dec. 579, 582, 584 (BIA 2008).

¹⁰⁸ *Matter of M-E-V-G-*, 26 I&N Dec. at 239.

¹⁰⁹ *Matter of W-G-R-*, 26 I&N Dec. at 217.

¹¹⁰ *Matter of M-E-V-G-*, 26 I&N Dec. at 244.

¹¹¹ As the Fourth Circuit noted, "[w]hat matters is not whether the group can be subdivided based on some arbitrary characteristic but whether the group itself has clear boundaries." *Amaya v. Rosen*, 986 F.3d 424 (4th Cir. 2021).

¹¹² *Matter of M-E-V-G-*, 26 I&N Dec. at 244; see also *Perdomo v. Holder*, 611 F.3d 662, 667 (9th Cir. 2010).

¹¹³ Exhibit S-3, Eshe Lewis, *When Black Female Victims Aren't Seen as Victims*, Sapiens (May 31, 2019), p. 4, (stating that in Peru, intrapersonal violence against women has historically been "an appropriate way for men to correct women's bad behavior.").

¹¹⁴ Exhibit L, "Dr. ██████ Report, ¶16 (explaining how gender dimorphism is central to gender specific violence in Peru).

“women,” “viewed as property,” “unable to leave,” and “domestic partnership” have clear benchmarks as to who belongs to these groups and who do not. For example, Peruvian law defines a “de facto union”, or domestic partnership, and acknowledges it as a legitimate relationship between a man and a woman, after living together continuously for a period of two years.¹¹⁵ “Peruvian women who stand against patriarchal norms” is also particular because it is defined by members who reject a subservient status to which *machista* societies such as Peru seek to place them.

Coupled with the clear benchmarks and visibility imposed by nationality, gender, and status in a domestic partnership, Peruvian women who resist patriarchal norms and who refuse to be subservient in a domestic partnership by unsuccessfully trying to escape that relationship are defined with particularity. Additionally, to fall within these groups, Peruvian women must take an affirmative action – attempting but failing to leave the domestic partnership and resisting patriarchal norms.

Furthermore, women like Ms. [REDACTED] who attempt to separate from their domestic partners take clear actions that place them within a class of individuals that Peruvian society perceives as distinct. This public perception of women who reject the prevailing norms of subservience is supported by the existence of laws that purport to protect women from violence they experience when rejecting subservience in a society that defers to patriarchal values.¹¹⁶ Acts of female autonomy such as separating from a male domestic partner, refusing his sexual demands, or working outside the home are viewed by Peruvian society as “a challenge to the gender norms”.¹¹⁷

These PSGs are also socially distinct because they are “generally recognizable by others in the community.”¹¹⁸ Patriarchal patterns of behavior, attitudes, expectations, beliefs, and practices against and denigrating women remain pervasive in Peru.¹¹⁹ While Peru enacted domestic violence-related protection laws and institutions, it has been largely ineffective.¹²⁰ Indeed, the corruption and ineffectiveness of laws protecting domestic violence victims has a chilling effect on reporting such crimes, leading to well-documented underreporting.¹²¹

Additional evidence in the record supports a finding of pervasive patriarchal attitudes and deeply rooted gender stereotypes about the roles and responsibilities of women and men in society which interfere with women’s right to choose or enjoyment of a life that is free from violence, particularly Afro-Peruvian

¹¹⁵ See Exhibit Q, “Peru Civil Code, Article 326”, Jurisprudencia del artículo 326 del Código Civil.

¹¹⁶ See, e.g., Exhibit S-1, *Peru 2023 Human Rights Report*, U.S. Department of State(2023) p. 21 (explaining that while laws preventing domestic and sexual violence exist, they are ineffectively enforced); See also Exhibit S-6, Maria Godoy, *The Women of Peru Are Suffering From a ‘Shadow Pandemic,’* NPR (Sep. 10, 2020), p. 7, (describing that over the past two decades laws that were implemented to address violence against women do not have infrastructure to support survivors).

¹¹⁷ Exhibit L, “Dr. [REDACTED] Report, ¶ 17 (explaining that because kin-based networks are central to Peruvian life, loyalty and reciprocity are important).

¹¹⁸ See *Matter of A-M-E- & J-G-U-*, 24 I&N Dec. 69, 74 (BIA 2007).

¹¹⁹ Exhibit L, “Dr. [REDACTED] Report, ¶ 18 (stating that a man’s aggressive act towards a woman may sometimes be supported by his family and even society).

¹²⁰ Exhibit S-1, Bureau of Democracy, Human Rights and Labor, U.S. Dep’t of State, *Peru 2023 Human Rights Report* (2023), p. 21, (reporting that laws protecting women are ineffectively enforced); See also Exhibit S-6, Maria Godoy, *The Women of Peru Are Suffering From a ‘Shadow Pandemic,’* NPR (Sep. 10, 2020), p. 7 (restating that police do not enforce restraining orders and classify cases of physical abuse as misdemeanors unless the victim is incapacitated for a minimum of 10 days).

