# Notes:

This affirmative says that women who are fleeing their home country to escape domestic violence (also commonly referred to as ‘intimate partner violence’) should be able to claim asylum in the United States. Asylees are very much like refugees, but there is one important distinction. Refugees are people who have fled their home country to have not reached the destination they are seeking. Asylees have reached that destination. So someone applying for relief outside of the United States is a refugee. Someone who applies while inside the United States is an Asylee.

Despite this difference, asylees still need to meet the United Nations’ definition of Refugee in order to be given status as an Asylum Seeker. Currently, there are several criteria that are involved in meeting this definition. First, upon entry into the United States, persons seeking asylum must demonstrate a ‘credible threat’ if returned to their home. Once they have passed a credible threat interview, persons seeking asylum are then placed into the system in order to have a hearing before an immigration judge to determine if they meet the definition of a refugee. The UN definition for a refugee has five (5) criteria. A person must prove they have a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. They must also prove that their home country is unwilling or incapable of protecting them.

This affirmative revolves around the last criteria. Some immigration judges in the United States had recently begun to accept that ‘gender’ as a category constituted a ‘particular social group.’ This all changed in June of this year (2018) when the Attorney General of the United States, Jeff Sessions, issued a ruling that said that Immigration Courts may no longer consider domestic violence as reason for granting asylum.

The plan has congress overturn Sessions’ decision by including Gender in the definition of a particular social group.

The negative has several arguments to respond to this affirmative:

The topicality violation says that this year’s resolution should be limited to affirmatives about work and family. It argues that the plan is a humanitarian action that falls outside of the scope of the resolution.

The court clog disad says that the plan would encourage a large number of people to seek relief from the United States. This would overburden our immigration courts and prevent them from safely monitoring who comes and goes into the country. This could be exploited by terrorist groups looking to attack the U.S.

There is also an advantage counterplan that works to resolve the root cause of the problems around that world that are causing large numbers of women to experience domestic violence. It argues that this would be a superior option than forcing people to leave their homes.

# AFF

## 1AC

### Plan

#### The United States federal government should expand the definition of a ‘particular social group’ to include gender for the purposes of determining eligibility for asylum.

### Harms

#### A recent Justice ruling makes victims of domestic violence ineligible for asylum and reinforces a public private dichotomy

BENNER and DICKERSON ’18 (Katie and Caitlin; New York Times, 6/11, “Sessions Says Domestic and Gang Violence Are Not Grounds for Asylum,” https://www.nytimes.com/2018/06/11/us/politics/sessions-domestic-violence-asylum.html)ww

Attorney General Jeff Sessions on Monday made it all but impossible for asylum seekers to gain entry into the United States by citing fears of domestic abuse or gang violence, in a ruling that could have a broad effect on the flow of migrants from Central America.

Mr. Sessions’s decision in a closely watched domestic violence case is the latest turn in a long-running debate over what constitutes a need for asylum. He reversed an immigration appeals court ruling that granted it to a Salvadoran woman who said she had been sexually, emotionally and physically abused by her husband.

Relatively few asylum seekers are granted permanent entry into the United States. In 2016, for every applicant who succeeded, more than 10 others also sought asylum, according to data from the Department of Homeland Security. But the process can take months or years, and tens of thousands of people live freely in the United States while their cases wend through the courts.

Mr. Sessions’s decision overturns a precedent set during the Obama administration that allowed more women to claim credible fears of domestic abuse and will make it harder for such arguments to prevail in immigration courts. He said the Obama administration created “powerful incentives” for people to “come here illegally and claim a fear of return.”

Asylum claims have expanded too broadly to include victims of “private violence,” like domestic violence or gangs, Mr. Sessions wrote in his ruling, which narrowed the type of asylum requests allowed. The number of people who told homeland security officials that they had a credible fear of persecution jumped to 94,000 in 2016 from 5,000 in 2009, he said in a speech earlier in the day in which he signaled he would restore “sound principles of asylum and longstanding principles of immigration law.”

“The prototypical refugee flees her home country because the government has persecuted her,” Mr. Sessions wrote in his ruling. Because immigration courts are housed under the Justice Department, not the judicial branch of government, he has the authority to overturn their decisions.

 “An alien may suffer threats and violence in a foreign country for any number of reasons relating to her social, economic, family or other personal circumstances,” he added. “Yet the asylum statute does not provide redress for all misfortune.”

His ruling drew immediate condemnation from immigrants’ rights groups. Some viewed it as a return to a time when domestic violence was considered a private matter, not the responsibility of the government to intervene, said Karen Musalo, a defense lawyer on the case who directs the Center for Gender and Refugee Studies at the University of California Hastings College of the Law.

“What this decision does is yank us all back to the Dark Ages of human rights and women’s human rights and the conceptualization of it,” she said.

#### We have a moral obligation to provide asylum to victims of domestic violence; denying access sets a precedent with global implications

WULFHORST ’18 (Ellen; Reuters, “Denying U.S. asylum to domestic violence victim has global impact: experts,” 6/13, https://www.reuters.com/article/us-usa-immigration-asylum-violence/denying-u-s-asylum-to-domestic-violence-victim-has-global-impact-experts-idUSKBN1J90MD)ww

Countries looking to the United States for direction on refugee policy will reconsider their responsibilities after the U.S. revoked asylum to a victim of domestic violence from El Salvador, immigration experts warned.

U.S. Attorney General Jeff Sessions on Monday overturned a decision to grant asylum to a woman who was raped and beaten by her former husband for 15 years.

The ruling has global repercussions, as it shows the U.S. abandoning its historic role as a leader on refugee issues, said Jennifer Quigley of the New York-based advocacy group Human Rights First.

“Other countries then don’t feel as if you have to accept refugees, and you can return them to harm,” she said during a telephone conference call with reporters on Tuesday.

The U.S. was key in creating the Refugee Convention, which was ratified in 1951 by 145 nations and declared that refugees should not be returned to a country where they face serious threats to life or freedom, Quigley said.

“(Session’s decision) has the ability to undo the entire post-war international order to ensure that countries don’t become persecutors on top of the ones who already force refugees to flee,” she said.

A record 65.6 million people worldwide were forced from their homes due to conflict or persecution as of the end of 2016, the biggest migration crisis since World War Two, the United Nations has said.

Escalating gang warfare and violence in El Salvador, Honduras and Guatemala forced nearly 400,000 people to flee in 2016, according to the U.N. High Commissioner for Refugees.

The majority were women and children.

People seeking U.S. asylum have had to show that they fear persecution in their own country based on race, religion or other factors, which have included domestic and gang violence.

But Sessions said that claims of domestic or gang violence would not generally qualify.

“The mere fact that a country may have problems effectively policing certain crimes or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim,” he said in his ruling.

The woman affected by the decision, who has not been named, entered the U.S. illegally in 2014. Her ex-husband physically, sexually and emotionally abused her, even as she moved within El Salvador, advocates said.

“She feared for her life and fled to the United States,” said Blaine Bookey, her attorney and co-legal director at the Center for Gender and Refugee Studies.

Immigration lawyers said that the ruling could invalidate tens of thousands of asylum claims now in front of U.S. courts.

Kathryn Hampton, of the non-profit Physicians for Human Rights, said violence against women is “one of the most widespread human rights violations,” and countries able to provide protection are morally obligated to offer asylum.

“Sessions is egregiously overstepping the mandate of his office,” she said.

#### Domestic abuse is a form of gendered violence with devastating consequences

PARISH ’17 (Anja; Migration Policy Institute, “Gender-Based Violence against Women: Both Cause for Migration and Risk along the Journey,” 9/7, https://www.migrationpolicy.org/article/gender-based-violence-against-women-both-cause-migration-and-risk-along-journey)ww

Each year, countless women and children flee violence at home and take an uncertain journey in the hope of finding safety in a new country. While many escape conflict zones or generalized human-rights abuses, some also run from more intimate forms of violence—namely, sexual and domestic violence perpetrated by men. Setting off on the journey is no guarantee of safety; many are vulnerable to gender-based abuse in transit and even at destination. Along some migrant routes, half or more of women surveyed reported experiencing sexual assault during the journey, and many take birth control to avoid becoming pregnant from rape.

Gender-based violence is defined as “violence that is directed against a person on the basis of gender or sex,” according to the UN High Commissioner for Refugees (UNHCR). Though men and boys can also suffer from sexual assault, the majority of victims are women and girls, who tend to be the most vulnerable. Unequal power relations create the conditions for gender-based violence to occur, and it can be perpetrated or condoned by relatives, community members, or government actors. Such abuse inflicts sexual, physical, or mental harm, and can take the form of threats, coercion, sexual assault, intimate partner violence, or honor killings. Survivors experience a range of physical and psychosocial effects, including injury, sexually transmitted diseases, depression, post-traumatic stress disorder, social stigma, rejection, and isolation.

#### …and the case outweighs – intimate violence is reported as worse than from a stranger

COPELON ‘94 (Rhonda, Professor of Law and Director of the International Women’s Human Rights Clinic at CUNY School of Law at Queens College, “Recognizing the Egregious In the Everyday: Domestic Violence as Torture,” 25 Colum. Hum. Rts. L. Rev. 291, Hein Online)ww

The next question is whether there is something less terrible for the victim or for the social fabric when an intimate rather than an official inflicts the violence. Importantly, intimate violence involves a breach of trust. As we have seen, the torturer knows this well. Small kindness or occasional indulgence – such as asking about the victim’s family or offering a cigarette – evoke the desire to trust and are among the most effective psychological tools. Scarry points out that torturers also use domestic props – refrigerators, bathtubs, soft-drink bottles etc. – as weapons in order to disorient the victim. Thereby, “the domestic act of protecting becomes an act of hurting …” By evoking the memories and safety of home and everyday life, the torturer disarms and debilitates his victim. Conversely, the betrayal and shock of being beaten by a partner can be more numbing and world-destroying than being beaten by a jailor. Rape by a husband may be experienced as more devastating and the psychological harms may last longer than when rape is perpetrated by a stranger. Resistance to emotional dependency and the deepest level of trauma is more complicated for the battered woman than for the hostage, as she is courted rather than kidnapped into violence. She must, in Herman’s words, “unlearn love and trust, hope and self-blame.” The impacts of gender-based violence and official violence on the social fabric can be seen as incomparable only so long as the “parallel state” of patriarchy, the harm it perpetrates, and the violence it engenders remain invisible, sentimentalized, and thus legitimized. Gender-based violence in the home is profoundly traumatizing for both victims and observers. It shapes ideas about the gender hierarchy and about male dominance and female submission. It helps to prepare people and society for the use of and complicity in official violence. Because, fortunately, many adults rebel against what they saw or experienced as children, there are no clear-cut correlations between a child’s having observed or been the victim of abuse in the home and that child later becoming abusive to his own family. But the data suggest that gender-based violence in the home plays a role – albeit a complex one – in the formation of adult personality and in the perpetuation of discrimination and violence in families and the society.

#### Addressing domestic violence outweighs and is a pre-requisite to the prevention of war

DUNCAN ’07 (Lara; Member of STAND! – a grassroots organization committed to ending domestic violence, “Standing Up To Domestic Violence,” Peace Power, Spring, http://calpeacepower.org/0301/pdf/domesticv.pdf)ww

The number of women murdered by their intimate partners in the United States in the last 11 years is equal to the number of U.S. soldiers killed in the Vietnam War.1 The United States expends much energy and resources for causes abroad, but there are still issues at home that need help. Just as war causes many deaths, so too does violence in the home. In addition to the sheer number of men and women involved in such abuse, domestic violence has a far-reaching impact on children, the future generation of society. Adolescents who have grown up in violent homes are at risk of perpetuating the abusive relationships of their parents/guardians. They are more likely to attempt suicide, abuse drugs and alcohol, run away from home, engage in teenage prostitution and other delinquent behavior, and commit sexual assault crimes.2 In fact, “a child’s exposure to the father abusing the mother is the strongest risk factor for transmitting violent behavior from one generation to the next.”³

Due to its private context, domestic violence runs the risk of being overlooked, especially amidst more outwardly demanding social and political issues such as war and terrorism. However, Gandhi’s concept of swadeshi teaches us to first work for change within ourselves, then extend outward to wider circles of influence. Swadeshi suggests that violence in the home must be addressed before a culture of nonviolence can be achieved.⁴ Two non-governmental organizations that propose divergent means through which to eliminate domestic violence are STAND! Against Domestic Violence and the Purple Berets. STAND! believes that we must change prevailing attitudes about violence through education, whereas the Purple Berets pursue policy change and retribution. While both education and legislation are important, STAND! embodies a more principled nonviolent approach.

#### Failure to forefront gendered violence constitutes an abdication of responsibility

STRATON ’89 (Jack; Co-Chair – National Organization of Men Against Sexism, “How to Form a Men Against Rape Group,” May, http://www.europrofem.org/contri/2\_04\_en/en-viol/29en\_vio.htm)ww

It is time to shred the myth that rape will be with us forever, that the best we can do is to teach women to protect themselves with outdoor lighting, locks, or martial arts. This attitude is an abdication of responsibility from those able to respond and an acceptance of rape by those who profess to abhor rape. I declare to you that there is no acceptable level of death, no acceptable level of humiliation, and no acceptable level of degradation in a culture that calls itself civilized. How can a country that holds justice high, a country dedicated to freedom, accept the level of fear that women live with daily? We’ve got to stop rape, and we can stop it.

For too long we have lived in denial. I can no longer deny the reality that every rape is a violation of my humanity. I can no longer deny that my silence implies my consent. I can no longer deny my sisters their freedom. What man can look his daughter in the eye and try to explain that "we live in the land of the free, but you must not go out at night?" Which of you can look your kid sister in the eye and tell her you love her and yet do nothing while she and one in three of her girl friends will be raped by the age of eighteen; raped by their relatives and peers? How long are men going to allow our 96 year old grandmothers and 3 month old daughters to be sexually assaulted, before we get off our butts and do something?

I am sick to death of hearing men say that because they would never rape, rape is not their problem. Well who’s problem is it then? Obviously women who survive an assault experience a "problem" — a "problem" that will transform their lives for years to come. But what about the father who is ready to kill because his daughter has been raped? Is he experiencing "a problem?" And why doesn’t he generalize his feelings about his daughter to every woman on the planet? What about the husband of a woman who has been raped whose marriage dissolves within 2 years in 2 of 3 cases? Is he experiencing a problem? What about the college senior whose partner lives with fear of rape or memories of rape? Is he experiencing "a problem?"

What do men say? "Oh I’m sympathetic, but I really don’t have the time right now." Rest assured that unless you make the time right now, your problem of rape will be waiting for you when you finally get around to doing something. "I’ve got to put my energies into stopping nuclear war" or "environmental destruction." When will you make the connection that the same male patterns of violence involved in power, control, and humiliation in international conflict are involved in the violation, degradation, and domination of individual women by individual men? You identify with the porpoises that are destroyed at the hands of the tuna industry to provide a food source for you to eat. Why is it harder for you to identify with the women who are humiliated, mutilated, and murdered at the hands of the pornography industry to provide images for you to view while masturbating? How can a new age man consider himself sensitive if he cannot sense or does not respond to the pain that engulfs his sisters?

#### Voting negative is a trivialization of domestic violence that contributes to the silencing of women globally

ENLOE ’04 (Cynthia; Research Professor of Women’s Studies and International Development – Clark University, The Curious Feminist: Searching for Women in a New Age of Empire, p. 73-4)ww

One of the most potent mechanisms for political silencing is dichotomizing “public” and “private.” In apparently adopting this dichotomy herself, Hannah Arendt has had plenty of company. Moreover, in that company have been those who were very uncomfortable with Arendt herself, with a woman who presumed that femaleness did not disqualify a person from speaking authoritatively about the origins of fascism and the corruption of democratic states. One of the longest and fiercest struggles that advocates for women’s rights have had to wage has been against those —women as well as men —who have presumed that not only women’s concerns but women themselves were most “naturally” kept within the allegedly private sphere. New Zealand’s suffragists, the world’s first to win national voting rights for women, had to confront and at least partially dismantle this deeply entrenched assumption. In fact, women’s suffragist politics continue to be an essential topic of investigation for anyone interested in democratization precisely because suffragists every-where—from New Zealand in the 1890s to Brazil and Japan in the 1920s to Kuwait in the early 2000s —have theorized so cogently about the silencing intentions of those who celebrate private/public dichotomies and those dichotomies’ reliance on myths of femininity.5

Violence against women almost everywhere has been a topic kept out of the public arena or only sporadically and very selectively allowed into it in the form of a “scandal.” This, in turn, has not only delayed for generations public officials tackling such abuse, but also entrenched the silencing of many of those women who have been the targets of that violence. Together, these two silencings have set back genuine democratization as much as has any military coup or distortive electoral system. The fact that violence against women —in its myriad forms —has recently been challenged in public by so many women in Asia and the Pacific should be seen as a significant development in the progress of democratization throughout the region. Of course, this also means that insofar as rape or sexual harassment or forced prostitution or domestic violence is anywhere denied or trivialized, real democratization is likely to be subverted.

Thus we need to become more curious about the processes of trivialization. How exactly do regimes, opposition parties, judges, popular movements, and the press go about making any incident of violence against women appear trivial? The gendered violence can be explained as inevitable —that is, not worth the expenditure of political capital. Or it can be treated by the trivializers as numerically inconsequential, so rare that it would seem wasteful of scarce political will or state resources to try to prevent it. Third, trivialization can be accomplished by engaging in comparisons: how can one spend limited political attention on, say, domestic violence or forced prostitution when there are market forces like global competition, structural adjustment, or nuclear testing to deal with —as if, that is, none of those had any relationship to the incidence of violence against women? Finally, trivialization may take the form of undermining the credibility of the messenger. As early as the 1800s, trivializers already were labeling women who spoke out publicly against violence against women as “loose,” “prudish,” or “disappointed” (it would be the trivializers’ twentieth-century successors who would think to add “lesbian”).

### Solvency

#### Congressional action is necessary to reverse the AG’s decision

BETTINGER-LOPEZ and VOGELSTEIN ’18 (Caroline; Adjunct Senior Fellow in the Women and Foreign Policy Program at the Council on Foreign Relations, AND Rachel; Douglas Dillon Senior Fellow and Director of the Women and Foreign Policy Program at the Council on Foreign Relations, “Sessions’ Draconian Asylum Decision,” 6/15, https://www.foreignaffairs.com/articles/united-states/2018-06-15/sessions-draconian-asylum-decision?cid=soc-tw)ww

On the home front, Congress should conduct oversight hearings that require the U.S. attorney general to testify on the broad and sweeping policy. Because the decision in Matter of A-B- is normally one that would come from congressional legislation, Sessions should explain why the policy does not constitute an abuse of discretion. Congress should also ask Sessions to justify the significant cost of handling implementation, and until Sessions gives a satisfactory answer, Congress should restrict funding to the Department of Homeland Security to do so.

Sessions’ ruling in Matter of A-B- not only blocks a pathway to safety for domestic violence victims, it also undermines the United States’ reputation as one of the few true beacons of hope and liberty in the world and a country bent on preventing and responding to violence against women. This, after all, is the country that passed the landmark 1994 Violence Against Women Act (VAWA), a bipartisan commitment that had worldwide reverberations and historic implications. VAWA has poured billions of dollars into efforts to tackle the problem and is up for reauthorization this year. New bipartisan congressional action is desperately needed now, to stop the irreversible damage that Sessions’ decision could cause. Nothing less than the fundamental values and character of the nation is at stake.