¹²¹ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 12 (describing that “many women choose not to report in the first place” because they “do not believe that justice for GBV is possible” and “they do not see their perpetrators punished.”)

women.¹²² Women in Peru “do not have equal access to resources or power”.¹²³ They disproportionately suffer from poverty and unemployment due to their role as caretakers.¹²⁴ These embedded gender stereotypes normalize the exploitation of women.¹²⁵

In addition, Black women are often left out of the discourse for survivors of gender-based violence because of the long standing perception that Black women are “too sexually available to be abused.”¹²⁶ This myth that Black women are sexually promiscuous was founded during the enslavement period to justify their treatment as property and still exists today as a stereotype.¹²⁷ Thus, these perceptions escalate the risk for Black women who speak up about their abuse.¹²⁸

3. Ms. [REDACTED] is a member of the articulated social groups.

Here, Ms. [REDACTED] is an Afro-Peruvian woman.¹²⁹ She also is a “Peruvian woman who is viewed as property by virtue of her status in a domestic partnership”, a “Peruvian woman who is unable to leave a domestic partnership”, and a “Peruvian women who resists patriarchal norms.” For example, when Ms. [REDACTED] and Mr. [REDACTED] started living together, her family and the community viewed and treated them as husband and wife.¹³⁰ Once they had been living together for over two years, their relationship became a “de facto union” under Peruvian law, a relationship that grants certain property and other legal rights.¹³¹ Moreover, Ms. [REDACTED] is a member of these PSGs because she was unable to leave her domestic partnership not only due to Mr. [REDACTED]’s physical violence but also due to his overpowering control over her movement, and Peru’s historic failure to protect women from domestic violence perpetrated by their male partners.¹³² Unlike *Sicaran v. Barr*,¹³³ where the petitioner and the persecutor separated and the ensuing abuse revolved around a custody battle, here, Mr. [REDACTED] never acknowledged Ms. [REDACTED]’s physical separation from him, her marriage, or her pregnancy by her husband as an end to their domestic partnership. Rather, his pursuit of her, insistence that she belonged to him, his assaults, and his death threats plainly reflect his perception that they were still together. This dynamic is more aligned with how the Ninth Circuit in *Diaz-Reynoso v. Barr* viewed the inability of the petitioner to leave her abusive domestic partnership due to factors outside of her control, beyond the physical persecution she suffered, such as her financial dependence and the societal belief that the domestic partnership does not end “until the man agrees”.¹³⁴

As explained above, *supra* Section III.C., the record also shows how Ms. [REDACTED] repeatedly resisted the Peruvian patriarchal norm of a woman belonging to her male partner by refusing to be Mr. [REDACTED]’s woman resisting patriarchal gender norms and how Mr. [REDACTED] violently refused to acknowledge her autonomy.

¹²² Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. ii, (describing how placing the responsibility of unpaid work on women increases their risk for sexual exploitation and limits their ability “to seek livelihoods with safe, paid work”).

¹²³ Exhibit S-7, *Women in Peru*, Project Peru, p. 1, accessed December 5, 2024.

¹²⁴ Exhibit S-7, *Women in Peru*, Project Peru, p.1, (Dec. 2024).

¹²⁵ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. ii.

¹²⁶ Exhibit S-3, Eshe Lewis, *When Black Female Victims Aren’t Seen as Victims*, (May 2019), p. 3-4.

¹²⁷ Exhibit S-3, Eshe Lewis, *When Black Female Victims Aren’t Seen as Victims*, (May 2019), p. 8.

¹²⁸ Exhibit S-3, Eshe Lewis, *When Black Female Victims Aren’t Seen as Victims*, (May 2019), p. 12.

¹²⁹ See Exhibit B, Peruvian passport of [REDACTED]; Exhibit D, U.S. Birth Certificate of [REDACTED]upe [REDACTED].

¹³⁰ Exhibit F, “Declaration of [REDACTED]”, ¶ 21-22.

¹³¹ Exhibit S-8, “Peru Civil Code, Article 326.”

¹³² Exhibit S-1, 2023 Peru Human Rights Report, p. 21, 23, (explaining that the enforcement of laws which combat gender-based violence is not effective).

¹³³ 979 F.3d 210, 215-217 (4th Cir. 2020).

¹³⁴ *Diaz-Reynoso v. Barr*, 968 F.3d 1070, 1087 (9th Cir. 2020).

Mr. ██████'s behavior while they lived together additionally demonstrates that Ms. ██████ is identifiable as a member of these four PSGs. As discussed *supra* Section I, Mr. ██████ saw Ms. ██████ as his property that he could use however he wished because she belonged to him.¹³⁵ For example, he routinely told her that she was 'his woman', that he owned her, how he would rather see her dead than with another man, and how he expected her to perform certain duties and obligations purely because of her gender – all while brutally abusing her, pursuing her when she left their home, continuing his onslaught of physical and sexual assault even while she tried to leave him, and refusing to acknowledge her attempts to terminate their domestic partnership.

Mr. ██████'s behavior after Ms. ██████ moved out of their home and into her parent's house also highlights Ms. ██████'s membership in these four PSGs. Despite their physical separation, Ms. ██████ was still viewed as property and was unable to leave the domestic partnership because Mr. ██████ repeatedly raped her, beat her, and threatened to kill her unless she returned to live with him.¹³⁶ He continually surveilled and made death threats against Ms. ██████ even after she began a relationship with ██████, even after she married him, and even after she became pregnant by him. Mr. ██████ thus continued to treat her as his chattel to be used as he wished, declaring that she was "his woman".¹³⁷

Ms. ██████'s inability to leave the relationship reflects not a personal choice but embedded Peruvian cultural norms that routinely ignore women seeking to leave domestic partnerships.