#### Plan would bring the US in line with international law and create a remedy for women fleeing domestic violence

HEITZ ’13 (Aimee; J.D. – University of Indiana, ‘Providing a Pathway to Asylum: Re-Interpreting "Social Group" to Include Gender,’ Indiana International & Comparative Law Review, v. 23, n. 2)ww

Re-structuring the current standard of "social group" to include gender-based persecution claims for asylum will not only give women additional protection, but it may also lead to protection for other groups excluded from the current refugee definition. Re-structuring the social group definition could provide additional protection to groups persecuted on the basis of sexual orientation or other less socially visible grounds.

A new approach to membership in a particular social group would bring US asylum law closer to the international standard and closer to the more inclusive and uniform approaches seen in Canada, Great Britain, and Australia. The United States should not continue to delay re-interpretation of social group based on bureaucratic pressures. While positive strides have been made in the way of recommendations, memoranda, and judicial opinions, the re-interpretation of "social group" is necessary to remedy the existing dichotomy between men and women in asylum law. Legislative action must be taken to ensure greater protection for women persecuted worldwide.

In the wake of global social movements aimed toward democracy and equality, now is the time to change the image of the refugee-the image of a male figure fleeing persecution for holding a different political opinion or religious belief. It is time to remember that women, too, need to be adequately represented in immigration law. By re-structuring membership in a particular social group to include gender, women can, and indeed will, find their rightful place in US asylum proceedings.

#### Amending the definition of a particular social group creates consistency and uniformity

LUDLUM ’15 (Kenneth; J.D. – University of Pittsburgh, “Defining Membership in a Particular Social Group: The Search for a Uniform Approach to Adjudicating Asylum Application in the United States,” University of Pittsburgh Law Review, v. 77, Fall)ww

An alternative suggestion is a call to Congress to amend the INA in an effort to clarify the ambiguities surrounding the definition of a particular social group. The Refugee Protection Act of 2013, introduced by Senator Patrick Leahy of Vermont, seeks such reform in this area.122 The bill was introduced on March 21, 2013, although it has remained in the congressional committee stage since its introduction. While the passage of such a bill is rather unlikely,123 the proposed amendment to Section 101(a)(42) of the INA would add much needed guidance in clarifying the term “refugee.” Specifically, it proposes amending part of the aforementioned section to add clarity in defining a particular social group, stating, in relevant part, that:

For purposes of determinations under this Act, any group whose members share a characteristic that is either immutable or fundamental to identity, conscience, or the exercise of the person’s human rights such that the person should not be required to change it, shall be deemed a particular social group, without any additional requirement.124

Amending this language in the INA would alleviate the inconsistent approaches currently utilized by the courts. Further, such an amendment would have the added benefit of breeding uniformity within the realm of asylum law by limiting judicial discretion when defining membership in a particular social group.

## Case Extensions

### A/T: Circumvention

#### Immigration judges will follow the plan

GASS ‘18 (Henry; writer for the Christian Science Monitor on criminal justice issues, 7/9, “With 'zero tolerance,' new strain on already struggling immigration courts”, ProQuest)ww

While immigration judges do enjoy “markedly less” judicial independence than any other kind of judge, “that doesn’t translate into blind obedience to the” attorney general, writes Jennifer Koh, director of the Immigration Clinic at Western State College of Law in Irvine, Calif., in an email. “Immigration judges are also bound to uphold the Constitution and to follow the laws set forth by the federal appeals courts in which they preside,” she adds. When “agency policy conflicts with those sources of law, then immigration judges need to still follow those laws.” There have been calls in the past from immigration judges and lawyers to move the immigration court system to the judicial branch. Professor Hines says that, while she would support such a change, “it hasn’t been a movement right now.”

#### Judges will block extreme executive attempts to circumvent the plan

KOPAN ’18 (Tal; CNN Politics, “Judge blocks administration from deporting asylum seekers -- but the government already had two on a plane,” https://www.cnn.com/2018/08/09/politics/judge-halts-deportations-sessions/index.html)ww

A federal judge on Thursday erupted at the Trump administration when he learned that two asylum seekers fighting deportation were at that moment being deported and on a plane to El Salvador.

DC District Judge Emmet Sullivan then blocked the administration from deporting the two plaintiffs while they are fighting for their right to stay in the US -- excoriating the administration and threatening to hold Attorney General Jeff Sessions in contempt.

The government raced to comply with the court's order, and by Thursday evening the immigrants had arrived back in Texas after being turned around on the ground in El Salvador.

Sullivan agreed with the American Civil Liberties Union that the immigrants they are representing in a federal lawsuit should not be deported while their cases are pending.

The emergency hearing in the case turned dramatic when attorneys discovered partway through the hearing that two of their clients were on a plane to El Salvador.

Lead ACLU attorney Jennifer Chang Newell told CNN after the hearing the administration had pledged Wednesday that no one in the case would be deported until at least midnight at the end of Thursday. But during a recess in the proceedings Thursday, she got an email from attorneys on the ground in Texas that her client, known by the pseudonym Carmen, and Carmen's daughter had been taken from their detention center that morning and deported. After investigating during recess, she informed government attorneys and Sullivan what had happened.

"Oh, I want those people brought back forthwith. ... I'm not asking, I'm ordering," Sullivan said upon learning what had happened, which Justice Department attorney Erez Reuveni confirmed, according to a transcript of the hearing.

Sullivan later added he was "directing the government to turn that plane around either now or when it lands, turn that plane around and bring those people back to the United States. It's outrageous."

Sullivan then threatened to hit Sessions with contempt, saying that if the immigrants weren't returned he was going to order officials to explain "why people should not be held in contempt of court, and I'm going to start with the attorney general."

The judge apparently grew visibly agitated, assuring Reuveni in court that it wasn't "personal."

"I know I'm raising my voice, but I'm extremely upset about this," the judge said. "This is not acceptable."

Sullivan continued with the hearing, which was near its end, but kept reflecting on how he was "really upset" and found it "pretty outrageous" that "somebody in the pursuit of justice ... is spirited away while her attorneys are arguing for justice for her."

The lawsuit was brought on behalf of immigrants referred to only by their pseudonyms in court: Grace, Mina, Gina, Mona, Maria, Carmen and her daughter J.A.C.F. and Gio.

After the hearing, Sullivan issued an emergency order halting the deportation of any of the immigrants as he considers whether he has broader authority in the case.

Sullivan also ordered that if the two being deported were not returned, Sessions, Homeland Security Secretary Kirstjen Nielsen, Citizenship and Immigration Services Director Lee Francis Cissna and Executive Office for Immigration Review Director James McHenry would have to appear in court and say why they should not be held in contempt.

The lawsuit brought by the ACLU is challenging a recent decision by Sessions to make it nearly impossible for victims of domestic violence and gangs to qualify for asylum in the US. That decision was followed by implementation guidance from the Department of Homeland Security that almost immediately began turning away potentially thousands of asylum seekers at the southern border.

### A/T: Judge Bias

#### Plan solves inconsistent judges – clear and direct regulations reduce discretion

Marsden, 2014 – JD Candidate at Yale [Jessica The Yale Law Journal Forum May, 123 Yale L.J. Online 2512 Domestic Violence Asylum After Matter of L-R-, Lexis]

Angela took many risks when she decided to leave her home: crossing multiple borders without a passport; spending nights vulnerable to assault by male guides; and riding a raft across the Rio Grande. But she likely did not realize one of the biggest risks she took: applying for asylum as a domestic violence victim. The odds of this particular form of "refugee roulette" vary wildly from jurisdiction to jurisdiction, immigration judge to immigration judge, and asylum officer to asylum officer. n4 As one practitioner describes it, "whether a woman fleeing domestic violence will receive protection in the United States seems to depend not on the consistent application of objective principles, but rather on the view of her individual judge, often untethered to any legal principles at all." n5 Perhaps because Angela's story does not resemble [\*2515] that of Victor Laszlo or Chen Guangcheng--she fled a violent spouse, not a repressive government, and snuck across the border rather than being welcomed with open arms--asylum adjudicators have struggled to fit her experience into the "typical" asylum narrative. While supportive of domestic violence asylum in principle, this Note critiques the legal framework currently relied on by adjudicators who grant asylum to victims of domestic violence. That framework has no legal support in Board of Immigration Appeals (BIA) or federal court opinions, and, in fact, is inconsistent with some of the binding decisions of those courts. Instead, I propose a regulatory reform to make clear that domestic violence occurs "on account of" gender and that severe domestic violence can be the basis for an asylum grant. Unlike another recent proposal regarding domestic violence asylum, n6 I argue that creative arguments based on existing law will not overcome the innate hostility of some adjudicators to this type of claim. Instead, the law itself must be changed to clear away existing adverse precedent and put domestic violence asylum claims on solid legal ground. In Part I of the Note, I offer a normative account of why domestic violence victims should be granted asylum as victims of human rights violations that occur "on account of" their gender. In Part II, I describe the current status of the law on domestic violence asylum and gender-based asylum claims generally. In Part III, I argue that the legal framework proposed by the Department of Homeland Security (DHS) in 2009 has failed to provide for consistent adjudications of gender-based claims and may be contrary to existing BIA and circuit court precedent on the requirements for "particular social group" asylum claims. Finally, in Part IV, I offer a proposal for regulatory reform to put asylum claims based on domestic violence on a firmer legal footing. I argue that such a regulation would provide for more consistent adjudication of such asylum claims without resulting in a "flood" of new asylees to the United States. As an initial matter, I discuss gender-based violence in which a woman is persecuted on account of her gender, not necessarily in gender-specific ways. Gender-specific violence includes "rape, sexual violence, forced abortion, [\*2516] compulsory sterilization, and forced pregnancy." n7 These harms, while devastating, are not necessarily perpetrated because of the victim's gender. n8 For instance, rape may be used as "punishment" for a woman's political beliefs that have nothing to do with her gender. Where gender-specific harm occurs on account of a protected ground, adjudicators since the 1990s have generally accepted it as the basis for a successful asylum claim. n9 In contrast, gender-based violence, in particular domestic violence, has faced much greater resistance from both administrative agencies and courts. n10

#### Clear legislation solves – even if it doesn’t eliminate all discretion, it reduces inconsistency significantly.

Marsden, 2014 – JD Candidate at Yale [Jessica The Yale Law Journal Forum May, 123 Yale L.J. Online 2512 Domestic Violence Asylum After Matter of L-R-, Lexis]

By resolving doctrinal inconsistencies and sending a clear statement that asylum should protect domestic violence victims, the proposed regulation would significantly improve the adjudication process for asylum claims. The proposal addresses or renders moot each of the doctrinal problems previously identified in the L-R- framework. The first prong of the regulation, approving gender-only social groups, avoids an individualized inquiry into the immutability, visibility, and particularity of an applicant's social group. A domestic violence victim will be able to seek persecution as part of the particular social group of "women," or perhaps "women in [her country]." The regulation also establishes as a matter of law the nexus between domestic violence and gender, which has been questioned by some immigration judges. n183 This will narrow the scope of the adjudicator's inquiry to focus on [\*2551] whether an applicant has proved that persecution occurred and whether her government was unwilling or unable to protect her. While it is still possible that different adjudicators would decide these questions differently, the number of judgments that an individual adjudicator has to make will be smaller, and thus the scope for inconsistencies narrower. The regulation would also officially repudiate the view that domestic violence is simply not the type of persecution that asylum is meant to address. In the years since DHS first took the position that domestic violence victims may be eligible for asylum, some immigration judges have continued to deny women asylum because they do not believe domestic violence can be the basis for asylum under any circumstances. n184 One judge denied immigration relief because while other countries are "'not as good' as the United States on women's rights, . . . 'that doesn't mean that the United States should grant asylum to all women of the world.'" n185 This regulation would clarify that this is not a valid reason to deny asylum to domestic violence victims; if some judges continued to deny asylum on this basis, it would be reversible error. In addition, the regulation would address the concerns of adjudicators who want to protect women but feel that the law does not currently allow them to do so. Several immigration judges have denied domestic violence asylum claims even while stating on the record that they would like to be able to grant asylum in such cases. n186 Some of these judges have recognized the doctrinal problems with visibility and particularity discussed earlier in this Note; others have said that they do not feel free to grant such innovative claims without guidance from the BIA. n187 A joint DHS-DOJ regulation would have the same binding effect on immigration judges as a precedential BIA decision, and thus would free friendly immigration judges to begin granting asylum to deserving domestic violence victims.

#### Reforming asylum policy changes decision making.

Faithful, 2009 – JD Candidate at American Univ [Richeal, The Modern American Fall, 2009 6 Am U. Modern Am. 18 Seeking Protection From The Law? Exploring Changing Arguments For U.S. Domestic Violence Asylum Claims And Gendered Resistance By Courts Lexis]

I suggest that scholars concerned about gender-based asylum may want to shift their focus from re-thinking legitimate arguments about why gendered violence is deserving of asylum protection, to discussing systemic changes that can more directly affect decision-making. I believe in particular that strengthening the INS Guidelines can prove to be enormously beneficial. At least one persuasive feminist scholar credits the INS Guidelines with successful rape and FGM claims, in which the guidance established "a valuable legal framework for asylum claims based on domestic violence." n98 Since this assessment was over a decade ago, there are questions yet to be re-visited about the INS Guidelines. Should they be codified or at least be required reading for judges? If they remain nonbinding, is there additional authority that can make them even more persuasive? Based on its success, can gender-based violence be considered an independent basis (within PSG) upon which future persecution will be determined? With vast opportunity in a human rights era, thinkers can move away from defending its values to implementing its force. The political climate toward human rights is ideal for engineering fine-tuned legal and policy reform strategies. It is a matter of catching up U.S. asylum law with its international commitments which is by no means easy, but it is possible given the strong framework outlined by scholars and advocates alike. DV survivors deserve asylum protection, as do other gender-based violence survivors. Human rights advocates' chief test is to make this area a priority.

### A/T: Doesn’t Solve All Violence

#### Even if adding gender as a social group does not fully solve the problem, it is the biggest and most important step forward

Randall, 2015 – Prof of Law at Western University [Melanie, American University Journal of Gender, Social Policy & the Law 23 Am. U.J. Gender Soc. Pol'y & L. 529 Particularized Social Groups And Categorical Imperatives In Refugee Law: State Failures To Recognize Gender And The Legal Reception Of Gender Persecution Claims In Canada, The United Kingdom, And The United States, Lexis]

Gender's absence as a ground of persecution is obviously not the only procedural or definitional obstacle to women's asylum claims. n14 Among other problematic elements of the refugee process for women who have suffered gender persecution, one glaring area of difficulty (among others) is the set of issues surrounding the analysis of state protection. n15 Adding gender to the statutory definition of a refugee and recognizing it statutorily as a ground of persecution is not a panacea, merely a foundational step forward. As Deborah Anker has persuasively observed, "gender, properly understood, should pervade the interpretation of every element of the refugee definition." n16 But statutory silence on gender as an enumerated ground of persecution remains a formidable and persistent initial hurdle. Given that it is an easily remedied problem it is one that should urgently be addressed and foregrounded on refugee advocacy and law reform agenda. The various Guidelines and briefs on gender claims published by immigration authorities in the major refugee-receiving countries of Canada, the United Kingdom, and the United States, and all of their attendant policies and interpretive suggestions, have not come close to fully attenuating this problem. Instead these guidelines represent only a stopgap, as they are partial and ineffective solutions that rely on interpretive strategies to get around the absence of gender as an identified ground. Why must refugee women's claims for asylum continue to be forced into the conceptual confusions caused by forcing gender persecution into the straightjacket of the "particular social group" category?

#### Just because there are obstacles to asylum doesn’t mean that our solvency is reduced – the symbolic importance of domestic violence asylum can change acceptance of abuse worldwide – empirically proven by FGM.

Marsden, 2014 – JD Candidate at Yale [Jessica The Yale Law Journal Forum May, 123 Yale L.J. Online 2512 Domestic Violence Asylum After Matter of L-R-, Lexis]\

But the fact that many qualifying domestic violence victims will not actually be able to take advantage of the protection of asylum underscores another problem--not that there are too many asylum-seekers, but that there are too few. This problem is endemic to the asylum system as a whole, not limited to domestic violence asylum claims. Unlike the refugee system, which places quotas on the number of refugees who will be admitted each year, n206 asylum relies on the difficulty of getting to the United States as a natural cap on the number of asylees. Viewed cynically, it may appear that the United States has made an ostensible commitment to protect people all over the world from human rights violations while relying on the fact that it will never be required to deliver fully on its promise. While it is important to recognize the limitations of asylum as a practical solution for large-scale human rights violations, it would nonetheless be a mistake to overlook either the real benefit it provides to those asylum-seekers who do make it to the United States or the symbolic value of asylum as an expression of our commitment to human rights. As a practical matter, even though expanded access to asylum will not protect all victims of domestic violence, it is a way to offer protection to at least some of the women facing dire abuse at home. Symbolically, official recognition for domestic violence-based asylum claims also reaffirms the country's commitment to stopping human rights violations against women, including domestic violence. Congress understands asylum's symbolic value: its decision to amend the asylum statute to include victims of forced abortions and sterilizations was a statement to the Chinese government of the U.S. position on acceptable forms of population control. Similarly, official recognition of domestic violence asylum claims will demonstrate that the United States does not tolerate domestic violence, even when it is sanctioned by traditional gender norms. n207 Finally, a symbolic statement about domestic violence may help bring about policy changes in other countries. International recognition of FGM as a violation of women's human rights--including the U.S. recognition of FGM as the basis for an asylum claim--may have contributed to the recent reduction in the practice in many countries. n208 Countries that today do little to protect domestic violence victims may be prompted to greater action if they see that the United States is taking in many of their citizens as domestic violence asylees.

### A/T: Return To Abusers

#### Consistent protection of persons fleeing domestic violence will embolden more to leave abusive situations – inconsistency returns women to a worse situation

Marsden, 2014 – JD Candidate at Yale [Jessica The Yale Law Journal Forum May, 123 Yale L.J. Online 2512 Domestic Violence Asylum After Matter of L-R-, Lexis]

Apart from being intuitively unfair, inconsistency in asylum adjudication is particularly risky for domestic violence victims. Attempts to leave an abusive relationship are closely correlated with an increase in the severity of the abuse. n124 The possibility of safe harbor in the United States may give women the courage to leave severely abusive relationships. But if asylum is granted inconsistently, then a woman who through no fault of her own ends up before an adjudicator hostile to this type of claim will be deported to a more dangerous situation than the one that she left behind. n125 Inconsistency also breeds inefficiency. n126 Each domestic violence asylum applicant must re-litigate arguments about social group and nexus because there is no controlling precedent or rule to rely on for the proposition that severe domestic violence may give rise to a cognizable asylum claim. Any satisfactory resolution to the problem of domestic violence asylum claims must provide for more consistent outcomes for similar claims. It is true that absolute consistency may be an impossible and even an undesirable goal for the asylum system. But more consistency is not only possible, but morally required to satisfy our human rights obligations and offer safety to women seeking refuge in this country.