4. Ms. ██████ was persecuted on account of her membership in the articulated social groups.

An asylum applicant must demonstrate a nexus between her membership in a cognizable particular social group and the persecution she has suffered or fears. The protected ground must be "at least one central reason for persecuting the applicant."¹³⁸ The persecutor's motives may be shown through direct or circumstantial evidence.¹³⁹

Ms. ██████'s expert declarations and country conditions evidence document that violence against women, *because* they are women, is common and accepted in Peru. Despite Peruvian law that allegedly addresses the vulnerability to violence and femicide women face in Peru,¹⁴⁰ Peru routinely fails to enforce, investigate, and seek justice under these laws at various levels, including law enforcement and the judicial system.¹⁴¹ State officials and lawmakers in Peru have acknowledged the pervasiveness of violence against women, and the international community has also noted the widespread failings and culpability of Peru

¹³⁵ Exhibit ██████, ██████, ¶ 26.

¹³⁶ Exhibit F, ██████, ¶ 40.

¹³⁷ *Id.* at ¶ 57.

¹³⁸ 8 U.S.C. § 1158(b)(1)(B)(i).

¹³⁹ *INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992). There is no requirement that an applicant establish that her persecutor would harm *all* members of her particular social group, only that membership in the group was known to the persecutor and constitutes at least one central reason for the persecution of the applicant. *See, e.g., Bi Xia Qu*, 618 F.3d at 608 (recognizing that although the applicant was targeted for forced marriage and involuntary servitude in part for financial reasons to repay from the girl's father, her gender within the societal context was nonetheless one central reason for her persecution).

¹⁴⁰ Exhibit S-1, 2023 Peru Human Rights Report, p. 21-23, (describing Peruvian law which punishes rape for 14 years to life in prison, domestic violence for one month to six years, femicide for a minimum of 20 years, and femicide with aggravating circumstances for a minimum of 30 years); *See also* Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 18 (stating that Peru has robust laws addressing gender-based violence and is a party to international treaties protecting women against violence and trafficking).

¹⁴¹ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 12 (describing impunity of abusers which include going unpunished or receiving light sentences, having inadequate resources for investigation, and discriminating against trafficking survivors).

authorities in failing to protect women.¹⁴² Instead, Peru’s gender norms establish women as inferior to men, thereby perpetuating the societal acceptance of violence against women.¹⁴³

Ms. [REDACTED]’s own personal experience also demonstrates the pervasive and severe violence against Peruvian women and the cultural and societal norms that allow Peruvian women to be subjected to violence and domination by men without consequence. As described *supra* Section II.B, as soon as Ms. [REDACTED] began living with Mr. [REDACTED] he sought to wield absolute control and power over her. He controlled her freedom of movement, her freedom to dress, her freedom to have sexual relations, and her freedom to choose her own domestic partner. He exercised this dominion by threatening to kill her, repeatedly raping her, and brutally beating her if she disobeyed, questioned his orders, or sought to leave him. In his abuse and threats, Mr. [REDACTED] declared that he owned her, that he made her a woman, that he would rather see her dead than to be with another man, and that she had to obey his demands and expectations because of her gender and because he had the authority to make those demands as the man.

Additionally, when Ms. [REDACTED] fled to her parents’ house in an attempt to leave Mr. [REDACTED], he targeted her for persecution because she still belonged to these particular social groups. For example, he ignored her termination of their domestic partnership and instead demanded that she return to him, claiming that she belonged to him.¹⁴⁴ Mr. [REDACTED] repeatedly threatened to kill her if she disobeyed, and continued to rape her, refusing to acknowledge her repeatedly telling him that she did not want to be with him.¹⁴⁵ To further control her, he directed other men to attack her on the street.¹⁴⁶ His threatened and actualized violence increased until Ms. [REDACTED] was forced to flee Peru.

E. The Peruvian government is unable and unwilling to protect Ms. [REDACTED] from her persecutor.

Where, as here, an asylee has been persecuted by non-governmental actors, she must also establish that the government is unwilling and unable to protect her.¹⁴⁷ However, an applicant may still meet this standard even if she did not report the private harm she suffered. The Board has held that “failure to report harm ‘is not necessarily fatal’ to a claim of persecution if the applicant ‘can demonstrate that reporting private abuse to government authorities would have been futile’ or dangerous”.¹⁴⁸ Here, extensive country conditions research and Ms. [REDACTED]’s own experiences as an Afro-Peruvian woman seeking police protection establish that reporting Mr. [REDACTED]’s brutal abuse to the Peruvian law enforcement would have been dangerous and futile.