### A/T: Universal Category Bad

#### A gender-specific designation is key – reliance on fear of persecution, underlying cultural values, or other characteristics is circular logic that make it more difficult to prove legitimate asylum claims

Adjin-Tettey 97 (Elizabeth, Ph.D., is a lecturer in the Department of Law, Carleton University, Ottawa, “Defining a Particular Social Group Based on Gender” Refuge, Vol. 16, No. 4 (October 1997), https://dspace.library.uvic.ca/bitstream/handle/1828/5882/Adjin-Tettey\_Elizabeth\_Refuge\_1997.pdf;sequence=1)KJR

Eligibility for Convention refugee protection depends on the ability to establish a nexus between a well-founded fear of persecution and the claimant's civil or political status. The Convention refugee regime limits protection to persons who face a genuine fear of persecution by reason of their race, nationality, religion, political opinion or membership of a particular social group. The particular social group category is proving to be a very versatile ground for recognizing claims arising from gender-based persecution and other non-enumerated grounds for according convention refugee status. Contemporary jurisprudence on the definition of "Convention refugee" unequivocally recognizes that "gender" is a particular social group. Hathaway states that "Gender-based groups are clear examples of social subsets defined by an innate and immutable characteristic. Thus, while gender is not an independent enumerated ground for Convention protection, it is properly within the ambit of the social group category."l In A.G. v. Ward, the Supreme Court of Canada stressed the element of immutability in defining a "membership in a particular social group." After reviewing scholarship and jurisprudence on the meaning of the particular social group category, Mr. Justice La Forest identified three possible categories for defining a social group within the meaning of the Convention refugee definition. These are groups defined by an innate or unchangeable characteristic; groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association; and groups associated by a former voluntary status, unalterable due to its historicalpermanence.2 Reference to an innate characteristic, such as sex, as defining a particular social group ensures that women or a subset of women in a particular society may be considered a particular social group for purposes of according Convention refugee protection when they are susceptible to serious harm for no other reason than being women. Indeed, this possibility was recognized by the Supreme Court of Canada in A.G. v. Ward. Mr. Justice La Forest noted that the first category of persons united by an innate or unchangeable characteristic would encompass individuals fearing persecution on the basis of their gender.3 Recognition of gender as identifying a social group is supported by the Canadian Gender guideline^.^ Though the Supreme Court of Canada has clearly declared that gender can be the basis for identifying a particular social group, some confusion remains regarding whether gender alone can constitute the basis of the social group, or whether gender might be one characteristic that must combine with others to define the social group. The Canadian Guidelines are in part the source of this ambiguity, since they concede that while being a woman per se could entitle one to membership in a social group, the size of the group could be limited by the common victimization or vulnerability of the members of the group to persecution.~ This approach attempts to define the group by reference to the nature of persecution feared. It also suggests that the group is defined by reference to gender and some other characteris- tic, usually the common victimization which confronts group members. This was the position adopted by Mr. Justice Mahoney in the pre-Ward decision of Mayers v. M.E.le6 in which the Federal Court of Appeal held that the claimant belonged to a social group comprising "Trinidadian women subject to wife abuse." Mahoney's approach to the definition of a particular social group was adopted by Mr. Justice Linden in Cheung v. M.E.1.' After reviewing the Mayers decision, Mr. Justice Linden concluded that "women in China who have more than one child and are faced with forced sterilization because of this form a particular social group so as to come within the meaning of the definition of Convention refugee."8 This approach finds further support from the Ward decision. By saying that a particular social group cannot be defined solely by reason of the common victimization of its members, Mr. Justice La Forest appears to be suggesting that the common vulnerability of the group, combined with other characteristic(s) may be sufficient to delineate a particular social group. Thus, in spite of the guidelines for identifying the existence of a particular social group outlined in the Ward decision-immutable characteristics, voluntary association for reasons fundamental to human identity and former voluntary status-some postWard decisions continue to define gender-based social groups by reference to the common victimization which confronts its members. In Naruaez v. Minister of Citizenship & Immigration, Mr. Justice McKeown took the position that women in Ecuador subject to domestic violence constitute a particular social group? This approach is problematic. Though the anti-discrimination approach to identifying a social group presupposes that the members of the group are susceptible to victimization, naming a particular harm feared as the basis of defining the group deviates from the focus on immutability as the foundation of gender-based social groups. The common victimization confronting the group is of course not innate, and is clearly not the basis upon which the harm is feared. This critique has sometimes been acknowledged by the Canadian Immigration and Refugee Board, as in the case of America Torres. The claimant, a citizen of Ecuador, was allegedly fearful of persecution by reason of her membership in a particular social group, i.e., abused women who do not receive any effective protection from the home state. The panel was of the view that defining a social group by reference to the particular harm feared is circular. "A claimant must fear persecution for a Convention reason. The Convention reason must preexist the persecution. To argue that someone is persecuted for the reason that she is persecuted is [nonsensical] ."lo It appears more logical to define groups in terms of vulnerability in generalbecause of an innate characteristic, rather than by reference to particular forms of vulnerability." Understood in this way, women constitute a particular social group both because of an innate characteristic that they share (gender), and because of their susceptibility to serious human rights violations.12 The fact that not all women are targets of gender-related serious human rights abuses at any one particular time does not affect the designation of women as a particular social group. After all, all group members need not be at risk of persecution before they can be recognized as a "particular social group." This position has been affirmed by the Supreme Court of Canada. In Brooks v. Canada Safeway Lt~i.,'~ the appellant, who became pregnant while in the employ of the respondents, alleged that a group insurance plan maintained by the latter that excluded payment of benefits to pregnant women during a seventeen week period even if they suffered from an ailment totally unrelated to pregnancy amounted to sex discrimination. The respondents were of the view that since not all women became pregnant, pregnancy related discrimination was not sex discrimination. In allowing the appeal, the Chief Justice noted that pregnancy related discrimination amounts to discrimination on the basis of sex, even though not all women become pregnant at any one time. He pointed out that pregnancy cannot be separated from gender. "While pregnancy-based discrimination only affects part of an identifiable group, it does not affect anyone who is not a member of the group . . . This fact does not make the impugned distinction any less discriminatory."14 The prevalence of discrimination and violence against women, especially in the so-called "private sphere," is common knowledge.15 Thus, being a woman in and of itself is so full of risks that some states have not been particularly enthusiastic in recognizing a social group that potentially has millions of members. Such concerns are defeated by the ejusdem generis approach since the other four categories-race, nationality, religion and political opinion-are characteristics which are also shared by large numbers of people.16 The Canadian Gender Guidelines note that "the fact that the particular social group consists of large numbers of the female population in the country concerned is irrelevant-race, religion, nationality and political opinion are also characteristics that are shared by large numbers of people."" Just being a woman in some societies, makes one susceptible to human rights violations committed with impunity, particularly in the domestic, unregulated sphere.18 It is therefore not necessary to qualify the group "women" in order to remain faithful to the anti-discrimination logic of the nexus requirement. This appears to be Mr. Justice La Forest's position in A.G. v. Ward, where he simply listed gender without any qualification as the basis for idenwing a social group because it is an innate characteristic. The Canadian Immigration and Refugee Board has endorsed this approach to defining gender-based particular social groups. In its update on the Gender Guidelines, the IRB unequivocally states that since gender is an innate characteristic, women may form a particular social group within the ConRefuge, Vol. 16, No. 4 (October 1997) ( - vention refugee definition.lg In Fatin v. I.N.S. the United States Court of Appeals for the Third Circuit also endorsed a similar position when it that an Iranian applicant who feared persecution because she is a woman can be a member of a particular social group.20 Recognizing that women may constitute a particular social group does not, of course, automatically make all women eligible for Convention refugee protection. In view of the individualized focus of refugee protection, a woman will have to establish her membership in the group that is demonstrably susceptible to persecution. Thus, eligibility for refugee protection based on gender defined social group turns on whether a woman has a wellfounded fear of persecution in her home country because of membership in this group. In Cheung v. M.E.I., the Federal Court of Appeal pointed out that recognizing that women in China who have more than one child and threatened with sterilization constitute a particular social group did not automatically make all women in the group eligible for Convention refugee protection. "It is only those women who also have a well-founded fear of persecution as a result of that who can claim such status."\*l Whereas in some countries, all women may be vulnerable to serious human rights violations, in many countries only a subset of the population of women will be at risk. In such cases, gender will be one form of civil or political status that together with an intersecting ground of claim (such as race, religion or other innate or fundamental characteristics), will combine to define the particular social group. In view of the anti-discrimination purpose of refugee protection, these other characteristics should be immutable in the sense of being either innate or so fundamental to the identity or basic human dignity of the members that requiring them to forsake their belief will constitute a violation of their basic human rights. For instance, the Gender Guidelines Update recognizes that in addition to women being a particular social group, there may also be other particular social groups made up of subgroups of women. These groups maybe identified by reference to other immutable characteristics such as age, race, marital status or economic For example, in the Fatin case, the appellant's primary argument was not that she was at the risk of persecution simply because she is a woman. In- ,stead, she alleged that she risked harm as a member of a "very visible and specific subgroup: Iranian women who refuse to conform to the government's gender-specific laws and social norms."23 The U.S. Court of Appeals found that the at-risk group did not include all Iranian women who hold feminist views, or even all those who object to the gender-specific rules in Iran. The group at risk of persecution is limited to those women who hold a particularly strong political or religious opinion in opposition to the policies of the theocratic state. This category meets the test for a particular social group, since it combines two forms of immutable status, namely gender and political or religious opinion. Similarly, in Zekiye Incirciyan," the Immigration Appeal Board held that "single women living in a Moslem country without the protection of a male relative" constitute a particular social group. In this case, gender was combined with other characteristics to define the social group to which the claimant belongs. In his commentary on the Incirciyan decision, Hathaway justifies the identification of the social group as conforming to the anti-discrimination approach by pointing out that members have no control over their gender or absence of male relatives. He also notes that choice of marital status is a fundamental human right that no one should be required to relinquish. In view of the position that particular social groups ought to be defined in terms of vulnerabilities in general rather than by reference to particular forms of harms, perhaps the social group of which Incirciyan is a member should have been simply "unmarried women." ~ollowing from the immutability test, the particular social group in Cheung ought to have been identified as "women in China who have more than one child." This group is united not only be gender but also by a common conviction-reproductive liberty-which is so fundamental to their human dignity that they should not be required to alter it. Of course, not all women in China with more than one child will be eligible for refugee status. As rightly pointed out by Mr. Justice Linden, only those women who have a well-founded fear of persecution by reason of their status can claim refugee protection. Since forced sterilization is not an innate or unchangeable characteristic, it should not be the basis for defining the social group. This approach also ensures that eligibility for refugee protection is not limited to women threatened with forced sterilization but to those facing other forms of persecution as a result of having more than one child. In sum, there have been considerable developments regarding the particular social group category. It is now settled that a social group can be defined by the gender of its members. Although the determination of refugee status remains a national prerogative of states, there has, however, been willingness at both regional and national levels to recognize women as constituting a particular social group, meaning that women confronted with the risk of gender-related persecution solely because of their gender are eligible for refugee protection based on the social group category. Whereas all women are part of a social group, only those who are likely to be victimized or marginalized because of their gender will be eligible for Convention refugee protection as these will be the only persons within the category who are genuinely at risk of persecution. The class of at-risk women may sometimes be defined by reference to gender and other innate or fundamental characteristics, rather than the common victimization, which distinguishes women in need of refuge from the general population.

#### Gendered Violence IS universal – treating it as such is justified even if there are risks

PERILLA ‘99 (Julia L., Associate Professor – Georgia State University, Director – National Latina Research Center on Family and Social Change, and Faculty in the Partnership for Urban Health Research, “Domestic Violence as a Human Rights Issue: The Case of Immigrant Latinos,” Hispanic Journal of Behavioral Sciences 21.107, Sage)

Marcus (1994) writes about her personal enlightenment regarding the universality of domestic violence during her travels throughout the world as a lecturer on women’s rights and international human rights. She indicates that it is not just the pervasiveness of domestic abuse in many societies, but it is the consistent denial of its existence and incidence that has led her to believe in the absolute necessity of naming the phenomenon to break the silence. Rather than a haven and a place of safety, the home becomes a place of terror for many women. She recognizes the western feminist lens through which she views domestic violence in other parts of the world and the potential problems surrounding this stance. Nevertheless, she is clear in her analysis of the dangers of placing domestic violence in the context of culture. Due to its status as a private problem (Beasley & Thomas, 1994), cultural norms and values may be used to deny, minimize, rename, or normalize violence against women. Indeed, in many societies, domestic abuse is not considered a serious problem. It is seen as an individual and unusual happening rather than as a culturally sanctioned and systematic practice used to silence and coerce a whole segment of the population. Marcus (1994) believes that these considerations are sufficient to remove the analysis of domestic violence from the private sphere and the culture-specific context into the universal realm of human rights. In this manner, universal rights would override culture specific values and norms, thus providing recourse to battered women everywhere. In an analysis of the doctrine of coverture that merged the legal identity of a married woman with that of her husband, Marcus (1994) indicates that both political and economic theory reinforced the theologically ordained structure of the family in the U.S. Although some of the more severe economic restrictions for women under the doctrine of coverture were abolished by the end of the 19th century, it was not until the last quarter of the 20th century that the last formal vestiges of coverture were eradicated from all states. Similar laws are still in effect in many countries in which married women are seen as not having identities of their own apart from that of their roles as a wives and/or mothers. Marcus (1994) cites statements made by court-mandated batterers in an intervention group she facilitates as reflecting many of the daily life practices of coverture, even at the end of this century. To be specific, she emphasizes the frequency with which men minimize or deny a separate entity for the women with whom they are in relationship while asserting their role as the person in charge who must be served and obeyed. From the man’s perspective, the use of violence is simply a means to ensure that the woman will comply with his demands. These well-developed ideas of power based on gender, control, and hierarchy are often echoed by members of a group of court-mandated immigrant Latino batterers with whom I work. It is clear that the universality of coverture values and attitudes is present in many cultural groups—in the United States and elsewhere.

## Topicality

### A/T: Legal Immigration

#### We Meet – Asylum is Legal Immigration

HODGES-WU ’18 (Joan; MA, MSW, LGSW, Founder and Executive Director of the Asylum Seeker Assistance Project, Regular Advisor to the U.S. Office of Refugee Resettlement, Nationally Recognized Torture Treatment Subject Matter Expert, Masters in Refugee Care from the University of Essex and a Masters in Social Work from Catholic University, Former Peace Corps Volunteer, “Scholar Highlight: Joan Hodges-Wu,” https://www.skidmore.edu/palamountainbenefit/profiles/joan-hodges-wu.php)ww

I am the founder and executive director of the Asylum Seeker Assistance Project (ASAP). ASAP is the product of my work serving survivors of torture, 90% of whom are also asylum seekers. Asylum is a legal immigration status awarded by the U.S. government to persons who meet the definition of a refugee but are already in the United States. Founded in 2016, ASAP is the first and only nonprofit providing comprehensive services to support the estimated 50,000 asylum seekers living in the D.C. metro region.

#### Counter Interpretation – Legal Immigration is Legal Permanent Residence

DEARDORFF and BLUMERMAN ’01 (Kevin E. and Lisa M.; U.S. Census Bureau – Population Division, “Evaluating Components of International Migration: Estimates of the Foreign-Born Population by Migrant Status in 2000,” Working Paper #58, https://www.census.gov//content/dam/Census/library/working-papers/2001/demo/POP-twps0058.pdf)ww

The Immigration and Nationality Act defines legal immigration as the process by which a non-citizen of the United States is granted legal permanent residence. A non-citizen with legal permanent residence status may remain in the country, be employed, travel freely, and seek naturalization to become a U.S. 1 citizen. Legal immigrants, as categorized by the Census Bureau, include new arrivals to the United States, people adjusting their migrant status to legal permanent resident (including Special Agricultural Workers (SAWs) and pre-1982 entrants (LAWs)), asylees, and refugees (Perry et al., 2001).

#### Prefer federal definitions – precision is impossible without them

FIDDLER ’07 (Thomas B.; Vice Chair – Commercial Litigation Group and Partner – White & Williams LLP, “Plaintiffs’ Post-Trial Proposed Findings of Fact and Brief” in Lozano, Et Al. v. City of Hazelton, 5/14, https://www.aclu.org/files/pdfs/immigrants/hazleton\_posttrial\_brief.pdf)

Hazleton is plainly incorrect in claiming interpretations of one immigration-related term in the federal firearms laws by the federal courts and the federal government somehow apply to Hazleton’s use of different terms for a very different purpose. Eligibility under federal law to purchase firearms and ability to reside in the United States under federal immigration law and policy are totally distinct inquiries. 7 Indeed, these cases prove the point that there is no single definition of “legal” immigration status in federal law for all purposes and the complexity of federal immigration law makes it particularly difficult to interpret terms that are not precisely defined in the Immigration and Nationality Act. 8 As Plaintiffs’ evidence and citations show, the federal government decides whether someone should depart from the United States only through removal proceedings, and Hazleton’s Ordinances run roughshod over that process and the complex system of classification the federal government employs. Pl. Mem. at 12-13.

#### No Ground Loss – Including Asylum and Refugees in the topic doesn’t eliminate any arguments for the negative.

#### Excluding our AFF from the topic replicates the harms outlined in the 1AC

NAYAK ’15 (Meghana; Associate Professor of Political Science – Pace University, Who is Worthy of Protection? Gender-Based Asylum and U.S. Immigration Politics, p. 2)ww

In international and US refugee law, people may apply for asylum if they can demonstrate a well-founded fear of persecution in their countries due to race, religion, nationality, political opinion, and membership in a particular social group. Notice that gender is not on this list. Indeed, gender is generally missing from the debates about the tension between immigration restriction and obligations to protect those fleeing persecution. Gender-related persecution comprises any type of violence that targets someone because of gendered expectations (such as forcing boys to join gangs or punishing women for their choices), in gendered ways (such as violence that includes sexual assault), or due to non-conforming gender identities and sexual orientation (such as police targeting lesbian, gay, bisexual, and transgender [LGBT] communities). Countries, immigration rights organizations, and feminist advocates around the world are increasingly acknowledging that gender violence is a form of persecution that should warrant grants of asylum protection. However, as asylum seekers try to prove their credibility and the legitimacy of their gender-based claims, they face the harrowing and difficult task of convincing immigration officials or judges that gender violence is not a personal or unfortunate problem but constitutes persecution.

This book confronts the question “Who is worthy of protection?” by examining gender-based asylum cases. Gender-based asylum offers an incredible opportunity for the United States to acknowledge and address gender-related persecution and to demonstrate protection of those fleeing persecution. However, due to the politics of immigration restriction and the “missing” category of gender, asylum/immigration officials and judges put an added burden on asylum seekers with gender-related claims to prove that they are deserving of legal protection. My critical investigation of these cases provides crucial lessons about the construction of “worthiness.”

#### Be Reasonable – Topicality is an all or nothing issue. The affirmative need not win that they have the best interpretation, but merely an interpretation that would facilitate debate. Good is good enough.