First, reporting Mr. [REDACTED]’s physical and sexual abuse and death threats to Peruvian police would have been dangerous to Ms. [REDACTED]’s life. Mr. [REDACTED] repeatedly threatened to kill Ms. [REDACTED] if she reported him to the police and stalked her at home and her workplaces so relentlessly that she felt certain

¹⁴² Exhibit L, “Dr. [REDACTED] Report, ¶ 26 (highlighting a Peruvian Supreme Court Judge’s statement, “the government has maintained weak victim protection efforts.); See also Exhibit S-4, Convention on the Elimination of All Forms of Discrimination against Women, Concluding observations on the ninth periodic report of Peru (hereinafter “CEDAW Concluding Observations”), U.N. Doc. CEDAW/C/PER/CO/9 (Mar. 1, 2022), ¶ 9 (noting their concern of Peru’s high rates of gender-based violence against women); See also Exhibit S-9, *IACHR Calls on Peru to Avoid Public Discourse That Perpetuates and Disregards Violence Against Women*, Inter-American Commission on Human Rights Press Release, February 18, 2022, p. 1, (expressing its concern of Peru’s high rates of intrafamily violence against women).

¹⁴³ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 18 (explaining that laws addressing gender-based violence “are not comprehensively or evenly applied”).

¹⁴⁴ Exhibit F, “Declaration of [REDACTED]”, ¶¶ 36,38.

¹⁴⁵ *Id.* at ¶¶ 29-38, 47.

¹⁴⁶ *Id.* at ¶ 55.

¹⁴⁷ See *Matter of S-A*, 22 I&N Dec. at 1335.

¹⁴⁸ *Matter of C-G-T*, 28 I. & N. Dec. 740, 743 (BIA Sept. 8, 2023) (citing *Rosales Justo v. Sessions*, 895 F.3d 154, 165 (1st Cir. 2018) (quoting *Morales-Morales v. Sessions*, 857 F.3d 130, 135 (1st Cir. 2017))).

she could not hide from him.¹⁴⁹ A survey conducted in 2022 revealed that “55.7 percent of [Peruvian] women aged 15 to 49 had experienced intimate partner violence in their lifetime.”¹⁵⁰ In January to April 2023, “the Ministry of Women and Vulnerable Populations received 75 reports of femicide.”¹⁵¹ Often Peruvian women do not report their abuser to law enforcement due to the normalization of their abuse and fear of retaliation from their abuser.¹⁵² State officials have publicly commented on how intrafamily violence is a private matter.¹⁵³ Additionally, Peru’s police force and judicial system have been accused of victim blaming women who report.¹⁵⁴ In sum, enforcement of laws meant to protect gender-based violence victims are ineffective and their enforcement is minimal.¹⁵⁵

Second, it would have been futile for Ms. [REDACTED] to report Mr. [REDACTED] to Peruvian law enforcement. Ms. [REDACTED] recalls clearly how Peruvian police routinely dismiss pleas for help from Afro-Peruvians like her due to the widespread discrimination against dark-skinned Peruvians.¹⁵⁶ She remembers how men touched her body without her consent while she was using public transit, and how Peruvian police officers would not investigate or act at all when she reported these assaults once she got off the bus.¹⁵⁷ Ms. [REDACTED] encountered the police’s same dismissive attitude when she tried to report the death threats of Mr. [REDACTED]’s criminal associate, [REDACTED] in 2022 and when she reported being mauled by Mr. [REDACTED]’s associates on the public street despite showing up at the police station with bleeding injuries to her face. Peruvian police are indifferent to other women who suffered domestic and sexual violence, as well: Ms. [REDACTED] recounts in detail how after her friend, a domestic violence and rape victim, reported her male partner to the Peruvian police, the police did not investigate or help her until she was able to afford an expensive attorney with the help of her second husband.¹⁵⁸ These experiences are substantiated by Dr. [REDACTED]’s research of the reality of Peru’s protection for gender-based violence survivors: while laws are seemingly in place to help victims seek help, those laws are sparsely enforced, underfunded, and ineffective. Law enforcement and the judicial system often uphold the male aggressor’s actions or compel the couple to reconcile.¹⁵⁹ Cases that are reported “rarely result in the prosecution and sentencing of perpetrators, or in reparations for survivors.”¹⁶⁰ Indeed, Ms. [REDACTED] recalls how Peruvian police demanded a “large bribe if [she] wanted them to investigate” her report of the bullet and death threat left on her doorstep in mid-November 2022.¹⁶¹ News reports also abound with stories of how Peruvian police are indifferent to domestic violence until it escalates to femicide, by which time it is too late to save the woman.¹⁶²

F. Ms. [REDACTED] is entitled to a presumption of future persecution which cannot be rebutted by changed circumstances or internal relocation.

Ms. [REDACTED] has established past persecution on account of a statutorily protected ground and is therefore presumed to have a well-founded fear of future persecution.¹⁶³ To rebut this presumption, the

¹⁴⁹ Exhibit F, “Declaration of [REDACTED]”, ¶ 68.

¹⁵⁰ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 6.

¹⁵¹ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 6.

¹⁵² Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 38.

¹⁵³ Exhibit S-9, *IACHR Calls on Peru to Avoid Public Discourse That Perpetuates and Disregards Violence Against Women*, Inter-American Commission on Human Rights Press Release, (Feb. 2022), p. 1.

¹⁵⁴ Exhibit S-3, Eshe Lewis, *When Black Female Victims Aren’t Seen as Victims*, (May 2019), p. 4.