### We Meet Extensions

#### We Meet – Asylum is a Legal Immigration Status

FANESI ’08 (Monica; JD Candidate – Roger Williams University, “Relief Pursuant to the Convention Against Torture: A Framework for Central American Gang Recruits and Former Gang Members to Fulfill the "Consent or Acquiescence" Requirement,” 13 Roger Williams U. L. Rev. 308, Winter, l/n)ww

A. Asylum: The Most Coveted Form of Relief

A petitioner granted asylum will receive benefits including legal immigration status, n33 work authorization, n34 the ability to bring a spouse or child into the country n35 and, after one year, the [\*314] opportunity to change their status from refugee to permanent resident. n36 An asylum seeker must prove he is a refugee, defined as:

Any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. n37

#### Asylum is a legal immigration status

AVERY ’10 (Ryan; “FAIR SHAKE OR AN OFFER THEY CAN'T REFUSE? THE PROTECTION OF COOPERATING ALIEN WITNESSES UNDER UNITED STATES LAW,” 33 Suffolk Transnat'l L. Rev. 347, Summer, l/n)ww

n70. FARRA, supra note 69, § 1252; Fanesi, supra note 21, at 319. The remedial protection offered under CAT is known as withholding of removal. Kramer, supra note 15, at 308. Withholding of removal allows an alien to be present within the United States so long as conditions in the country of persecution remain unchanged. Id. at 5. The burden of proof for withholding is that the applicant "more likely than not" will suffer harm. 8 C.F.R. § 208.16(c)(2). A grant of asylum, which carries the benefits of legal immigration status, work authorization, the ability to bring a spouse or child into the country, and the opportunity to become a lawful permanent resident, will be granted to persons with a "well-founded fear of persecution" based on five statutorily protected grounds: race, religion, nationality, membership in a particular social group, or political opinion. Immigration and Nationality Act, 8 U.S.C. § 101(42)(A)(2008) (emphasis added). Thus, withholding under CAT allows fewer benefits than asylum while carrying a higher burden of proof. Kramer, supra note 15, at 5; see, e.g. Gebremichael v. INS, 10 F.3d 28, 36 (1st Cir. 1993) (holding nuclear family as plainest example of "social group based on common, identifiable and immutable characteristics"); Gonzales v. Thomas, 409 F.3d 1177, 1187 (9th Cir. 2004) (stating that "a family may constitute a social group for purposes of refugee statutes"). The nuclear family members of cooperating alien witnesses may be eligible candidates for asylum under this statute, as members of a recognized 'social group.' Id; see also Koudriachova v. Gonzales, 490 F.3d 255, 261-62 (2nd Cir. 2007) (clarifying claim for as y lum based upon membership in a social group)(emphasis added); Wang v. Gonzales, 445 F.3d 993, 997-1000 (7th Cir. 2006) (framing matter as involving personal retribution toward alien informant and disconnected from enumerated grounds for asylum). The question of whether principal witnesses themselves may be eligible for asylum based upon some type of social grouping has been answered in the negative by at least one circuit court. Id. The reasoning being that any persecution faced by a criminal witness derives not from his or her status as a criminal witness generally, but rather from action taken specifically by that witness against former associates. Koudriachova, 490 F.3d at 261-62.

### A/T: Effects Topicality

#### We Meet – Asylees are immediately granted a legal immigration status – That’s our Hodges-Wu evidence.

#### Legal immigration includes people who will ultimately be granted LPR. Having to wait a year doesn’t make us untopical.

MULDER ‘01 (T. J., Hollmann, F. W., Lollock, L. R., Cassidy, R. C., Costanzo, J. M., & Baker, J. D.; “U.S. Census Bureau measurement of net international migration to the United States: 1990–2000,” <https://www.census.gov/population/www/documentation/twps0051/twps0051.html#legimm>)ww

Legal immigration

The sub-component of net international migration, legal immigration (LPR), refers to non-citizens who are granted legal permanent residence in the United States by the federal government, or who reside in the United States and will ultimately be granted this status. Legal permanent residence includes the right to remain in the country indefinitely, to be gainfully employed, and to seek the benefits of U.S. citizenship through naturalization.

### A/T: Precision

#### Immigration law is confusing and incoherent

HETHMON ’04 (Michael M.; Staff Attorney – Federation for American Immigration Reform, “The Chimera and the Cop: Local Enforcement of Federal Immigration Law,” 8 UDC-DCSL L. Rev. 83, Fall, l/n)

Opponents argue that federal immigration law is a complicated body of law that requires extensive training and expertise to properly enforce, because there are many different ways for people to be lawfully present in the United States and the federal government issues many different types of documents that entitle such lawful presence. 277 Supporters of local law enforcement would respond that the identification and initial detention of immigration law violators is based on relatively simple legal concepts. "Arrest is the easy part." 278 The arresting officer must make a two-part determination: first that the person is an alien; and second that the alien is subject to removal from the United States. Neither determination is inherently more complex or difficult for a trained law enforcement officer than the comparable determination of the identity and status of a suspected domestic violator or absconder. Local police departments in practice provide more extensive training and oversight of civil rights issues than does U.S. CIS or the Bureau of Customs and Border Protection (BCBP), because local police are subject to greater criminal and civil liability for civil rights violations. The former INS, now Department of Homeland Security, is required by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA) to respond to inquiries by federal, state, and local government agencies seeking to verify or determine the citizenship or immigration status of any individual within the jurisdiction of the agency for any lawful purpose. 279 [\*131] One enforcement-oriented verification resource whose availability and use by local and state police has "skyrocketed" since September 11, 2001 is the Department of Homeland Security Law Enforcement Support Center (LESC). LESC is described as a national enforcement operations and intelligence center that gathers information from eight DHS databases, 280 the National Crime Information Center (NCIC), the Interstate Identification Index (III) and other state criminal history indices. 281 U.S. Immigration and Customs Enforcement claims that local police callers to LESC can receive an initial analysis of an individual's immigration status within ten minutes. 282 In contrast, the aspects of immigration law dealing with eligibility for a visa or other form of admission to the United States, adjustment of immigration status, and relief from removal are not only complex, but also arguably lack internal consistency and coherence. Local law enforcement agencies do not participate in these more complex areas of immigration law.

## Court Clog Answers

### Non-Unique

#### Backlog High Now

LEHMAN 6/11 (Charles Fain; Washington Free Beacon, “Immigration Court Cases Still Piling Up,” http://freebeacon.com/issues/immigration-court-cases-still-piling/)ww

The number of cases before federal immigration courts continues to rise, a new report shows, despite efforts by the Trump administration to reduce the backlog.

There were 714,067 cases awaiting judgement as of May 2018, the Transactional Records Access Clearinghouse (TRAC) reported, the highest level since at least 1998. The backlog has risen by 32 percent since President Donald Trump took office in January of 2017.

Immigration Court Backlog

This growth in backlog puts a damper on the announcement issued by Attorney General Jeff Sessions in October that a surge of immigration judges had increased the number of cases being processed by immigration courts. That surge, initially ordered by President Trump in January, was responsible for an additional 2,700 immigration cases being addressed, according to analysis from the Executive Office for Immigration Review. Sessions also recently announced the appointment of an additional 35 immigration prosecutors, part of a rollout of new Assistant U.S. Attorneys, in order to cut the backlog.

TRAC notes that while DOJ has "implemented a number of new policies with the announced aim of speeding case dispositions, their efforts thus far have not had the desired result and appear to have actually lengthened completion times so that these have risen to new all-time highs." In other words: while DOJ's new immigration judges may have reduced the overall caseload marginally, the rate at which the backlog continues to grow has offset that gain.

The reason for this continued growth is not because there are more cases, TRAC reported. Rather, it's because current cases are taking longer to clear once filed. Cases that result in a removal order are now taking an average of 501 days to process, as compared to an average of 392 days in 2017. Decisions granting some form of relief from deportation, including asylum decisions, took an average of 1,064 days in 2018, a 17 percent increase from 2017.

The average number of days an individual can expect to wait before a hearing is 721, or just under two years. In some cases, the waits can be much longer: TRAC estimated that an individual expecting a hearing in Houston, Texas will have waited an average of just under five years before an individual hearing before an immigration judge. Twenty-one immigration court locations have average hearing times of more than five years.

Average Time to Hearing

 This latest report contributes further uncertainty to the Trump administration's current offensive in the fight to curb illegal immigration. Despite an increase in border prosecutions—part of Sessions's new "zero-tolerance" policy—the number of individuals apprehended at the southwestern border remained above 50,000 in May, a substantial increase as compared to the same month in 2017.

### Link Turn

#### Turn – Sessions’ decision will increase the backlog

SCHMIDT 6/12 (Samantha; Washington Post, “‘Back to the Dark Ages’: Sessions’s asylum ruling reverses decades of women’s rights progress, critics say,” https://www.washingtonpost.com/news/morning-mix/wp/2018/06/12/back-to-the-dark-ages-sessions-asylum-ruling-reverses-decades-of-womens-rights-progress-critics-say/?noredirect=on&utm\_term=.a89d1f5d5786)ww

Sessions assigned the 2016 case to himself under his power as attorney general and said the move will help reduce the growing backlog of 700,000 court cases.

He concluded his ruling by saying he does not intend to “minimize the vile abuse” that the Salvadoran woman suffered or the “harrowing experiences of many other victims of domestic violence around the world.” But the “asylum statute is not a general hardship statute,” Sessions wrote.

Relatively few refugees are granted asylum annually. In 2016, for example, nearly 62 percent of applicants were denied asylum, according to Syracuse University’s Transactional Records Access Clearinghouse.

Paul Wickham Schmidt, a retired immigration judge and former chairman of the Board of Immigration Appeals, wrote on his blog that Sessions sought to encourage immigration judges to “just find a way to say no as quickly as possible.” (Schmidt authored the decision in the Kasinga case extending asylum protection to victims of female genital mutilation.)

Sessions’s ruling is “likely to speed up the ‘deportation railway,’ ” Schmidt wrote. But it will also encourage immigration judges to “cut corners, and avoid having to analyze the entire case,” he argued.

“Sessions is likely to end up with sloppy work and lots of Circuit Court remands for ‘do overs,’ ” Schmidt wrote. “At a minimum, that’s going to add to the already out of control Immigration Court backlog.”

### No Link

#### No Link – Very few successful claims happened before Sessions’ decision

BETTINGER-LOPEZ and VOGELSTEIN ’18 (Caroline; Adjunct Senior Fellow in the Women and Foreign Policy Program at the Council on Foreign Relations, AND Rachel; Douglas Dillon Senior Fellow and Director of the Women and Foreign Policy Program at the Council on Foreign Relations, “Sessions’ Draconian Asylum Decision,” 6/15, https://www.foreignaffairs.com/articles/united-states/2018-06-15/sessions-draconian-asylum-decision?cid=soc-tw)ww

Some argue that the high rates of gender-based violence in neighboring countries and the attendant increase in migration require the U.S. government to limit admittances under asylum law, lest it open the floodgates to hundreds of thousands of immigrant women claiming to flee abusive husbands. But history shows that treating domestic violence survivors humanely—and aligning U.S. asylum law with international standards—won’t increase migration flows. Under the rigorous procedures in place until Sessions’ decision, only those with extreme cases who merit asylum get it. And the percentage of immigrants who entered the United States under the more generous standard used prior to Monday’s Matter of A-B- decision was remarkably small, suggesting that this reversal in U.S. commitment to humane treatment of domestic violence survivors under asylum law will have limited practical effect.

#### No Court Clog – it’s hard to prove an asylum claim and every other category can be exploited as well

HEITZ ’13 (Aimee; J.D. – University of Indiana, ‘Providing a Pathway to Asylum: Re-Interpreting "Social Group" to Include Gender,’ Indiana International & Comparative Law Review, v. 23, n. 2)ww

While critics highlight problems that consistently plague the US immigration system, a re-interpretation of social group to include gender would not automatically lead to an overflow of asylum claims. In addition to meeting one of the enumerated bases of the INA "refugee" definition, asylum seekers must still present a credible claim and must establish a well-founded fear of returning to their native country on account of one of those enumerated classifications. A woman will not automatically be granted asylum because she is a woman. She must establish that she and other members of her gender-based social group are persecuted on account of their membership in that group.

Even if gender-based persecution would increase the amount of asylum claims due to the large number of people found in a gender-based social group, the size of the group is no different from the size of groups listed in the other sections of the INA definition. The fact that a social group is comprised of a large number of people is irrelevant because "race, religion, nationality and political opinion are also characteristics that are shared by large numbers of people."2 50

Rather, "[t]he relevant assessment is whether the claimant, as a woman, has a well-founded fear of persecution in her country of nationality by reason of her membership in this group."2 5 1 "[The] size and breadth of a group alone does not preclude a group from qualifying as a social group."252 The nature of the problem is not changed by the potential number of people that are affected and should not be considered when determining an acceptable social group.

### No Impact

#### No Impact – Even under standard risk assessment, Terrorism isn’t a threat

MEULLER and STEWART ’10 (John; Professor of Political Science – Ohio State University and Mark G.; Professor of Civil Engineering and Director of the Centre for Infrastructure Performance and Reliability – University of Newcastle, “Hardly Existential: Thinking Rationally About Terrorism,” 4/2, https://www.foreignaffairs.com/articles/north-america/2010-04-02/hardly-existential)ww

An impressively large number of politicians, opinion makers, scholars, bureaucrats, and ordinary people hold that terrorism -- and al Qaeda in particular -- poses an existential threat to the United States. This alarming characterization, which was commonly employed by members of the George W. Bush administration, has also been used by some Obama advisers, including the counterterrorism specialist Bruce Riedel. Some officials, such as former U.S. Secretary of Homeland Security Michael Chertoff, have parsed the concept further, declaring the struggle against terrorism to be a "significant existential" one.

Over the last several decades, academics, policymakers, and regulators worldwide have developed risk-assessment techniques to evaluate hazards to human life, such as pesticide use, pollution, and nuclear power plants. In the process, they have reached a substantial consensus about which risks are acceptable and which are unacceptable. When these techniques are applied to terrorism, it becomes clear that terrorism is far from an existential threat. Instead, it presents an acceptable risk, one so low that spending to further reduce its likelihood or consequences is scarcely justified.

An unacceptable risk is often called de manifestis, meaning of obvious or evident concern -- a risk so high that no "reasonable person" would deem it acceptable. A widely cited de manifestis risk assessment comes from a 1980 United States Supreme Court decision regarding workers' risk from inhaling gasoline vapors. It concluded that an annual fatality risk -- the chance per year that a worker would die of inhalation -- of 1 in 40,000 is unacceptable. This is in line with standard practice in the regulatory world. Typically, risks considered unacceptable are those found likely to kill more than 1 in 10,000 or 1 in 100,000 per year.

At the other end of the spectrum are risks that are considered acceptable, and there is a fair degree of agreement about that area of risk as well. For example, after extensive research and public consultation, the United States Nuclear Regulatory Commission decided in 1986 that the fatality risk posed by accidents at nuclear power plants should not exceed 1 in 2 million per year and 1 in 500,000 per year from nuclear power plant operations. The governments of Australia, Japan, and the United Kingdom have come up with similar numbers for assessing hazards. So did a review of 132 U.S. federal government regulatory decisions dealing with public exposure to environmental carcinogens, which found that regulatory action always occurred if the individual annual fatality risk exceeded 1 in 700,000. Impressively, the study found a great deal of consistency among a wide range of federal agencies about what is considered an acceptable level of risk.

There is a general agreement about risk, then, in the established regulatory practices of several developed countries: risks are deemed unacceptable if the annual fatality risk is higher than 1 in 10,000 or perhaps higher than 1 in 100,000 and acceptable if the figure is lower than 1 in 1 million or 1 in 2 million. Between these two ranges is an area in which risk might be considered "tolerable."

These established considerations are designed to provide a viable, if somewhat rough, guideline for public policy. In all cases, measures and regulations intended to reduce risk must satisfy essential cost-benefit considerations. Clearly, hazards that fall in the unacceptable range should command the most attention and resources. Those in the tolerable range may also warrant consideration -- but since they are less urgent, they should be combated with relatively inexpensive measures. Those hazards in the acceptable range are of little, or even negligible, concern, so precautions to reduce their risks even further would scarcely be worth pursuing unless they are remarkably inexpensive.

If the U.S. Department of Homeland Security wants to apply a risk-based approach to decisionmaking, as it frequently claims it does, these risk-acceptance criteria seem to be most appropriate. To this end, the table below lists the annual fatality risks for a wide variety of these dangers, including terrorism.

As can be seen, annual terrorism fatality risks, particularly for areas outside of war zones, are less than one in one million and therefore generally lie within the range regulators deem safe or acceptable, requiring no further regulations, particularly those likely to be expensive. They are similar to the risks of using home appliances (200 deaths per year in the United States) or of commercial aviation (103 deaths per year). Compared with dying at the hands of a terrorist, Americans are twice as likely to perish in a natural disaster and nearly a thousand times more likely to be killed in some type of accident. The same general conclusion holds when the full damage inflicted by terrorists -- not only the loss of life but direct and indirect economic costs -- is aggregated. As a hazard, terrorism, at least outside of war zones, does not inflict enough damage to justify substantially increasing expenditures to deal with it.

Because they are so blatantly intentional, deaths resulting from terrorism do, of course, arouse special emotions. And they often have wide political ramifications, as citizens demand that politicians "do something." Many people therefore consider them more significant and more painful to endure than deaths by other causes. But quite a few dangers, particularly ones concerning pollution and nuclear power plants, also stir considerable political and emotional feelings, and these have been taken into account by regulators when devising their assessments of risk acceptability. Moreover, the table also includes another kind of hazard that arouses strong emotions and is intentional -- homicide -- and its frequency generally registers, unlike terrorism, in the unacceptable category.

In order to deal with the emotional and political aspects of terrorism, a study recently conducted for the U.S. Department of Homeland Security suggested that lives lost to terrorism should be considered twice as valued as those lost to other hazards. That is, $1 billion spent on saving one hundred deaths from terrorism might be considered equivalent to $1 billion spent on saving two hundred deaths from other dangers. But even with that generous (and perhaps morally questionable) bias, or even with still more generous ones, counterterrorism expenditures fail a standard cost-benefit assessment.

Politicians and bureaucrats do, of course, face considerable political pressure to deal with terrorism, but that does not relieve them of their responsibility to expend public funds wisely. If they feel they cannot do so, they should resign or forthrightly admit that they are being irresponsible -- or they should have refused to take the job in the first place. Moreover, although political pressures may force unwise actions and expenditures, they usually do not dictate the precise amount of money spent. The United Kingdom, which seems to face a considerably greater internal threat from terrorism than the United States, nonetheless spends only half as much per capita on homeland security -- at no notable cost to the tenure of its politicians and bureaucrats.

And certainly nothing relieves politicians and bureaucrats of their responsibility to inform the public about the risk that terrorism actually presents. But just about the only official who has ever openly tried to do so is New York's Mayor Michael Bloomberg, who, in 2007, remarked that people have a greater chance of being hit by lightning than being struck by terrorism -- an observation that, as the table suggests, is a bit off the mark but roughly sound. Bloomberg, it might be noted, is still in office.

To border on becoming unacceptable by established risk conventions -- that is, to reach an annual fatality risk of 1 in 100,000 -- the number of fatalities from terrorist attacks in the United States and Canada would have to increase 35-fold; in Great Britain (excluding Northern Ireland), more than 50-fold; and in Australia, more than 70-fold. For the United States, this would mean experiencing attacks on the scale of 9/11 at least once a year, or 18 Oklahoma City bombings every year.

For this to come about, terrorists would probably have to acquire nuclear weapons, the likelihood of which is highly questionable . If that fear is deemed viable, however, the policy implications would be to spend entirely, or almost entirely, on dealing with that limited concern. Massive expenditures to protect "critical infrastructure," for example, are unlikely to be effective against a nuclear explosion.

In fact, there is little evidence that terrorists are becoming any more destructive, particularly in the West. Some analysts have found that, if anything, terrorist activity is diminishing, at least outside of war zones.

As a hazard to human life in the United States, or in virtually any country outside of a war zone, terrorism under present conditions presents a threat that is hardly existential. Applying widely accepted criteria established after much research by regulators and decision-makers, the risks from terrorism are low enough to be deemed acceptable. Overall, vastly more lives could have been saved if counterterrorism funds had instead been spent on combating hazards that present unacceptable risks.

This elemental observation is unlikely to change anything, however. The cumulative increased cost of counterterrorism for the United States alone since 9/11 -- the federal, state, local, and private expenditures as well as the opportunity costs (but not the expenditures on the wars in Iraq or Afghanistan) -- is approaching $1 trillion. However dubious and wasteful, this enterprise has been internalized , becoming, in Washington parlance, a "self-licking ice cream cone," and it will likely last as long as terrorism does. Since terrorism, like crime, can never be fully expunged, the United States seems to be in for a long and expensive siege.