¹⁵⁵ Exhibit S-1, 2023 Peru Human Rights Report, p. 23.

¹⁵⁶ Exhibit F, “Declaration of [REDACTED]”, ¶¶ 2, 65.

¹⁵⁷ *Id.* at ¶ 15.

¹⁵⁸ *Id.* at ¶¶ 54, 55, 66.

¹⁵⁹ Exhibit L, “Dr. [REDACTED]’s Report”, ¶ 19.

¹⁶⁰ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. iii.

¹⁶¹ Exhibit F, “Declaration of [REDACTED]”, ¶ 60.

¹⁶² Exhibit F, “Declaration of [REDACTED]”, ¶ 67; *See also* Exhibit S-12, Lise Josefsen Hermann, *Noise in the houses: Missing women and girls in Peru*, Danish Development Research Network, (Apr. 6, 2021), p. 5, (stating that 28 women could have been found alive if police searched for them quickly after a report was made.).

¹⁶³ *See* 8 C.F.R. § 1208.13(b)(1).

Department of Homeland Security (“DHS”) must prove, by a preponderance of the evidence, that: (1) the conditions have changed such that Ms. [REDACTED] no longer has a well-founded fear of future persecution if she were to return; or (2) Ms. [REDACTED] could avoid future persecution by relocating, and under all the circumstances, it would be reasonable to expect her to do so.¹⁶⁴

1. Conditions in Peru have not meaningfully changed.

After Ms. [REDACTED] fled to the United States in November 2022, Ms. [REDACTED]’s father and friends in Peru have shared with her that Mr. [REDACTED] asks about her and asks where she is living now.¹⁶⁵ Ms. [REDACTED] had to resort to telling her family that she lives in other places rather than her actual home so that the information would not get leaked to Mr. [REDACTED].¹⁶⁶ Mr. [REDACTED] has also tried to contact Ms. [REDACTED] several times through various social media, even using false accounts, but Ms. [REDACTED] kept blocking him.¹⁶⁷ As recently as September 2024, Ms. [REDACTED]’s father has advised her that Mr. [REDACTED] came by their family home in Peru to ask where she was, declaring that he would travel to the United States to find her.¹⁶⁸

Moreover, conditions in Peru remain exceedingly precarious for women who have suffered abuse by a domestic partner like Ms. [REDACTED]. As discussed *supra* Section II.E, Peru is unwilling and unable to protect Ms. [REDACTED]. Peru’s government lacks other resources and infrastructure to protect Ms. [REDACTED], and conditions in Peru have only worsened since Ms. [REDACTED] left.¹⁶⁹ Femicide remains extremely high, as does pervasive and underreported cases of domestic abuse.¹⁷⁰ In 2021, the rate of femicides increased, as did the number of complaints involving violence against women.¹⁷¹ Likewise, there has been a systemic weakening of institutions that oversee the protection of women’s rights.¹⁷² The Peruvian government comptroller’s office reported deficiencies in their women’s emergency centers including “inadequate space, lack of privacy, gender bias in teams, and inefficient delivery of post-GBV care service.”¹⁷³ There is also a lack of coordination between services that protect survivors and support their recovery.¹⁷⁴ Survivors are further deterred from legal recourse as cases often become stagnant due to inadequate resources.¹⁷⁵ Additionally, survivors of gender-based violence who choose to prosecute are often competing with abusers who have the time and money for a high-quality lawyer and defense.¹⁷⁶ Afro-Peruvian women specifically experience a disproportionate level of violence, and the government lacks visibility and de-prioritizes these women for protection.¹⁷⁷

¹⁶⁴ *Id.*

¹⁶⁵ Exhibit F, “Declaration of [REDACTED]”, ¶ 75.

¹⁶⁶ *Id.* at ¶ 75.

¹⁶⁷ *Id.* at ¶ 74.

¹⁶⁸ *Id.* at ¶ 75.

¹⁶⁹ Exhibit S-4, CEDAW Concluding Observations, (Mar. 2022), ¶¶ 9, 11, 13, 17, 25; *See also* Exhibit S-13, Gender Gaps and Needs in Peru, USAID, (2019), (highlighting that rates of gender-based violence against women [7 out of 10 women] have not changed).

¹⁷⁰ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 6.; *See also* Exhibit S-10, Neil Giardino, ‘Vicious circle’: Femicides in Peru reveal ‘crisis’ of violence, Aljazeera, (Apr. 5, 2023), (highlighting a national poll that revealed “that less than 30 percent of women report incidents of violence to authorities, meaning the vast majority of cases go undocumented”).

¹⁷¹ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 6. *See also* Exhibit S-10, Neil Giardino, ‘Vicious circle’: Femicides in Peru reveal ‘crisis’ of violence, Aljazeera, (Apr. 5, 2023), (finding that “there were 21,194 reported cases of violence against women and girls” in the first two months of 2021 alone).

¹⁷² Exhibit S-4, CEDAW Concluding Observations, (Mar. 2022), at ¶ 9.

¹⁷³ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 24.

¹⁷⁴ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 24.

¹⁷⁵ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 12.

¹⁷⁶ Exhibit S-2, *Gender-Based Violence Impunity Regional Study: Peru Case Study*, USAID, (Apr. 2024), p. 19.

¹⁷⁷ Exhibit S-4, CEDAW Concluding Observations, (Mar. 2022), at ¶ 9.

2. Ms. ██████ cannot avoid future persecution by relocating internally within Peru.

An applicant who can relocate safely within her home country cannot qualify for asylum.¹⁷⁸ An asylum application will be denied if the applicant can: (1) avoid future persecution by relocating to another part of the applicant’s country of nationality and (2) it would be “reasonable to expect the applicant to do so.”¹⁷⁹

Here, Ms. ██████ did everything within her means to avoid future persecution by relocating to different parts of Peru. She first tried to escape from Mr. ██████ multiple times, only to be forced to return to him. On numerous occasions, she fled to her parents’ home in ██████ a 2-hour bus ride from her and Mr. ██████’s home in ██████.¹⁸⁰ When she tried to terminate their domestic partnership in December 2019, she had nowhere else to live but at her parents’ home in ██████. But Mr. ██████ incessantly stalked, threatened, and physically and sexually abused her there.¹⁸¹ She also tried to hide from Mr. ██████ in Via Salvador at the home of Mr. ██████’s father, but Mr. ██████’s associates monitored her and Mr. ██████’s movements.¹⁸² From September to October 2022, Ms. ██████ resorted to “moving between the houses of family members and friends to hide from ██████ a few days at one house and other days at another house, and so on”.¹⁸³ Regardless of Ms. ██████’s attempts to relocate prior to her departure from Peru in 2022, it would not be reasonable to expect her to relocate if she were forced to return to Peru now. Her parents are elderly and have health problems, and she has no other family members in Peru willing to help her. There is a significantly low number of adequately funded shelters and victim relocation programs in Peru.¹⁸⁴ Moreover, women who flee abusers and lack a large support system for protection may find themselves exposed to sexual assault and femicide in other cities or towns in Peru.¹⁸⁵

G. In the alternative, Ms. ██████ has a subjectively and objectively well-founded fear of future persecution.

Even if the government could rebut the presumption of future persecution to which Ms. ██████ is entitled, she has an independently well-founded objective and subjective fear of future persecution.¹⁸⁶ Ms. ██████ has demonstrated that a “reasonable possibility” exists that she would be persecuted if returned.¹⁸⁷

An applicant establishes the subjective element of a well-founded fear of future persecution by “candid, credible, and sincere testimony demonstrating a genuine fear of persecution.”¹⁸⁸ Ms. ██████ is terrified of returning to Peru because she believes “██████ will immediately find me”, as word about her return to Peru will be inevitably leaked to her family and friends.¹⁸⁹ Once he finds her, Ms. ██████ believes

¹⁷⁸ *I.N.S. v. Ventura*, 537 U.S. 12, 18 (2002); 8 C.F.R. § 208.13(b)(1)(i)(B).

¹⁷⁹ *Matter of M-Z-M-R-*, 26 I&N Dec. 28, 32 (BIA 2012) (quoting 8 C.F.R. § 208.13(b)(1)(i)(B)); *see also Essohou*, 471 F.3d at 522 (explaining that living in hiding is not a reasonably available alternative).

¹⁸⁰ *See generally*, Exhibit F, “Declaration of ██████”.

¹⁸¹ *See generally*, Exhibit F, “Declaration of ██████”; Exhibit I, “Witness Declaration of ██████”.

¹⁸² Exhibit G, “Witness Declaration of ██████”, ¶ 12.

¹⁸³ Exhibit F, “Declaration of ██████”, ¶ 59.

¹⁸⁴ Exhibit L, “Dr. ██████ Report”, ¶ 23.

¹⁸⁵ Exhibit L, “Dr. ██████ Report”, ¶ 18.

¹⁸⁶ *See Gandziani-Mickhou v. Gonzales*, 445 F.3d 351, 353 (4th Cir. 2006) (requiring both “specific, concrete facts that a reasonable person in like circumstances would fear persecution” and “candid, credible, and sincere testimony demonstrating a genuine fear of persecution”).

¹⁸⁷ *See Crespin-Valladares*, 632 F.3d at 126 (an asylum seeker “need only show that his removal would create a ‘reasonable possibility’—as low as ten percent chance—of persecution.”). *See also INS v. Cardozo-Fonseca*, 480 U.S. 421, 440 (1987) (“reasonable possibility” of persecution can be as low as ten percent).

¹⁸⁸ *Berrotera-Melendez v. INS*, 955 F.2d 1251, 1256 (9th Cir. 1992).

¹⁸⁹ Exhibit F, “Declaration of ██████”, ¶ 76.