### Case Turns the Disad

#### The case **outweighs** and turns the disad

PAIN ’14 (Rachel; Professor of Human Geography – Durham University, “Everyday Terrorism: Connecting Domestic Violence and Global Terrorism,” Progress in Human Geography, February, Sage)ww

The starting point of this paper was the inequitable imbalance in attention and resources that two forms of terrorism receive from wider society, the state, and researchers including geographers. It has explored the connections between everyday and global terrorism, identifying their shared basis as attempts to exert fear and control for political influence. Conceptualizing the relation between these terrorisms within Pain and Smith’s (2008) double helix, I have explored their similarities, discontinuities and direct connections, arguing that the politics of fear are entwined both across scales and across terrorisms.

Global terrorism does not always live up to its intent of instilling fear, and its achievement of political influence is very mixed. On the other hand, everyday terrorism, if assessed by the criteria widely used to define global terrorism, is very effective: it frequently invokes fear, it terrorizes its targets and those close to them, it exerts psychological control in a way that the terrorist intends, and it leads to securitization in the form of changes to its targets’ behaviour that are not necessarily successful in challenging violence. Most of all, its effects reflect the wider political configurations within which it is produced.

Recasting domestic violence as terrorism has implications for addressing both terrorisms, and for future research. As feminists have argued, the possibility of sustainable peace is enhanced by the recalibration of understanding violence across scales and sites as closely interrelated (Moser, 2001). Both terrorisms are constructed and have impacts in ways that are heavily mediated by relations of gender, race, class privilege and nationality. Policies to address either form of violence must therefore acknowledge these structural root causes, and prioritize the provision of culturally competent services (INCITE!, 2006; Sokoloff and Dupont, 2005).

In future geographical research, there is ample scope for culturally specific, intersectional and place-based accounts of different terrorisms that build on the remapping here. More research is also needed on the connections between international and intimate violence: their relation in times and places of war and peace, their experience in different contexts, and further analysis of political discourse to expose the false separation of the two. This would usefully take forward recent feminist work that is asking not only how geopolitics shape the home and the intimate, but how these spheres shape geopolitics (Brickell, 2012; Jones, 2013; Pratt, 2012; Pratt and Rosner, 2006).

The separate literatures on how emotions are formed, experienced and used in global and everyday terrorisms are of mutual interest. Analyses of the invocation and use of emotions as a political strategy remind us that fear and its emotional complex are not by-products of conflict, but central to its workings. The increasingly nuanced analysis of the emotional dynamics of everyday terrorism, what it achieves, and how state interventions can change, ease or reinforce it, might be taken up in analysis of global terrorism.

In the latter this is a substantial gap in understanding, and building theory empirically from the experiences of those involved would lead to richer and more insightful accounts. How, across private and public, do people actually experience, make sense of and resist terrorism? How do responses and securitization at one site relate to domestic or public security elsewhere? What is the role of emotions in survival and recovery, and how are they deployed in memorialization and counter-terrorism? And how, in the end, do emotions and behaviours that appear personal or political arise from the same social and political forms?

Emotions that cross scales and sites are also present in the political project of working against violence and fostering inclusive securities (see Pratt, 2012). Sylvester’s (1994) ‘empathetic cooperation’ is commonly invoked as an alternative to mainstream state responses to global conflict and terrorism, and suggested as an emotional basis for ethical global responses to conflict (Sjoberg, 2009). For example, Burke (2009) suggests the need for a new human right, freedom from fear, which would only be possible through a different kind of response to terrorism; here ‘empathetic cooperation’ might mean bridging difference through emotional identification, and concern for others’ security rather than just one’s own. Achieving this, as Eschle and Maiguashca (2009) suggest, is best tackled as a united political project between researchers and activists, if mainstream perspectives and the marginalization of feminist work are to be challenged.

As scholars we have had a role in the fetishizing and distancing of different forms of violence that comes with separating out terrorisms along a scaled system with its implied judgements of magnitude and importance. This itself is a spatial practice built on certain imaginaries, ironically clearest in the pattern of geographical work on violence (though also reflected in other disciplines – see McKie, 2006; Walby, 2013). Remapping and relating terrorisms contributes to wider collective recognition of, and responsibility for, everyday terrorism – it is, after all, far more common than global terrorism, and much more damaging to human life. Domestic violence is a strange absence in human geography. It is time to bring terrorism home.

## Advantage Counterplan Answers

### Perm

#### Perm – Do Both – Solves the Net Benefit

BETTINGER-LOPEZ and VOGELSTEIN ’18 (Caroline; Adjunct Senior Fellow in the Women and Foreign Policy Program at the Council on Foreign Relations, AND Rachel; Douglas Dillon Senior Fellow and Director of the Women and Foreign Policy Program at the Council on Foreign Relations, “Sessions’ Draconian Asylum Decision,” 6/15, https://www.foreignaffairs.com/articles/united-states/2018-06-15/sessions-draconian-asylum-decision?cid=soc-tw)ww

The United States need not turn away domestic violence survivors or tear children away from their parents in order to stem the tide of immigrant arrivals. The U.S. government can comport with international asylum standards while maintaining strong border protection at the same time. Instead of turning away survivors of domestic violence, the Trump administration should address the root causes of the problem by working with Northern Triangle countries to prevent and address gender-based violence, which would not only protect and empower women and girls but also help the administration reduce irregular migration in the long term. This should include seeking diplomatic and strategic solutions to the problem of violent gangs in Northern Triangle countries that are fueling so much of this epidemic.

### No Solvency

#### No evidence that the counterplan would be effective

TAPPIS et al ’16 (Hannah; DrPH is a Senior Research and Evaluation Advisor at Jhpiego, an affiliate of Johns Hopkins University, and Associate Faculty in the Department of International Health at Johns Hopkins Bloomberg School of Public Health, “Effectiveness of Interventions, Programs and Strategies for Gender-based Violence Prevention in Refugee Populations: An Integrative Review,” PLoS Currents, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4865365/)ww

Although there has been an increase in the number of programs in refugee populations to prevent and respond to GBV, particularly sexual violence against women and girls, there remains a general lack of evidence regarding the effectiveness of these efforts in preventing diverse forms of GBV, and a lack of evaluation of efforts outside of conflict related sexual violence 23 , 24. There have been several review papers published examining the efficacy of GBV prevention efforts, but none have focused specifically on refugee settings where the risks to women and girls may be higher. For example, a systematic review of reviews published in 2014 by Arango et al., examined GBV prevention measures globally, but focused primarily on efforts in high-income countries, where the majority of evaluations have been concentrated, and did not include prevention efforts focused on refugee populations 25. Another review by Spangaro et al. published in 2015, examined interventions in settings with armed conflict, including some with refugee populations; however, the authors examined sexual violence exclusively, which is just one type of GBV that women and girls may experience26.

Recent evaluations of humanitarian programs have also highlighted the need for evidence on effective GBV prevention strategies. For example, a recent evaluation in Syria of the implementation of the Inter-Agency Standing Committee (IASC) Guidelines for Gender-Based Violence Interventions in Humanitarian Settings found that IASC guidelines were not well known nor being used in programmatic practice, and while there have been ‘high level’ statements that prevention and response efforts require involvement at many levels and types of actors, there is lack of practical guidance about how to incorporate GBV prevention programming across diverse humanitarian sectors, such as health, water and sanitation, education, and livelihood programs 27. In response to the continued need for evidence on effective GBV prevention strategies for refugee populations, and in an effort to expand review beyond just conflict related sexual violence, this study aims to provide a review of publications related to GBV prevention strategies recommended by the global humanitarian community for refugee populations over the last ten years.

#### Numerous barriers to implementation prevent effectiveness

TAPPIS et al ’16 (Hannah; DrPH is a Senior Research and Evaluation Advisor at Jhpiego, an affiliate of Johns Hopkins University, and Associate Faculty in the Department of International Health at Johns Hopkins Bloomberg School of Public Health, “Effectiveness of Interventions, Programs and Strategies for Gender-based Violence Prevention in Refugee Populations: An Integrative Review,” PLoS Currents, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4865365/)ww

There is a limited body of evidence available on effective GBV prevention strategies, especially in refugee settings. This gap is more pronounced with regards to prevention of forms of GBV other than sexual violence as an act of war, including intimate partner violence. Few of the articles reviewed provided objective data to showing the effectiveness of interventions and findings of those that did may not be generalizable. None of the peer-reviewed articles identified in the review presented proven strategies for addressing socio-cultural norms, rebuilding family and community support structures, improving accountability systems, designing effective services and facilities, working with formal and traditional legal systems, monitoring and documenting GBV, or engaging men and boys in GBV prevention and response in refugee settings.

This evidence gap may be related to both the challenge of conducting research on GBV prevention efforts and difficulties of conducting impact evaluations in humanitarian settings. For example, there are ethical considerations in conducting long-term evaluation of displaced populations, and shifting organizational priorities and donor funding may limit the duration of GBV programs. Additionally, security and logistical challenges are typically present in refugee settings. Limitations in the availability of staff, training, expertise, and funding for GBV programs in displacement settings are also common 52 , 53. Further research and consideration would be needed to determine the generalizability of findings on effective male engagement, group education, and economic empowerment strategies to prevent GBV in refugee populations. Rigorous evaluations of GBV prevention efforts in refugee populations, where the risk of GBV may be highest, are critically needed.

# NEG

## Case

### Harms

#### Adding “Gender” fails because it does not protect all refugees from domestic violence

Chow, 2016 – JD Candidate at the Catholic Univ [Lizbeth, A-R-C-G- Is Not the Solution For Domestic Violence Victims https://scholarship.law.edu/lawreview/vol66/iss1/9/ Catholic University Law Review Volume 66 Issue 1 Fall Article 9]

The overarching problem with a gender-based approach is that it ignores that domestic violence victims can be male183 or female, and that domestic violence can occur in heterosexual or homosexual relationships.184 While women may be most willing to seek asylum based on domestic violence, there is no need to close the door to men equally in need of protection. Some argue that men are better protected around the world, but in countries where men are largely in power and a “machismo” attitude prevails, men are unlikely to receive protection for domestic violence because their cultures generally expect that they should be able to protect themselves.185 Others may want to argue that men are better equipped to deal with domestic violence because of their inherent strength, but this is not true of a physically disabled man who is abused by his spouse and may not even be able to try to protect himself.186 Similarly, a person in a samesex relationship may already be subject to prejudice due to the nature of the relationship and is unlikely to receive protection.187 Ultimately, “gender does not explain why domestic violence . . . is also perpetrated against men by women, and occurs in same-sex relationships.”188

#### Classifying all women as a particular social group is inaccurate and demeaning

FOOTE ’94 (Victoria; M.A. Student, Faculty of Environmental Studies – York University, and graduate researcher at CRS, Refuge, v. 14, n. 7, December, https://refuge.journals.yorku.ca/index.php/refuge/article/viewFile/21842/20511)ww

The "particular" group classification strongly implies that women be categorized and sub-categorized in a manner suggesting that refugee women, despite their majority status among the global refugee population, are an aberration from the norm, as Macklin initially suggests. The implication is that women refugees, by virtue of being female, are perennial victims and therefore belong to a particular social group; women are thus put in the uncomfortable position of having their biological characteristics determine their helplessness and subsequent legal status.

In addition, the classification of women as a "social" group is deeply problematic. Phelan (1989, 57) claims that one cannot speak of Women as a specific social entity. To do so is to ignore class and cultural differences. To suggest, as Caste1 (1992) and Stairs and Pope (1990) do, that women in general may constitute a particular social group reveals a certain cultural image or stereotype that is affixed in our society to a specific arrangement of anatomical features. Feminism, cautions Butler (1990), sometimes entails an urgency to establish a universal status for patriarchy, what Butler (1990, 3) calls a "fictive universality of the structure of domination, held to produce women's common subjugated experience." It is this professed "common subjugated experience" that permits, at least in part, the categorization of women as a social group. However, as Butler points out, the political task for feminism is not to refuse representational politics-which, for the purposes of this paper, I think of in reference to the representation of women as a social group for the sake of the political process of refugee determination-since "juridical structures of language and politics constitute the contemporary field of power" (1990, 5). Butler suggests that, instead, one may posit a critique of the categories of identity that "contemporary juridical structures engender, naturalize, and immobilize" (1990,5). This is precisely where Caste1 (1992), Stairs and Pope (1990), and even Macklin (1993) fall short when they, each in her own particular way, group women together as a single social entity either epistemologically (Castel) or legally (Stairs and Pope; Macklin; the Guidelines).

So, although they may be labelled as a "particular social group," women are, in fact, no such thing. The label is affixed in order to steer women through a system which, in part because of the very methodology advocated by the Guidelines, remains profoundly masculinist in outlook. As long as this is the case, claims put forward by women refugees in response to gender-specific persecution will continue to be regarded as something derivative from the norm and, assuming that one's biology dictates one's social status for the sake of the legal system, women will continue to be beholden to their biological functions in order either to acquire or to maintain legal legitimacy. One can conclude, therefore, that the Guidelines accept the masculinist framework entrenched within the Convention refugee definition. Consequently, getting some refugee women claimants through the refugee determination process will depend heavily upon the individuals interpreting the definition. Nor is the ground of political opinion, as suggested by Macklin, and the 1991 UNHCR Guidelines, a happy alternative. Although I find arguments in favour of political opinion as grounds for persecution less compromising than those for particular socia1 group, there are still some difficulties in describing gender-specific persecution in this manner. Macklin's use of the term "political" is sufficiently broad as to risk rendering all other grounds of persecution superfluous. Because she refers to patriarchy as a system of power (1993,32; 1995), there appears to be a connection between the use of the word "political" and an understanding of power relations, in this instance between genders. All refugees, however, suffer from a power imbalance. This state of being is not peculiar to women refugees. What is specific to some women refugees is the way in which the power imbalance manifests itself and whether or not this manifestation will be recognized as persecutory in nature. As Butler (1990) notes, one can question the universality of gender identity and masculinist oppression, both of which assume a shared epistemology and shared structures of oppression, which need not be the case.

While "the personal is the political" is a popular-and often appropriate phrase within western feminist discourse, it is not obvious to me that refugee women themselves would necessarily provide a similar description of their actions, behaviour, or victimization. It is tempting, as Razack (1995) writes, to tell stories in a manner that will appeal to those in a position to make decisions on refugee claims. Such an approach can take on subtle forms, "as when the cultures of refugee women are presented as overly patriarchal."

In sum, it is inaccurate, to say the least, to group women together on the basis of social factors, and it is inappropriate and demeaning to classify them on the grounds of biological factors.

#### Grouping all women together continues their powerlessness and marginalization

FOOTE ’94 (Victoria; M.A. Student, Faculty of Environmental Studies – York University, and graduate researcher at CRS, Refuge, v. 14, n. 7, December, https://refuge.journals.yorku.ca/index.php/refuge/article/viewFile/21842/20511)ww

"Is the construction of the category of Women as a coherent and stable subject an unwitting regulation and reification of gender relations?" asks Butler (1990, 5). Does the notion that women refugee claimants form a particular social group maintain a framework that is potentially damaging, or that perpetuates, inadvertently, a power/gender imbalance which endorses the subordination of women refugees within the overriding male refugee definition and experience?

My concern is that by legally defining women as a particular social group, women's powerlessness and marginalization are ensured. It is these very characteristics which allow women refugee claimants to qualify for particular social group status. In a strange way, then, the disempowerment of women is cultivated in order to legitimate, in the eyes of decision makers, their fears-both realized and potential-of persecution.

Men, it must be noted, are not classified as a particular social group. That this is so brings to mind an observation made by Butler (1990,20), who, referring to Wittig (1983), writes that "gender is used in the singular, because indeed there are not two genders. There is only one: the feminine, the 'masculine' not being a gender, for the masculine is not the masculine, but the general." The legitimacy of claiming gender-specific persecution should not rely upon the subordination of women as a whole.

Gender-specific persecution, I believe, should stand alone as a recognized basis for persecution from which some, but luckily not all, women suffer.

### Solvency

#### Many applicants will still be denied asylum

ORDOÑEZ ’15 (Franco; Miami Herald, “Landmark asylum ruling has helped fewer domestic violence victims than hoped,” http://www.miamiherald.com/news/nation-world/national/article52091630.html)ww

A landmark ruling last year by the nation’s highest immigration court gave some victims of domestic violence, such as Bonilla, a path to stay and to remain in the country legally.

 “I feel like I won the lottery,” Bonilla said, somewhat reluctantly. She won permission to stay in November 2014.

Many asylum experts saw the August 2014 landmark case, known as A-R-C-G after the initials of the woman involved, as a leap forward for those fleeing “femicide,” the rampant gender-based violence rooted in much of Latin America. But a year after the ruling, applicants face broad disparities in the courts.

A review of recent decisions in domestic violence asylum cases has advocates saying that outcomes continue to be influenced by courts’ locations and whether applicants have lawyers.

Roughly 2 out of 5 reported domestic-violence decisions have been denied since the landmark case, according to preliminary data compiled by the Center for Gender & Refugee Studies at University of California Hastings College of the Law.

The government does not report the immigration judges’ decisions on domestic violence cases, making it harder to track how cases fare across the country. The Center for Gender & Refugee Studies houses the largest repository of gender-based asylum cases.

The center has collected nearly 90 decisions that involved domestic violence since A-R-C-G. Although the sample isn’t large, patterns have emerged showing the significance and limitations of the decision, according to a report by the center titled “Gender-Based Asylum Post-Matter of A-R-C-G” to be published this week in the Southwestern Journal of International Law.

Out of more than 1,600 asylum cases involving partner violence in which attorneys have sought the center’s assistance, there have been 89 decisions. While 43 were granted either asylum or some similar form of relief, 35 were denied and the rest were sent back to court.

“I don’t mean to diminish what is going on, but it hasn’t been so pronounced,” said Blaine Bookey, co-legal director at the center and author of the report, speaking of the ruling’s impact. “A-R-C-G was really such a positive advancement in recognizing domestic violence as a basis for asylum. But it still leaves a lot untold.”

#### Trump will circumvent the plan

BLITZER ’18 (Jonathan; The New Yorker, “The Trump Administration Is Completely Unravelling the U.S. Asylum System,” 6/11, https://www.newyorker.com/news/news-desk/the-trump-administration-is-completely-unraveling-the-us-asylum-system)ww

Publicly, the Trump Administration still pays lip service to the country’s asylum laws, which dictate the rights that people fleeing violence or persecution in their home countries have upon entering the U.S. “If you come to the country, you should come through, first, the port of entry and make a claim of asylum if you think you have a legitimate asylum claim,” Sessions said recently, while defending a new “zero tolerance” policy of prosecuting everyone who crosses the U.S. border anywhere other than at official ports of entry, including asylum seekers. Sessions described the new policy, which has led to hundreds of children being separated from their parents at the border, as necessary to preserve the rule of law—a common argument from the Trump Administration, which has described the implementation of harsh anti-immigrant measures as merely following the laws already on the books. At the same time, Sessions has made a series of decisions to undermine, narrow, and redraw the asylum laws and policies that are also on the books.

Since becoming Attorney General, Sessions has limited the ability of asylum seekers to appeal decisions, restricted the discretion that immigration judges have over their own dockets, and used his authority as Attorney General to personally review immigration cases—as he did in the case of the Salvadoran domestic-violence victim. “ ‘Zero tolerance’ is part of Sessions’s ongoing plans to rewrite asylum law,” Michelle Brané, of the Women’s Refugee Commission, told me. “The Administration is unilaterally dismantling access to any protection for those seeking safety.”

Just a month after it was announced, the zero-tolerance policy is giving rise to a full-blown crisis at the border. This may give Sessions the pretext he needs to institute further changes. In El Paso, as Texas Monthly reported earlier this month, officers are intercepting asylum seekers travelling from Ciudad Juárez, Mexico, before they can cross the bridge that separates the two cities. Elsewhere in Texas, asylum seekers are being told there isn’t enough room to process them on the American side of the border. “They are using that tactic as a way to push people out and deny people asylum,” Ruben García, who runs a migrant shelter along the border, told the Los Angeles Times.