[redacted]

“[t]his time he will kill me, just as he promised he would many times, for refusing to be his woman and for escaping him. The times that he tried to brutally beat me and tried to kill me where the times that I refused to be his woman . . . I know that he is capable of punishing me for disobeying him.”¹⁹⁰ Ms. [redacted]’s mental health therapist, Ms. [redacted], affirms Ms. [redacted]’s fear that Mr. [redacted] will even find her in the United States, as he has tried to do already.¹⁹¹

Additionally, Ms. [redacted]’s fear of returning to Peru is objectively reasonable because “a reasonable person in [her] circumstances would fear persecution.”¹⁹² A reasonable person who endured beatings, rapes, and death threats for almost 12 years from her domestic partner would fear persecution. Ms. [redacted]’s fears are also objectively reasonable because they are supported by country conditions in Peru, where authorities and institutions consistently fail to protect women and where women are expected to “endure” violence.¹⁹³ Given the country conditions and the expert opinion of Dr. [redacted], Mr. [redacted] will effectively make good on his threat to end Ms. [redacted]’s life without recrimination.¹⁹⁴

H. Ms. [redacted] has no bars to asylum and merits a favorable exercise of discretion.

Ms. [redacted] timely applied for asylum with this Court on [redacted] 2023.¹⁹⁵ She is not barred from seeking asylum by any of the exceptions listed in INA § 208(b)(1). Asylum can be denied if the applicant: (1) has been convicted of serious crime in the United States and constitutes a danger to the community; (2) has been firmly resettled; (3) is a danger to the security of the United States; (4) has been convicted of an aggravated felony; or (5) participated in persecution.¹⁹⁶ None of those circumstances are present here. Ms. [redacted] is eligible for asylum and merits a favorable exercise of discretion. She has not been arrested or had any adverse interactions with law enforcement in the United States. Instead, Ms. [redacted] is dedicated to caring for [redacted], her two-year-old U.S. citizen child,¹⁹⁷ and healing from her extensive traumatic history through ongoing therapy and case management services.¹⁹⁸

I. Absent a finding of well-founded fear of future persecution, Ms. [redacted] qualifies for a grant of humanitarian asylum.

Ms. [redacted] has demonstrated both severe past persecution and a well-founded fear of future persecution. Even if the Court finds that she has not demonstrated a well-founded fear of future persecution, her circumstances compel a grant based on humanitarian asylum. An applicant who has suffered past persecution may be granted humanitarian asylum if she has demonstrated (1) “compelling reasons for being unwilling or unable to return to that country arising out the severity of the past persecution,” or (2) “that there is a reasonable possibility . . . she may suffer other serious harm upon removal to that country.”¹⁹⁹

In *Matter of Chen*, 20 I&N Dec. 16, 19–21 (BIA 1989), the Board recognized that a man who suffered severe past persecution that rendered him “physically debilitated,” “always anxious and fearful,” and “often

¹⁹⁰ *Id.* at ¶ 77.

¹⁹¹ Exhibit P, “Letter of Treatment and Services for [redacted] by [redacted] lard”.

¹⁹² See *Matter of Mogharrabi*, 19 I&N Dec. 439, 445 (BIA 1987).

¹⁹³ Exhibit S-1, 2023 Peru Human Rights Report, p. 21, (noting that undue dismissals of domestic and sexual violence were common).

¹⁹⁴ Exhibit L, “Dr. [redacted] Report” ¶¶ 29, 33; (stating Guiliana will likely be subjected to further violence if she returns to Peru and that the Peruvian government is unlikely to provide protection); See also Exhibit S-1, 2023 Peru Human Rights Report, p. 26, (finding that Afro-Peruvians have less access to justice).

¹⁹⁵ See Respondent’s Form I-589, included in EOIR’s electronic record of proceedings.

¹⁹⁶ See 8 C.F.R. § 208.13(c).

¹⁹⁷ Exhibit D, U.S. Birth Certificate of [redacted], daughter of Respondents.

¹⁹⁸ Exhibit P, “Letter of Treatment and Services for [redacted] by [redacted]”; Exhibit O, “Letter of Case Management Services for [redacted], by [redacted] of Tahirih Justice Center”.

¹⁹⁹ See 8 C.F.R. §208.13(b)(1)(iii).

suicidal,” having “testified that he would kill himself if he were forced to return to China,” was entitled to humanitarian asylum relief. The severity of this kind of persecution is reflected in Ms. ██████’s record, such as Mr. ██████’s repeated physical and sexual abuse and death threats that led to her Post-Traumatic Stress Disorder (“PTSD”), Major Depressive Disorder, and Generalized Anxiety Disorder diagnoses.²⁰⁰ These diagnoses include “extremely disabling” experiences such as “difficulty discerning flashbacks from reality”, hypervigilance, depression, anxiety, and struggles with memory.²⁰¹ Persecution like the rape and sexual assault Ms. ██████ suffered are also such “atrocious forms of persecution” that they justify granting asylum even when there is little fear of future persecution.²⁰²

Moreover, Ms. ██████ is also eligible for humanitarian asylum on the basis that she faces “a reasonable possibility that . . . she may suffer other serious harm upon removal.” 8 C.F.R. § 1208.13(b)(1)(iii)(B). Other serious harm could include “serious human rights abuses and ongoing violence that left women ‘particularly vulnerable,’”²⁰³ as well as the possibility or probability of being murdered.²⁰⁴ The harm Ms. ██████ faces upon removal must rise to the level of persecution but need not be on account of a protected ground.²⁰⁵ A return to Peru risks further harm to Ms. ██████’s mental health and an escalation of her trauma symptoms. Additionally, in Peru, Afro-Peruvian women like Ms. ██████ face significantly high risks of sexual assault, trafficking, and femicide.²⁰⁶