Customs and Border Protection, the federal agency in charge of processing people as they arrive in the U.S., has been telling asylum seekers to wait in Mexico until American authorities have the capacity to admit them. Many legal scholars say that making people who are looking for safety in the U.S. wait across the border violates both American and international human-rights law, which together hold that asylum seekers cannot be sent back to countries where they are likely to be tortured or killed. Mexico also has a well-documented history of mistreating migrants in its custody and of inappropriately turning them around at its southern border, with Guatemala. Nevertheless, last month, representatives from the Department of Homeland Security met with Mexican officials to work out an arrangement—known as a “safe third-country agreement”—that would allow the U.S. to automatically send Central American asylum seekers that travel through Mexico on their way to the U.S. back to Mexico.

The Trump Administration also appears to be putting more asylum seekers behind bars. In March, the A.C.L.U. filed a complaint in federal court alleging that the Administration was detaining asylum seekers indefinitely, in some cases even after they passed the standard screening, known as the credible-fear interview, at the border. Five Immigration and Customs Enforcement field offices, the lawyers wrote in their brief, “have detained these asylum seekers based not on individualized determinations that they pose a flight risk or a danger to the community, but rather to deter other migrants from seeking refuge here.” The lead plaintiff in the case is a teacher from Haiti, who has remained in detention for close to two years, despite having won his asylum case, twice, in immigration court. The government is refusing to release him while it appeals the decisions.

#### Judge bias and lack of legal access prevents solvency

ORDOÑEZ ’15 (Franco; Miami Herald, “Landmark asylum ruling has helped fewer domestic violence victims than hoped,” http://www.miamiherald.com/news/nation-world/national/article52091630.html)ww

The surge of unaccompanied minors and families from Central America that began last year has increased the backlog to nearly half a million cases in immigration court. To receive asylum in the United States, applicants must prove they have well-founded fears of persecution because of “race, religion, nationality, membership in a particular social group or political opinion.”

Which applicants are most likely to prevail often depends on judges’ backgrounds, what parts of the country the cases are heard in and whether they have lawyers, according to data from the Transactional Records Access Clearinghouse, known as TRAC, at Syracuse University.

Judges at the immigration court in Miami by the Krome detention center denied over 92 percent of asylum requests from 2009 to 2014, while half of the judges at the New York immigration court granted 80 percent of asylum requests, according to TRAC.

Felix Villalobos, an immigration attorney with the Texas-based Refugee and Immigrant Center for Education and Legal Services, said it was much harder to win an immigration case in a conservative state such as Texas, where views on immigration could be tougher. He wants the U.S. Supreme Court to take up the domestic violence issue to establish more clear rules on when asylum is appropriate.

“People should be outraged, because our justice system is supposed to be a system that is predictable…,” said Villalobos. “When you have absolutely no idea which way it could go, that shows that something is wrong.”

If an applicant doesn’t have a lawyer, she has little chance of success, according to the data. Just 1.5 percent of women traveling with children who did not have lawyers were allowed to stay, according to TRAC. Those who got lawyers were able to stay in the country more than 26 percent of the time.

### Framing

#### Uncertainty and social contract require governments to use utilitarianism

Gooden ‘95 (Robert, philsopher at the Research School of the Social Sciences, Utilitarianism as Public Philosophy. P. 62-63)

Consider, first, the argument from necessity. Public officials are obliged to make their choices under uncertainty, and uncertainty of a very special sort at that. All choices—public and private alike—are made under some degree of uncertainty, of course. But in the nature of things, private individuals will usually have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choices might have on them. Public officials, in contrast, are relatively poorly informed as to the effects that their choices will have on individuals, one by one. What they typically do know are generalities: averages and aggregates. They know what will happen most often to most people as a result of their various possible choices. But that is all. That is enough to allow public policy-makers to use the utilitarian calculus—if they want to use it at all—to choose general rules of conduct. Knowing aggregates and averages, they can proceed to calculate the utility payoffs from adopting each alternative possible general rules.

#### Claims to moral obligation undercut political obligation and allow for violence to occur

Isaac ‘02 (Jeffrey C., James H. Rudy professor of Political Science and director of the Center for the Study of Democracy and Public Life at Indiana University, Bloomington, “Ends, Means and politics,” Dissent, Spring)

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics— as opposed to religion—pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### High magnitude impacts override traditional moral calculus

Nye ‘86 (Joseph S. 1986; Phd Political Science Harvard. University; Served as Assistant Secretary of Defense for International Security Affairs; “Nuclear Ethics” pg. 18-19)

The significance and the limits of the two broad traditions can be captured by contemplating a hypothetical case.34 Imagine that you are visiting a Central American country and you happen upon a village square where an army captain is about to order his men to shoot two peasants lined up against a wall. When you ask the reason, you are told someone in this village shot at the captain's men last night. When you object to the killing of possibly innocent people, you are told that civil wars do not permit moral niceties. Just to prove the point that we all have dirty hands in such situations, the captain hands you a rifle and tells you that if you will shoot one peasant, he will free the other. Otherwise both die. He warns you not to try any tricks because his men have their guns trained on you. Will you shoot one person with the consequences of saving one, or will you allow both to die but preserve your moral integrity by refusing to play his dirty game? The point of the story is to show the value and limits of both traditions. Integrity is clearly an important value, and many of us would refuse to shoot. But at what point does the principle of not taking an innocent life collapse before the consequentialist burden? Would it matter if there were twenty or 1,000 peasants to be saved? What if killing or torturing one innocent person could save a city of 10 million persons from a terrorists' nuclear device? At some point does not integrity become the ultimate egoism of fastidious self-righteousness in which the purity of the self is more important than the lives of countless others? Is it not better to follow a consequentialist approach, admit remorse or regret over the immoral means, but justify the action by the consequences? Do absolutist approaches to integrity become self-contradictory in a world of nuclear weapons? "Do what is right though the world should perish" was a difficult principle even when Kant expounded it in the eighteenth century, and there is some evidence that he did not mean it to be taken literally even then. Now that it may be literally possible in the nuclear age, it seems more than ever to be self-contradictory.35 Absolutist ethics bear a heavier burden of proof in the nuclear age than ever before.

## Topicality – Legal Immigration

### 1NC Shell

#### Interpretation – Legal Immigration is limited to family and work visas

Passel and Fix, 94- Jeffrey S. Passel is Director, Program for Research for Immigration Policy, The Urban Institute, Washington, D.C.; Michael Fix is Director, Immigrant Policy Program, The Urban Institute, Washington, D.C (“U. S. Immigration in a Global Context: Past, Present, and Future” GLOBAL LEGAL STUDIES JOURNAL 2:5, <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1024&context=ijgls>

The structure and goals of U.S. immigration policy are frequently misunderstood in contemporary debates. U.S. immigration policy needs to be viewed not as one, but as three fundamentally different sets of rules. There are those that govern legal immigration (i.e., mainly sponsored admission for family and work); those that govern humanitarian admissions (refugees and asylees); and those that govern illegal entry. The distinction is important for several reasons. Each set of rules is governed by different legislation, involves different networks of bureaucracies, is guided by different goals, and results in immigrants with largely different characteristics.

Attention focused on the failure to control undocumented immigration has led journalists, the public, and many politicians to conclude that U.S. immigration policy, as a whole, has failed. Our research and that of others (some of which is presented below) indicate that this is not the case. However, as a result of the focus on undocumented immigration, the "bright line" between legal and illegal policy has been blurred and the legitimacy of legal and humanitarian admissions has been eroded.

Another result of failure to recognize these distinctions is the common misunderstanding that U.S. immigration policy is driven almost entirely by economic goals. In fact, legal immigration policy serves many goals. The economic ones can sometimes be contradictory-increasing U.S. competitiveness abroad may conflict with raising the standard of living and protecting U.S. jobs. Immigration policy is also intended to serve the important social goal of unifying families (principally of U.S. citizens) and the cultural goals of promoting diversity in the U.S. population and immigrant stream. Refugee policy is intended to serve the moral goal of promoting human rights. Most current assessments of U.S. immigration policy do not acknowledge the power and value of these non-economic goals.

Finally, the number, characteristics, and patterns of adaptation of immigrants entering the United States as refugees, as legal immigrants, and as illegal immigrants differ in important ways that are often ignored in research and policy debates.

#### Violation – The affirmative deals with asylees, which are a form of humanitarian admission.

#### Reasons to Prefer –

#### Limits and Ground – Allowing the affirmative to be debated would introduce an entirely new set of arguments and create two new classes of affirmatives that would make it difficult for the negative to prepare for debate.

#### Precision – Only the negative’s interpretation maintains a clear and distinct bright line of what is topical.

#### Topicality is a voting issue for reasons of competitive equity.

### R2P Extension

#### The legal framework is completely different for refugees – the aff creates confusing debates that are difficult to prepare for and unlimits the topic

Passel and Fix, 94- Jeffrey S. Passel is Director, Program for Research for Immigration Policy, The Urban Institute, Washington, D.C.; Michael Fix is Director, Immigrant Policy Program, The Urban Institute, Washington, D.C (“Immigration and Immigrants: Setting the Record Straight” 5/1, <http://webarchive.urban.org/publications/305184.html#II> **italics in original**

MAKING SENSE OF IMMIGRATION POLICY

Making policy sense of the widely varying types of action represented in this chronological sketch requires clear separation of three distinct parts of U.S. immigration policy: (1) legal immigration, (2) humanitarian admissions, and (3) illegal immigration. Failure to keep these domains separate may be the most important source of confusion in the current national debate.

The distinction is crucial because the three domains are governed by different legislation, administered by different bureaucracies, and involve different administrative functions—functions that range from paramilitary operations to apprehend illegals, to language training to facilitate immigrant integration. The various parts of immigration policy are also motivated by different goals.

### A/T: LPR Interpretation

#### The plan governs immigrant policy – not immigration policy – that’s extremely unlimiting and undermines cohesive negative ground

Passel and Fix, 94- Jeffrey S. Passel is Director, Program for Research for Immigration Policy, The Urban Institute, Washington, D.C.; Michael Fix is Director, Immigrant Policy Program, The Urban Institute, Washington, D.C (“Immigration and Immigrants: Setting the Record Straight” 5/1, <http://webarchive.urban.org/publications/305184.html#II> **Italics and bold in the original**

**Immigration policy involves three fundamentally different sets of laws, regulations, and institutions—those that govern legal immigration, those that govern humanitarian admissions (refugees and asylees), and those that control illegal entry**. Important distinctions between these separate and distinct domains have frequently been lost in the current debate over immigration policy.

**U.S. immigration policy is governed by five broad goals:** (1) the *social* goal of family unification, (2) the *economic* goal of increasing U.S. productivity and standard of living, (3) the *cultural* goal of promoting diversity, (4) the *moral* goal of promoting human rights, and (5) the *national and economic security goal* of preventing illegal immigration. Critiques of immigration often overlook the non-economic goals.

**The policy context encompasses not just the nation's *immigration* policies, which determine who comes and in what numbers, but also the nation's *immigrant* policies** (the federal, state, and local policies that influence the integration of immigrants after they have arrived). U.S. immigration policy is set by the federal government and has been both inclusive and well-defined. U.S. immigrant policy, by contrast, is made up of scattered, unlinked provisions and programs that fall, largely by default, to state and local governments. While immigration has been steadily rising, federal support for programs targeted to immigrants, like the Refugee Resettlement Program, has been declining.

#### They don’t meet their own interpretation – there is a substantial delay before asylees can receive LPR. This means their topicality is dependent on an effect of the plan rather than a direct mandate.

Kandel 18 – William A. Kandel, Immigration Policy Specialist at Congressional Research Service with a Ph.D. in Sociology and Demography from the University of Chicago, 2018(“Permanent Legal Immigration to the United States: Policy Overview,” Congressional Research Service (Intent for Congress), 5-11-2018, Available Online from <https://www.everycrsreport.com/files/20180511_R42866_fd2ab8b30d16f4294c009ec8cfb101b3b3b12741.pdf>) \*\*\*Italics in Original\*\*\*

Legal aliens3 are of three main types: *immigrants, nonimmigrants* and *refugees*. As defined in the INA, *immigrants* are synonymous with lawful permanent residents (LPRs) and refer to foreign nationals who come to live lawfully and permanently in the United States. *Nonimmigrants*—such as tourists, foreign students, diplomats, temporary agricultural workers, exchange visitors, or intracompany business personnel—are admitted for a specific purpose and a temporary period of time.4 Nonimmigrants must leave the United States before their visas expire, although certain classes of nonimmigrants may adjust to LPR status if they otherwise qualify.5 *Refugees* and *asylees* are people fleeing their countries because of persecution or a well-founded fear of persecution. After one year in refugee status in the United States, refugees must apply to adjust to LPR status. In contrast, asylees may, but are not required to, apply for LPR status after one year.

#### Effects topicality is bad for debate for the same reasons as non-topicality. It gives the affirmative an unpredictable advantage and creates a broader research base for the negative to deal with.

#### Their interpretation is under-limiting – It would allow debates about guest workers, students and diplomats.

Passel, 15- Jeffrey Passel is a senior demographer at Pew Research Center. He is a nationally known expert on immigration to the United States and the demography of racial and ethnic groups. Passel formerly served as principal research associate at the Urban Institute’s Labor, Human Services and Population Center (“Share of Unauthorized Immigrant Workers in Production, Construction Jobs Falls Since 2007” 3/26, <http://www.pewhispanic.org/2015/03/26/share-of-unauthorized-immigrant-workers-in-production-construction-jobs-falls-since-2007/>

The “legal immigrant” population is defined as people granted legal permanent residence; those granted asylum; people admitted as refugees; and people admitted under a set of specific authorized temporary statuses for longer-term residence and work. This group includes “naturalized citizens,” legal immigrants who have become U.S. citizens through naturalization; “legal permanent resident aliens” who have been granted permission to stay indefinitely in the U.S. as permanent residents, asylees or refugees; and “legal temporary migrants” (including students, diplomats and “high-tech guest workers”) who are allowed to live and, in some cases, work in the U.S. for specific periods of time (usually longer than one year).

### A/T: INA/Gov’t Definition Best

#### Asylees aren’t considered immigrants under the INA

Kandel 17 – William A. Kandel, Immigration Policy Specialist at Congressional Research Service with a Ph.D. in Sociology and Demography from the University of Chicago, 2017(“A Primer on U.S. Immigration Policy,” Congressional Research Service (Intent for Congress), 11-14-2017, Available Online from <https://fas.org/sgp/crs/homesec/R45020.pdf>) \*\*\*Italics in Original\*\*\*

U.S. immigration policy is governed largely by the Immigration and Nationality Act (INA), which was first codified in 1952 and has been amended significantly several times since.1 Implementation of INA policies is carried out by multiple executive branch agencies. The Department of Homeland Security (DHS) has primary responsibility for immigration functions through several agencies: U.S. Citizenship and Immigration Services (USCIS), Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE). The Department of State (DOS) issues visas to foreign nationals overseas, and the Department of Justice (DOJ) operates immigration courts through its Executive Office of Immigration Review (EOIR).

Foreign-born populations with different legal statuses are referred to throughout this report. The term aliens refers to people who are not U.S. citizens, including those legally and not legally present. 2 The two basic types of legal aliens are (1) immigrants (not including refugees and asylees) and (2) nonimmigrants. *Immigrants* refers to foreign nationals lawfully admitted to the United States for permanent residence. 3 *Nonimmigrants* refers to foreign nationals temporarily and lawfully admitted to the United States for a specific purpose and period of time, including tourists, diplomats, students, temporary workers, and exchange visitors, among others.

*Refugees* and *asylees* refer to persons fleeing their countries because of persecution, or a wellfounded fear of persecution, on account of race, religion, nationality, membership in a particular social group, or political opinion (see “Refugees and Asylees”). Refugees and asylees are not classified as immigrants under the INA, but once admitted, they may adjust their status to lawful permanent resident (LPR).

## Court Clog Disad

### 1NC Shell

#### Unique Link – The plan prevents the speedy resolution of tens of thousands of cases and opens the system up to fraud

SPAGAT 6/12 (Elliot; Associated Press, “AG Jeff Sessions excludes domestic, gang violence from asylum claims,” http://www.pressdemocrat.com/news/8426154-181/ag-jeff-sessions-excludes-domestic?sba=AAS)ww

Immigration judges generally cannot consider domestic and gang violence as grounds for asylum, U.S. Attorney General Jeff Sessions said Monday in a ruling that could affect large numbers of Central Americans who have increasingly turned to the United States for protection.

"Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by non-government actors will not qualify for asylum," Sessions wrote in 31-page decision. "The mere fact that a country may have problems effectively policing certain crimes — such as domestic violence or gang violence — or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim."

The widely expected move overruled a Board of Immigration Appeals decision in 2016 that gave asylum status to a woman from El Salvador who fled her husband. Sessions reopened the case for his review in March as the administration stepped up criticism of asylum practices.

Sessions took aim at one of five categories to qualify for asylum - persecution for membership in a social group - calling it "inherently ambiguous." The other categories are for race, religion, nationality and political affiliation.

Domestic violence is a "particularly difficult crime to prevent and prosecute, even in the United States," Sessions wrote, but its prevalence in El Salvador doesn't mean that its government was unwilling or unable to protect victims any less so than the United States.

Sessions said the woman obtained restraining orders against her husband and had him arrested at least once.

"No country provides its citizens with complete security from private criminal activity, and perfect protection is not required," he wrote.

The government does not say how many asylum claims are for domestic or gang violence but their advocates said there could be tens of thousands of domestic violence cases in the current immigration court backlog.

Karen Musalo, co-counsel for the Salvadoran woman and a professor at University of California Hastings College of Law, said the decision could undermine claims of women suffering violence throughout the world, including sex trafficking.

"This is not just about domestic violence, or El Salvador, or gangs," she said. "This is the attorney general trying to yank us back to the dark ages of rights for women."

Sessions sent the case back to an immigration judge, whose ruling can be appealed to the Justice Department's Board of Immigration Appeals and then to a federal appeals court, Musalo said. She anticipates other cases in the pipeline may reach the appeals court first.

U.S. Sen. Dianne Feinstein, a California Democrat, said the decision was "despicable and should be immediately reversed." And 15 former immigration judges and Board of Immigration Appeals members signed a letter calling Sessions' decision "an affront to the rule of law."

"For reasons understood only by himself, the Attorney General today erased an important legal development that was universally agreed to be correct," the former judges wrote. "Today we are deeply disappointed that our country will no longer offer legal protection to women seeking refuge from terrible forms of domestic violence from which their home countries are unable or unwilling to protect them."

The decision came hours after Sessions' latest criticism on the asylum system in which he and other administration officials consider rife with abuse. The cases can take years to resolve in backlogged immigration courts that Sessions oversees and applicants often are released on bond in the meantime.

An administration official said last month that the backlog of asylum cases topped 300,000, nearly half the total backlog. Despite President Donald Trump's tough talk on immigration, border arrests topped 50,000 for a third straight month in May and lines of asylum seekers have grown at U.S. crossings with Mexico.

"Saying a few simple words — claiming a fear of return — is now transforming a straightforward arrest for illegal entry and immediate return into a prolonged legal process, where an alien may be released from custody into the United States and possibly never show up for an immigration hearing," Sessions said at a training event for immigration judges. "This is a large part of what has been accurately called 'catch and release.'"

#### Immigration Court Clog increases the risk of Terrorism

von SPAKOVSKY ’17 (Hans A.; Senior Legal Fellow – Heritage Foundation, “How to get Our Immigration Courts Back to Enforcing Federal Law,” 5/18, https://www.heritage.org/immigration/commentary/how-get-our-immigration-courts-back-enforcing-federal-law)ww

With the backlog of immigration cases hitting a record high of 585,930 cases in April according to Syracuse University, the initiative announced by Attorney General Jeff Sessions last month in Nogales, Ariz., to hire more immigration judges is a vital step in bringing our immigration courts back to enforcing federal law. This includes the long overdue hiring of an additional 50 immigration judges this year and another 75 next year under a “streamlined” hiring process.

Now that Sessions has “already surged 25 immigration judges to detention centers along the border” and the Trump administration ended the Obama era “catch and release” policy, we may once again see U.S. immigration courts fulfilling their mission: trying the cases of those who have entered or remained here illegally.

Why are these moves important? Because the huge backlog of untried cases and the prior “catch and release” policy allowed many illegal aliens to disappear, never to be seen again. Their numbers are stark evidence of a breakdown in the immigration court system that only accelerated during the Obama years.

Ending the “catch and release” policy—a policy Border Patrol agents rightly refer to as the “catch and run” policy—was a critical first step.

“Catch and release” is the DHS (Department of Homeland Security) policy of arresting illegal aliens, giving them court dates, and then releasing them. Unsurprisingly, many of those released never showed for court.

The numbers tell the story. In 2016, 39 percent of aliens who were free pending trial failed to show up for their hearings. In 2015, 43 percent did the same. Over the past 21 years, 37 percent of all aliens the U.S. permitted to remain free before trial—some 952,000 people—were ordered removed for dodging court.

Courts are three times more likely to issue removal orders for evading court than removal orders from cases that were actually tried. Predictably, American immigration courts have the highest “failure-to-appear” rate of any court system in the country, averaging more than 45,000 per year.

This is why “surging” more judges to immigration detention facilities along our border is critically important.

Deploying judges who can swiftly conduct hearings to grant relief to the deserving and direct removal of offenders not only assures due process to all claimants, but it also serves to warn others away from illegal entry. In short, alert and empowered courts harden our borders.

Restoring the authority of immigration judges is just as important. At the end of 2008—right before Barack Obama became president—federal immigration courts reported a backlog of 186,108 cases.

By the end of 2016, backlogged cases had increased 300 percent to 542,411, and now we have reached almost 586,000 cases. Much of this backlog resulted from procedural changes directed by Justice Department political appointees that radically slowed down court cases. In 2006, 233 immigration judges completed 407,487 cases. Yet in 2016, more than 270 judges completed only 273,390 cases.

At the same time that these Justice Department appointees nearly halted adjudication, DHS political appointees refused to enforce removal orders issued by the immigration courts. Today unexecuted removal orders stand at 953,506—a 58 percent increase since 2002—and the great majority of these orders were issued to those who evaded court.

One final note of concern that few mention: From 2003 through 2015, 62,409 asylum applicants from the 36 “Specially Designated Countries”—countries that DHS designates as aiding and abetting terrorism—entered the U.S.

Forty percent of this group (24,975) received asylum. From the remaining asylum seekers, 3,095 never showed for their court hearings and were ordered removed. Within this group of absconders were 338 people from Iran, Sudan and Syria, countries the U.S. identifies as “State Sponsors of Terrorism.”

Never has there been an accounting to Congress or the public about what became of these people from terrorist safe-havens who claimed asylum before disappearing into the United States.

On top of that, almost no one noticed another alarming fact that came out of former FBI Director James Comey’s testimony before the Senate Judiciary Committee on May 3. Comey said that out of over 2,000 “violent extremist investigations” about “300 of them are people who came to the United States as refugees.”

The bottom line is that America has a well-organized immigration court system that can help secure our borders and remove violators while also redeeming the persecuted. But it works only if it has enough judges to handle its cases and if illegal aliens are detained, so they actually show up for court.

Eight years of intentional neglect can’t be reversed overnight. But Jeff Sessions seems intent on making sure that all of this finally happens by empowering judges, prosecutors, and enforcement officers to do their jobs.

He is restoring common sense and effectiveness to an immigration court system that, until recently, had neither.

#### Extinction

MYHRVOLD ’13 (Nathan; PhD in theoretical and mathematical physics – Princeton and Former Chief Technology Officer – Microsoft, “Strategic Terrorism: A Call to Action,” The Lawfare Research Paper Series No.2, July, http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf)ww

Several powerful trends have aligned to profoundly change the way that the world works. Technology now allows stateless groups to organize, recruit, and fund themselves in an unprecedented fashion. That, coupled with the extreme difficulty of finding and punishing a stateless group, means that stateless groups are positioned to be lead players on the world stage. They may act on their own, or they may act as proxies for nation-states that wish to duck responsibility. Either way, stateless groups are forces to be reckoned with. At the same time, a different set of technology trends means that small numbers of people can obtain incredibly lethal power. Now, for the first time in human history, a small group can be as lethal as the largest superpower. Such a group could execute an attack that could kill millions of people. It is technically feasible for such a group to kill billions of people, to end modern civilization—perhaps even to drive the human race to extinction. Our defense establishment was shaped over decades to address what was, for a long time, the only strategic threat our nation faced: Soviet or Chinese missiles. More recently, it has started retooling to address tactical terror attacks like those launched on the morning of 9/11, but the reform process is incomplete and inconsistent. A real defense will require rebuilding our military and intelligence capabilities from the ground up. Yet, so far, strategic terrorism has received relatively little attention in defense agencies, and the efforts that have been launched to combat this existential threat seem fragmented. History suggests what will happen. The only thing that shakes America out of complacency is a direct threat from a determined adversary that confronts us with our shortcomings by repeatedly attacking us or hectoring us for decades.

### Uniqueness – A/T: Backlog Now

#### The Justice Department is taking steps to eliminate the backlog

DELGADO 5/30 (Edwin; UPI, “Attorneys for immigrants: Rush to clear backlog may rush deportations,” https://www.upi.com/Attorneys-for-immigrants-Rush-to-clear-backlog-may-rush-deportations/8391527693520/)ww

Attorneys representing immigrants along the U.S. border with Mexico say an effort to expedite court proceedings and clear a backlog of cases could lead to thousands of deportations without proper consideration.

Immigration attorneys are bracing for an influx of court proceedings after Attorney General Jeff Sessions on May 2 ordered more prosecutors and judges to courts along the border in an effort to alleviate a backlog of cases.

Melissa Lopez, an immigration attorney and executive director of the Diocesan Migrant and Refugee Services in El Paso, Texas, said she's worried about the courts rushing cases. DMRS provides free legal services to immigrants and refugees.

Lopez said the government is implementing an aggressive approach that could limit each migrant's ability to have a fair opportunity to seek benefits and resources they may be eligible for -- including an ability to hire a lawyer.

"It's concerning when people are not getting the opportunity to fully prepare for a case," she said. "When the consequences of losing a case is deportation, it's obviously very important for everyone to have an opportunity to go through the adequate process."

In total, 35 prosecutors and 18 immigration judges are expected to arrive in courts along the border in the next several weeks. Seven of those prosecutors will be assigned to the Western District of Texas, which includes El Paso, San Antonio, Austin and Midland.

Some of those judges have begun to hear cases through video teleconferencing, while the Department of Justice evaluates when the judges will travel to their courts.

In late April, around 1,200 migrants from Central America arrived at the U.S. border. Their arrival sparked an effort by the U.S. government to discourage migrants from continuing to enter the country illegally.

Sessions called the so-called caravan of migrants an attempt to undermine U.S. law and overwhelm the immigration system. In response, he implemented a "zero-tolerance" policy in which he asked federal prosecutors to prioritize all criminal immigration offenses. He supplemented that policy with the latest directive to add staffing for the courts.

Immigration activists say the federal government is overreacting to the uptick of border crossings made in the two previous months.

The number of apprehensions and illegal border crossings has been dropping steadily for more than a decade, down from about 1.8 million in 2005 to less than 490,000 in 2017, the lowest number in 37 years, according to U.S. Border Patrol data.

Justice Department spokesman Devin O'Malley said the directive is part of the administration's efforts to increase efficiency and reduce a backlog of cases.

About 700,000 immigration cases are pending in courts throughout the country, with more than 100,000 of those in Texas, the DOJ said.

"The prosecutors that will be sent to the border will handle the expected increase of cases dealing with criminal violations, including illegal entry," O'Malley said. "The expected increase in immigration court cases leads to the need to bring judges to increase the adjudicatory capacity."

Those who represent immigrants in court see the influx as an effort to speed up the removal of undocumented immigrants.

"In El Paso, we had already seen an increase in prosecution taking place on the ground and these announcements are confirmation of something we suspected was already happening," said Lourdes Ortiz, a member of the Detained Migrant Solidarity Committee.

Ortiz is a caseworker who specializes in representing unaccompanied minors who either came to the United States alone or were separated from their families after being detained by U.S. Customs and Border Protection.

Ortiz said there is a fear among immigration attorneys that courts will quickly move to deport migrants without a fair trial and reasonable opportunity to seek appropriate legal representation, which she says, is "the single biggest factor on whether you win your case or not."

The DOJ insists the actions are aimed at making the courts more efficient.

O'Malley said the government is also increasing the use of video teleconferencing in immigration courts and streamlining the hiring process for new judges.

The average time frame for the hiring of a judge has been reduced from 762 to 318 days, according to the DOJ, and the goal is to further reduce the hiring process to eight to 10 months.

The department is also considering implementing annual performance evaluations for immigration judges that include case completion quotas. The current expectation is for the judges to complete 700 cases a year in addition to appeals and other filings.

Lopez said quotas could pressure judges to rush cases to meet "unrealistic expectations."

Asked whether the quota had any precedent, Ortiz said: "The bigger question is why would you place any quotas, to begin with? Judges are supposed to be impartial and this goes to the heart of our concerns of undermining the due process. Having quotas provides an incentive to end up deporting people. In principle is an atrocious idea."

### Link Extension

#### Including domestic violence in asylum relief opens the floodgates

CADMAN ’18 (Dan; Center for Immigration Studies, “Asylum Law is not Intended for Domestic Violence,” 4/20, https://cis.org/Cadman/Asylum-Law-Not-Intended-Domestic-Violence)ww

The problem with domestic violence as a predicate for the grant of asylum is that, while superficially persuasive, it opens the door to granting asylum for all victims of criminal violence in foreign countries. Should someone who has been the victim of domestic violence be granted asylum, but someone who has survived an attempted murder be denied? Where does such a spectrum end?

It was never contemplated by the drafters or signatories to the international convention on the granting of refuge or asylum that victims of criminal offenses would be entitled to seek asylum. Were that the case, the dispossessed of the entire world would be beating a path to the doors of every developed country. (In truth, for all practical purposes they are, and it seems evident that Sessions wants to ensure that grants of asylum and refuge remain the extraordinary kind of relief that they were intended to be, rather than loopholes that a tractor trailer can fit through.)

Refuge and asylum have always been held to be extraordinary forms of relief from applying the usual rules relating to immigration to those meriting protection. The intent to exclude victims of everyday crime (as opposed to political crimes, crimes against humanity, war crimes, and genocide), no matter how individually tragic, from the protections of refuge or asylum is abundantly clear from the Travaux Preparatoires, the equivalent of the legislative history of the multi-national convention of ministers who attended the meetings that resulted in the 1951 Refugee Convention.

#### Plan will water down the meaning of asylum

ORDOÑEZ ’15 (Franco; Miami Herald, “Landmark asylum ruling has helped fewer domestic violence victims than hoped,” http://www.miamiherald.com/news/nation-world/national/article52091630.html)ww

Some groups are concerned that the U.S. court’s decision has weakened the asylum program created to protect those facing persecution.

While domestic violence certainly should be condemned, the immigration court’s decision is an inappropriate venue to address a worldwide problem, said Jessica Vaughan, director of policy studies at the Center for Immigration Studies, a Washington research institute that supports tighter controls on immigration.

“It has the potential to over the long term dilute the meaning of asylum,” Vaughan said. “Anyone fleeing an uncomfortable or dangerous or upsetting or difficult circumstance could then qualify for asylum.”

### Spillover Link

#### Plan would spillover to protect other groups

HEITZ ’13 (Aimee; J.D. – University of Indiana, ‘Providing a Pathway to Asylum: Re-Interpreting "Social Group" to Include Gender,’ Indiana International & Comparative Law Review, v. 23, n. 2)ww

Re-structuring the current standard of "social group" to include gender-based persecution claims for asylum will not only give women additional protection, but it may also lead to protection for other groups excluded from the current refugee definition. Re-structuring the social group definition could provide additional protection to groups persecuted on the basis of sexual orientation or other less socially visible grounds.

### Fraud Link

#### Plan would allow for fraudulent claims that overburden the system

HOMAN ’18 (Thomas D.; Senior Official and Deputy Director Performing the Duties of the Director of U.S. Immigration and Customs Enforcement, “Stopping the Daily Border Caravan: Time to Build a Policy Wall” https://docs.house.gov/meetings/HM/HM11/20180522/108323/HHRG-115-HM11-Bio-HomanT-20180522.pdf)ww

While those with legitimate claims of asylum must be protected, many of those seeking to enter this country illegally know that there is no significant downside to making a claim of “credible fear” and only a few key words are all it takes to keep an alien in the country longer. A fact that is exploited by the smuggling organizations who profit from them. DHS experience has shown that individuals seeking to enter the country illegally know they can delay their removal by making false claims of credible fear. Indeed, the standard for credible fear screenings at the border has been set so low that aliens may easily meet this threshold by including certain phrases and claims during their credible fear interview. The smuggling organizations know this, and they coach to aliens to make certain claims and to recite “magic words” during their interview.

To compound this issue, family units who arrive at our border are nearly always released from ICE custody into the interior of the United States, as recent rulings in the Flores consent decree litigation places a constraint on ICE’s authority to detain an entire Family Unit. This litigation requires that children be released from DHS custody within a few days of arrival if they are not removed. In FY 2017, approximately 71,500 members of family units were apprehended, and ICE believes this number is on track to increase significantly in FY 2018.

With many of those arriving at the border claiming credible fear and an immigration court backlog of more than 700,000 cases, it is clear that we must elevate the threshold standard of proof in credible fear interviews, as aliens who falsely claim credible fear in expectation of parole or release are placing a strain on Department resources, and preventing or delaying legitimate asylum cases from being adjudicated. DHS and the Department of Justice (DOJ) are working together to explore options for addressing this increasing threat to the security of our border.

#### Undocumented migrants abuse the asylum system – they use it to circumvent deportation

**McCaughey 18 – constitutional scholar from Columbia University** (Betsy, Daily Press, 7/6/18, “Asylum is being misused”, ProQuest, 7/14/18) //dchen

People hoping to settle in the United States wait years for a green card to be legal residents. They play by the rules. These law-abiding newcomers must feel like idiots, watching what's happening on the southern border. Hundreds of thousands of Central American migrants are walking right in. They're not waiting in line. They're using "asylum" requests as their E-ZPass. Just 12 percent of requests from El Salvadorans, 11 percent from Guatemalans and 7.5 percent from Hondurans are actually granted, according to the Department of Homeland Security. It's a shameful distortion of a program intended to provide a haven for true victims of state-sponsored religious, ethnic and political persecution. The U.S. offered asylum to Hungarian anti-communists after their uprising was crushed by the Soviets in 1956; to Cubans fleeing Castro's prisons; to Vietnamese after the fall of Saigon to the Communists in 1975; to Chinese political dissidents escaping the crackdown after Tiananmen Square in 1989; and more recently, to Chinese Christians and Muslims threatened for practicing their religion. Not to be confused with what's happening on the southern border. Women typically plead they're victims of an abusive boyfriend or husband, and men claim they're escaping gang violence. They're detained briefly, but many are then released into the United States and given a date for an asylum hearing. Being granted asylum means hitting the jackpot. Asylees get the Refugee Cash Assistance program, including medical care, a housing allowance and hundreds of dollars a month in cash. In contrast, immigrants who go the green card route are ineligible for most benefits for years. Half who use asylum as their excuse for crossing the border never even file a claim or show up at a hearing.

#### The plan overloads the system – asylum judges cannot handle the complex cases. This turns the case because backlog causes gender based asylum to be denied.

**Twibell, 10 – Attorney at International Association for the Study of Forced Migration** [T.S., Georgetown Immigration Law Review, Vol. 24, No. 2, Winter “The Development Of Gender As A Basis For Asylum In United States Immigration Law And Under The United Nations Refugee Convention: Case Studies Of Female Asylum Seekers From Cameroon, Eritrea, Iraq And Somalia”, Lexisnexis, acc. 7/14/18, bhc]

However, one could argue that the United States acted quickly in the early 1990s. Its asylum corps was not established until 1991 when Congress finally adhered to the U.N. Refugee Convention. In 1995, it established the policy, noted in the Legacy INS Gender Guidelines, to train every asylum officer that gender in part or alone could be a basis for asylum and that asylum officers should search for these issues. [n26](http://www.lexisnexis.com/lnacui2api/%22%20%5Cl%20%22n26) Additionally, asylum officers were instructed that they should create an environment when interviewing that is conducive for women to be comfortable in discussing these issues. [n27](http://www.lexisnexis.com/lnacui2api/%22%20%5Cl%20%22n27) This policy was implemented in explicit consideration of UNHCR and Canadian gender guidelines in addition to recommendations from U.S. women's rights groups such as the Women Refugees Project of the Harvard Immigration and Refugee Program in Cambridge, Massachusetts and the Somerville Legal Services in Somerville, Massachusetts. [n28](http://www.lexisnexis.com/lnacui2api/%22%20%5Cl%20%22n28) Further, asylum adjudicators are inundated with a very large caseload of complex cases. Many feel that these adjudicators do not have adequate time [\*198] to properly assess the credibility of asylum applications in order to protect the U.S. public from criminals and terrorists. [n29](http://www.lexisnexis.com/lnacui2api/%22%20%5Cl%20%22n29) Asylum adjudicators are often unable to meet internal goals of timely adjudication while their responsibilities continue to increase. [n30](http://www.lexisnexis.com/lnacui2api/%22%20%5Cl%20%22n30) Nevertheless, human rights groups maintain that gender-based asylum claims are often not accepted in the United States. For example, Amnesty International states that, "[w]omen with asylum cases based on gender-related violence are often denied protection in the U.S." [n31](http://www.lexisnexis.com/lnacui2api/%22%20%5Cl%20%22n31) Other human rights groups state that "U.S. asylum law fails to provide a systematic way to identify women who have suffered persecution and are in danger. In addition, the law

### A/T: Link Turn

#### Sessions’ decision will deter entry, reduce fraud and resolve the backlog

ARTHUR 6/13 (Andrew R.; Center for Immigration Studies, “AG Provides Guidance for Crime-Based Asylum Claims ... by Applying Current Law,” https://www.cis.org/Arthur/AG-Provides-Guidance-CrimeBased-Asylum-Claims-Applying-Current-Law)ww

As a practical matter, the attorney general's decision in Matter of A-B- will likely serve to limit the number of aliens found to have a credible fear of persecution, and limit the number of asylum grants issued by asylum officers and the immigration courts. This, in turn, will reduce incentives for aliens to enter the United States illegally or without documents at the ports of entry to claim credible fear, thereby protecting the integrity of the borders and cutting the number of subsequent asylum claims heard by immigration judges. This will allow those judges to consider other pending cases, and reduce the backlog before the immigration courts.