J. Ms. ██████ is eligible for withholding of removal under the Immigration and Nationality Act.

In lieu of asylum, an applicant qualifies for a mandatory grant of withholding of removal if any one of five statutory grounds are met and if the applicant’s life or freedom would be threatened in the proposed country of removal because of her race, religion, nationality, membership in a particular social group, or political opinion.²⁰⁷ The applicant must also show that it is “more likely than not” that the applicant’s life or freedom would be in jeopardy because of one of the five statutory grounds if the applicant were removed to the proposed country.²⁰⁸ As previously established, Ms. ██████ was persecuted on account of her expressed and imputed feminist political opinion. *See supra* Section III.C. She also belongs to the social groups articulated in Section III.D and was threatened by Mr. ██████ on account of these protected grounds. Given the harm that she has already suffered, Ms. ██████’s life and freedom would more likely than not be threatened if she were removed.

K. Ms. ██████ is eligible for protection under the Convention Against Torture.

A person is eligible for relief under CAT when they show that it is “more likely than not that he or she would be tortured if removed to the proposed country of removal.”²⁰⁹ Torture is defined as any intentional act which inflicts “severe pain or suffering, whether physical or mental” for “any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in official capacity.”²¹⁰ The specific acts that constitute torture are varied, and include beatings,²¹¹ as well as “prolonged mental pain or suffering [that]

²⁰⁰ Exhibit K, Psychological Evaluation, ¶ 49.

²⁰¹ Exhibit K, Psychological Evaluation, ¶ 42.

²⁰² *Garcia-Martinez*, 371 F.3d at 1072.

²⁰³ *Mohammed v. Gonzales*, 400 F.3d 785, 801 (9th Cir. 2005).

²⁰⁴ *Sheriff v. U.S. Att’y Gen.*, 587 F.3d 584, 596 (3d Cir. 2009).

²⁰⁵ *See Matter of L-S-*, 25 I&N Dec. 705, 714 (BIA 2012).

²⁰⁶ *See* Exhibit S-4, CEDAW Concluding Observations, (Mar. 2022), ¶ 9; *see generally* Exhibit L, “Dr. ██████ Report”.

²⁰⁷ *See* 8 U.S.C. § 1231(b)(3)(B); 8 C.F.R. § 1208 (b)(3)(B).

²⁰⁸ *See Stevic*, 467 U.S. at 429-430.

²⁰⁹ 8 C.F.R. § 208.16(c)(2).

²¹⁰ 8 C.F.R. § 208.18(a)(1); *see also* 8 C.F.R. § 208.16(c)(3)(i).

²¹¹ *Bromfield v. Mukasey*, 543 F.3d 1071, 1079 (9th Cir. 2008).

either is purposefully inflicted or is the foreseeable consequence of a deliberate act.”²¹² The motivation for the infliction of torture, however, is irrelevant.²¹³ Further, “the risks of torture from all sources should be combined when determining whether a CAT applicant is more likely than not to be tortured in a particular country.”²¹⁴ In making this determination, evidence of country conditions is “extremely important.”²¹⁵ An applicant need not show that the government was the direct torturer, only that it acquiesced to her torture.²¹⁶

Here, Peru has acquiesced to the torture of victims of domestic violence like the torture that Ms. [REDACTED] has suffered at Mr. [REDACTED]’s hands. Peru does not protect victims of gender-based violence such as Ms. [REDACTED]. See *supra* Section III.E. Therefore, because Ms. [REDACTED] would likely be tortured if she returned, and the government acquiesces to this kind of torture in domestic situations, she is eligible for relief under the Convention Against Torture.

IV. CONCLUSION

In light of the foregoing, Ms. [REDACTED]’s application for asylum is credible and compelling. Thus, Ms. [REDACTED]’s case merits a grant of asylum as well as a grant of humanitarian asylum, withholding of removal, and/or relief pursuant to the Convention Against Torture.

Dated: December [REDACTED] 2024

Respectfully submitted,

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Tahirih Justice Center
Pro Bono Counsel for the Respondents

²¹² *Habtemicael v. Ashcroft*, 370 F.3d 774, 782 (8th Cir. 2004). Courts have recognized that rape can constitute torture because it is “a form of aggression constituting an egregious violation of humanity.” *Akosung v. Barr*, 970 F.3d 1095, 1105 (9th Cir. 2020) (citation omitted).

²¹³ See *Lizama v. Holder*, 629 F.3d 440, 449 (4th Cir. 2011).

²¹⁴ *Ibarra Chevez v. Garland*, 31 F.4th 279, 289 (4th Cir. 2022) (citation omitted).

²¹⁵ *Tamang v. Holder*, 598 F.3d 1083, 1095 (9th Cir. 2010); see *Cabrera Vasquez v. Barr*, 919 F.3d 218, 223-24 (4th Cir. 2019); *Suarez-Valenzuela v. Holder*, 714 F.3d 241, 246-47 (4th Cir. 2013).

²¹⁶ See *Mulyani v. Holder*, 771 F.3d 190, 200 (4th Cir. 2014). A public official’s willful blindness to torture is sufficient to establish acquiescence. See *Rodriguez-Arias*, 915 F.3d at 971; *Suarez-Valenzuela*, 714 F.3d at 245-46.