#### Sessions decision is essential to enforce immigration laws – it is key to prevent exploitation of the system

Johnson and Gomez 18 – Justice Department writer and immigration reporter for USA TODAY[Kevin and Alan, USA TODAY, 7/12/2018, 7/13/2018, “Trump administration activates new asylum crackdown; potentially valid claims could be denied” [https://www.usatoday.com/story/news/politics/2018/07/12/trump-administration-announces-tougher-asylum-rules-immigrants/780634002/-,JL](https://www.usatoday.com/story/news/politics/2018/07/12/trump-administration-announces-tougher-asylum-rules-immigrants/780634002/-%2CJL)]

Michael Bars, a USCIS spokesman, said the directive was "part of an effort to protect the integrity of our immigration system and help restore the faithful execution of our laws." “Our laws do not offer protection against instances of violence based on personal, private conflict," Bars said. "But over the years, grounds for qualifying for asylum have greatly expanded far beyond what Congress originally intended. Many petitioners understand this, know how to exploit our system, and are able to enter the U.S., avoid removal, and remain in the country. "USCIS is committed to adjudicating all petitions fairly, efficiently, and effectively on a case-by-case basis to determine if they meet all standards required under the law," Bars said. Changes to the asylum policy had been contemplated since the Republican Party drafted its platform at the 2016 convention. "From its beginning, our country has been a haven of refuge and asylum," the party's platform statement said. "That should continue - but with major changes. Asylum should be limited to cases of political, ethnic or religious persecution."

### Impact Extension – Terrorism

#### Court Clog diverts resources from Counter-Terror

GOLDMAN ’08 (Russell; ABC News, “What's Clogging the Courts? Ask America's Busiest Judge,” 7/23, https://abcnews.go.com/print?id=5429227)BB

Judge Robert Brack is the busiest federal judge in the United States. From his bench in the bordertown of Las Cruces, N.M., Brack expects to hear between 1,000 and 1,200 cases this year, more than twice the average number tried by district court judges.

Almost all of his cases have one thing in common: they involved illegal immigrants reentering the United States, looking for work and finding jail time instead.

"I'm on the bench every morning of every day for several hours, sentencing defendants. A very high percentage of those involve Mexican citizens charged with felony reentry. Then I take a break, come back and do it some more," said Brack, who was ranked No. 1 in the country in overall caseload, according to federal statistics and Syracuse University.

Immigration-related felony trials have been on the rise for several years, straining the resources of courts and prisons from Texas to California and illustrating the difficulties of policing the country's primary point of entry for illegal immigrants and drugs.

All along the 2,000-mile U.S.-Mexico border, courts are clogged with immigration-related cases. As a result, the region's courtrooms handle a disproportionate amount of the country's crime. Just five of the country's 94 districts -- South California, New Mexico, Arizona, West Texas and South Texas -- handle 75 percent of all the criminal cases in federal district courts around the country.

Rising Case Numbers Flood Courtrooms

The number of immigration trials have spiked since 2005, a result of a federal program called Operation Streamline that puts illegal immigrants on a fast track to prosecution, detention and deportation.

In the first seven months of 2008, the government reported 38,443 new immigration prosecutions. The Transactional Records Access Clearinghouse, a data research organization at Syracuse University, estimates there will be 65,902 immigration cases this year, a 65 percent increase over last year and a 216 percent increase over 2003.

For the Department of Homeland Security, Operation Streamline is an indispensable tool needed to secure the border. In the past year, the government says, the deterrent of prison time has dramatically decreased the number of the people trying to cross the border from Mexico.

Critics, however, contend that the increased number of cases strain an already burdened judicial system, depriving lawyers and judges of ample time to hear cases and denying defendants the right to a fair trial.

They also contend that resources have been diverted from pursuing offenders more dangerous than the typical migrant worker and that prosecutors cannot use their own discretion in choosing which violators to go after.

"I'm all for national security and border security," said Brack, who was appointed to the bench in 2003 by President Bush. "The people I generally see are humble people who have no criminal offenses other than coming back and forth to pick chili. We're spending a lot of time catching these folks when we could concentrate on those penetrating our border to do us harm."

### Yes Nuclear Terror

#### Nuclear Terrorism is still a threat

ALLISON ’18 (Graham; Douglas Dillon Professor of Government – Harvard’s Kennedy School, “Nuclear Terrorism: Did We Beat the Odds or Change Them?” PRISM, v. 7, n. 3, http://cco.ndu.edu/News/Article/1507316/nuclear-terrorism-did-we-beat-the-odds-or-change-them/)ww

Another major long-term challenge is the relentless advance of science and technology and the accelerating diffusion of nuclear and radiological know-how. The proliferation of advanced manufacturing has made it easier to produce components needed for a bomb. For example, the A.Q. Khan nuclear black market network manufactured key parts for centrifuges in workshops in Malaysia.29 Furthermore, the widespread availability of radiological material in medical and research settings has led to the recognition that it is simply a matter of when, not if, terrorists detonate a dirty bomb. This reminds us of one of the hardest truths about modern life: the same advances that enrich and prolong our lives also empower potential killers to achieve their deadly ambitions.

While those potential killers are not as cohesively organized as they were prior to 9/11 when al-Qaeda had a coordinated WMD effort, the terrorist threat has metastasized. Al-Qaeda morphed into ISIL and an array of affiliates like al-Shabaab in Somalia. These newer terrorist organizations will undoubtedly splinter further as a result of the loss of ISIL and al-Qaeda’s main safehavens. But these groups have demonstrated a remarkable ability to find hosts in other fragile states around the globe, from Niger to Yemen, and even within more stable states, like Indonesia.

Furthermore, the widening scope of U.S. counterterrorism operations has continued to create new mutations. The United States has now conducted drone strikes and Special Forces raids in at least seven Muslim-majority countries: Afghanistan, Iraq, Libya, Pakistan, Somalia, Syria, and Yemen. Furthermore, with the Trump Administration’s recent announcement that it will begin flying drone missions out of a new base in Niger, this number will likely rise to include at least Niger and Mali, along whose borders many terrorists operate.30 Despite major efforts to avoid civilian casualties, many strikes have resulted in significant collateral damage, providing fodder for terrorist recruiters.31 Thus, while U.S. counterterrorism operations have been immensely successful in hunting down high-level militants, these efforts in each area must be weighed against the risk that operations could create more enemies than they kill.

The battle against Islamic extremist ideologies and their adherents will be a generational challenge. This is less a problem to be “fixed” than a condition that will have to be managed. It will require constant vigilance for as far as any eye can see. And as long as there are states that are unwilling or unable to suppress terrorists or expel them from their borders, they will find savehavens in which to continue. We should never forget that most of the planning and preparation for the 9/11 attack was done by an al-Qaeda cell in Hamburg, Germany. Moreover, while al-Qaeda’s core has been decimated, its remaining leaders continue to find refuge in the nuclear-armed ticking time bomb called Pakistan.

### Impact – Turns Case

#### Turns the Case – Ignoring court clog is judicially and academically irresponsible

POSNER ‘96 (Richard; Federal Judge – U.S. Court of Appeals, The Federal Courts: Challenge and Reform, p. 317)

Scholars of constitutional law fail to consider the systemic effects of recognizing new constitutional rights,29 or, for that matter, of retrenchments of existing rights. They seem not to realize that the enforcement of rights affects caseload and that caseload affects the enforcement of rights. Creating a new right that generates many cases may, through the effect of caseload on the enforcement of rights, harm other rights holders. Victims of single-car accidents might have benefited from a decision in DeShaney's favor, but the resulting flood of cases would have put additional pressure on the federal district courts to dispose of cases summarily, which we saw in Chapter 6 harms civil rights plaintiffs disproportionately. One could take the position that it is not the business of the judiciary to worry about the infrastructure of rights enforcement; that the responsibility lies elsewhere, with Congress and the President. And they have supported judicial expansion to the point necessary to accommodate new rights. The danger is not that the judiciary may be starved for resources but that it will expand so promiscuously, and be stretched so thin, that its effectiveness will be compromised. It is as irresponsible of judges as it is of scholars to ignore the effects of creating new rights on the ability of the federal courts to protect the holders of the old rights. The issue has been ignored in part because few judges or law professors take any interest in the causes or consequences of heavy caseloads.

#### High caseloads devastate **judicial** legitimacy and independence – undermines solvency

BASSLER ‘96 (William G.; Federal Judge – United States District Court of New Jersey and Adjunct Professor of Law – Seton Hall, 48 Rutgers L. Rev. 1139, Summer, l/n)

As a result of this growth in criminal proceedings, the civil calendar obviously does not receive the attention it requires. Civil rights cases, among others, must wait an inordinate amount of time before being addressed by the courts. Without the assistance of the magistrates in trying to get cases settled, the entire civil calendar in some districts would collapse. The pressure to settle cases, however, while helping the court's calendar, may well deprive deserving litigants of their "day in court." Resolution of cases at any price may breed a cynicism that will, in the long run, be more harmful than delay. Providing rights without a real opportunity to vindicate them can only undermine the public's confidence in the legal system. The growth of the federal caseload has affected significantly the quality of the federal courts. The effect of the volume of the federal workload may well be like prolonged and unmitigated stress in an individual's life; while there may be no single catastrophic event, the effects may be debilitating over an extended period of time. 86 The federal judicial system will not collapse, but the accustomed quality of its work 87 will surely deteriorate. There are already enough signs pointing to a negative diagnosis. The first symptom of judicial overload is the abandonment of opinion writing by judges. Recently, the practice of judges, on the Supreme Court and elsewhere, of delegating their opinion writing to law clerks has been criticized. 88 Something more problematic than "turgid language that stumbles along on pedantic footnotes" 89 takes place. The art of judging is at stake: "Clerks ought not to be playing the role of judge--performing the agonizing task of putting together the complex thoughts that become opinions." 90 Because of the "inseparability of writing and thinking," the clerks are not just simply "putting the judge's 'thoughts' into [the first draft]; they substitute their own thoughts for the judge's . . . ." 91 In addition to the delegation of opinion writing to clerks, the delegation of authority in general 92 is a major cost of the [\*1157] caseload explosion. "The caseload per federal judge has risen to the point where very few judges, however able and dedicated, can keep up with the flow without heavy reliance on law clerks, staff attorneys, and sometimes externs too." 93 This bureaucratization 94 of the federal judiciary can only serve to erode its effectiveness, independence, and public respect, as well as the morale of the federal bench itself. The sheer volume of cases erodes the ability of the judge to give personal and individual attention to each case. 95 In order to stay abreast of his or her docket, a judge may be tempted to resort to forced settlements, excuses to remand to state courts, and aggressive dispositions by summary judgments rather than carefully weigh the arguments of both sides. The ever-increasing criminal docket with its requirements for early disposition of cases under the Speedy Trial Act 96 prevents careful pretrial management of the civil docket by the judge and mandates reliance on the magistrate. The ever-increasing docket will, by necessity, invite more court administrator involvement with the inevitable erosion of the traditional independence of the federal judge. 97 Increased pressure to dispose of ever in- [\*1158] creasing backlogs also invites well-intentioned efforts to find better ways to manage the docket. This in turn requires judges to attend an ever increasing number of committee meetings 98 which naturally takes away from time on the bench. 99 While "the federal courts do not exist for the purpose of clearing their dockets," 100 the current caseload crisis does at least require those advocating the expansion of federal jurisdiction 101 to justify the need for federal action. Considering the [\*1159] public expectations of the federal judiciary, impaired performance and diminished independence are costs the country cannot afford.

## Advantage Counterplan

### 1NC Shell

#### The United States federal government should seek diplomatic and strategic solutions to violent gangs in the Northern Triangle, appoint an ambassador at large for the State Department’s Office of Global Women’s Issues, implement the U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally, ensure that the U.S. Strategy for Central America addresses gender-based violence, and work with Central American governments to develop comprehensive legislative and policy frameworks to prevent and address gender-based violence, including aid, training and services for law enforcement, local civil society organizations and survivors.

#### Counterplan addresses the root cause of gender-based violence

BETTINGER-LOPEZ and VOGELSTEIN ’18 (Caroline; Adjunct Senior Fellow in the Women and Foreign Policy Program at the Council on Foreign Relations, AND Rachel; Douglas Dillon Senior Fellow and Director of the Women and Foreign Policy Program at the Council on Foreign Relations, “Sessions’ Draconian Asylum Decision,” 6/15, https://www.foreignaffairs.com/articles/united-states/2018-06-15/sessions-draconian-asylum-decision?cid=soc-tw)ww

The United States need not turn away domestic violence survivors or tear children away from their parents in order to stem the tide of immigrant arrivals. The U.S. government can comport with international asylum standards while maintaining strong border protection at the same time. Instead of turning away survivors of domestic violence, the Trump administration should address the root causes of the problem by working with Northern Triangle countries to prevent and address gender-based violence, which would not only protect and empower women and girls but also help the administration reduce irregular migration in the long term. This should include seeking diplomatic and strategic solutions to the problem of violent gangs in Northern Triangle countries that are fueling so much of this epidemic.

The administration should also implement the U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally and ensure that its U.S. Strategy for Central America addresses the rampant gender-based violence in the region. U.S. officials should work with neighboring governments to develop comprehensive legislative and policy frameworks to prevent and address gender-based violence, help train security and law enforcement authorities to enforce these laws, collaborate with local civil society organizations that provide legal aid and services to survivors, and scale up successful programs. And U.S. President Donald Trump should appoint an ambassador at large for the State Department’s Office of Global Women’s Issues who is authorized to promote this agenda.

### Solvency Extension

#### Obama era actions prove the counterplan would be effective

USAID ’16 (United States Agency for International Development, “UNITED STATES STRATEGY TO PREVENT AND RESPOND TO GENDER-BASED VIOLENCE GLOBALLY 2016 UPDATE,” https://www.state.gov/documents/organization/258703.pdf)ww

The United States puts gender equality and the advancement of women and girls at the forefront of the three pillars of U.S. foreign policy—diplomacy, development, and defense. This is embodied in the President’s National Security Strategy, the Presidential Policy Directive on Global Development, and the 2010 and 2015 U.S. Quadrennial Diplomacy and Development Reviews (QDDR). Gender equality and women’s empowerment are critical to building resilient, democratic societies; to supporting open and accountable governance; to ending extreme poverty; to furthering international peace and security; to growing vibrant market economies; and to addressing pressing health and education challenges. Preventing and responding to gender-based violence is a cornerstone of the U.S. Government’s commitment to advancing human rights and promoting gender equality and the empowerment of women and girls. The scale of gender-based violence is tremendous, the scope is vast, and the consequences for individuals, families, communities, and countries is devastating. Such violence significantly hinders the ability of all individuals to fully participate in and contribute to their families and communities, and for societies to thrive—economically, politically, and socially.

In August 2012, President Obama issued Executive Order (E.O.) 13623, “Preventing and Responding to Violence Against Women and Girls Globally,” directing all departments and agencies to implement the United States Strategy to Prevent and Respond to Gender-based Violence Globally. Since that time, significant strides have been made across Federal departments and agencies in furthering the strategy’s goals. Three-year evaluations of the implementation of the Strategy conducted by The U.S. Department of State and The United States Agency for International Development (USAID), released in December 2015, found specific achievements and progress under each of the four strategy objectives and identified internal and external challenges and opportunities for full and sustainable implementation.

The 2016 Update to the United States Strategy to Prevent and Respond to Gender-based Violence Globally is informed by the results of those evaluations and various consultations with U.S. departments and agencies, civil society organizations, the United Nations, and other donor agencies and multilateral institutions. The purpose of the strategy is to strengthen a government-wide approach that identifies, coordinates, integrates, and leverages current efforts and resources to address gender-based violence more holistically, and effectively. It sets forth concrete goals and actions to be implemented and monitored over the next three years, with an evaluation of progress made at the end of the forthcoming three years to chart a course forward. The strategy serves as a call to action for all Federal departments and agencies to strengthen their collective resolve to prevent and respond effectively and significantly to gender-based violence around the world.

**Investing in Central American development is the only solution to the asylum crisis – only solving the root causes can work**

**Suro 18 – founding director of the Pew Hispanic Center**[Roberto Suro, New York Times, 7/14/2018, 7/15/2018, We need to offer more than asylum, <https://www.nytimes.com/2018/07/14/opinion/sunday/migration-asylum-trump.html> - JL]

As presidents, Barack Obama and Donald Trump don’t have much in common, but they both failed to manage the migration out of the “Northern Triangle” of Central America — Guatemala, Honduras and El Salvador. Both tried to achieve deterrence through enforcement. Both faced political blowback. Both made awkward course corrections, like the Trump administration’s shift last week from zero-tolerance lock ’em up to release them with ankle bracelets. Mr. Obama’s efforts had little lasting impact. Mr. Trump has taken deterrence to a previously unimaginable extreme, committing extortion with child hostages to dissuade asylum seekers. Whether the goal is to provide humanitarian protection to the deserving or to keep out the unwanted, current policies are failing. Some 50,000 unaccompanied children from the Northern Triangle and nearly 40,000 adults with children were apprehended at the border during the 2014 surge. The numbers jumped again in 2015 and 2016, and here we are today, with no end in sight. A lasting solution must recognize that these surges are not isolated events but rather desperate developments in a decades-long migration. People who make up nearly 10 percent of the populations of those countries are already living here. It is a migration with momentum, and it comes from close by. They can walk to our border. Enforcement alone won’t stop them, certainly not enforcement consistent with our laws. So the root causes must be addressed. In the meantime, the families will keep coming. As we’re seeing yet again, our asylum system is dysfunctional. What we need is a new visa program designed for the number and characteristics of the people arriving at the American border. Getting to a solution starts with acknowledging that the absolute best outcome for them — and for us — is for them not to be forced out of their homes in the first place. Mr. Trump’s 2019 budget seeks $26 billion for immigration enforcement and detention, plus $18 billion more for the border wall. That’s almost the combined gross domestic product of El Salvador and Honduras ($48 billion). A fraction of the enforcement budget well spent on economic development would reduce migration pressure. It would be a better use of taxpayer dollars than trying to intercept people in flight at a militarized border and then criminalizing them.

**Congressional legislation to target Northern Triangle nations will streamline asylum and provide the best protection to refugees.**

**Suro 18 – founding director of the Pew Hispanic Center**[Roberto Suro, New York Times, 7/14/2018, 7/15/2018, We need to offer more than asylum, <https://www.nytimes.com/2018/07/14/opinion/sunday/migration-asylum-trump.html> - JL]

The United States has repeatedly taken one-off approaches to humanitarian migrations, raising and lowering the bar according to perceived national interests. Special deals have been cut for Hungarians, Cubans, Soviet Jews, Nicaraguans and many others. Now it is time for a unique solution for the Northern Triangle. Managing this migration effectively and humanely requires a legislative solution outside the asylum system, a solution that establishes a legal process based on the specific circumstances of this migration. Chief among those circumstances are its size and durability. More than three million people from these countries now live here, and most have been here for more than 10 years, according to Pew calculations. The annual flow of people from the Northern Triangle, about 115,000 new arrivals in 2014, has been increasing at more than twice the rate of immigration overall, Pew says. When conditions become life-threatening, migration is salvation at the ready. Although the journey is perilous and expensive, the channels between there and here are accessible and efficient. How else do thousands of children travel 1,500 miles unaccompanied? Creating an effective legal option for the migrants that the Obama and Trump administrations failed to deter will require adjustments to the immigration system, but no more than special cases in the past did. Instead of treating the Northern Triangle migrants as individual asylum seekers, a new category of admissions would take their mixed motives into account — fear, love and money all bundled together. More migrants will be admitted, but not likely many more than the 300,000-plus now relegated to an ever-growing backlog of asylum cases. President Trump shows little interest in effective policies, preferring to exploit the crisis for political ends. That means the crisis requires a political response. Condemning the administration’s excesses is necessary but not sufficient. Trying to improve on the Obama version of deterrence is futile. Congressional Democrats need to propose a long-term legislative solution, making a commitment to address root causes and creating an orderly legal channel for the migration in the meantime. Then, Democrats need to campaign on it, showing the country and the world that Americans can be both humane and practical in welcoming displaced people. So far, they have not.